



**STATE OF TEXAS
COUNTIES OF KAUFMAN AND HUNT
CITY OF POETRY, TEXAS**

BE IT REMEMBERED THAT ON THIS DAY OF THE 21st of March 2024 at 6:30 pm, the Town Council of Poetry, Texas, held a **Public Hearing** and Regular Town Council Meeting at Faith Temple Baptist Church, 11214 FM 1565 Poetry, Texas 75160 with the following present:

Mayor Tara Senkevech
Councilmember Tom Anderson
Mayor Pro Tem Mike Jaffe

Councilmember Simeon White
Councilmember Terry Fowler
Councilmember Jonathan Blake

- A. Mayor Senkevech** called the meeting to order at 6:30 p.m. At this time the Mayor reminded the public that disruption of the meeting may be considered a criminal offense under Texas Penal Code 38.13 and may be escorted out by a peace officer and issued a citation.

Section 38.13 - Hindering Proceedings By Disorderly Conduct

(a) A person commits an offense if he intentionally hinders an official proceeding by noise or violent or tumultuous behavior or disturbance

(b) A person commits an offense if he recklessly hinders an official proceeding by noise or violent or tumultuous behavior or disturbance

and continues after explicit official request to desist.

(c) An offense under this section is a Class A misdemeanor.

Tex. Pen. Code § 38.13

- B. Anne Hamilton, Town Secretary**, took roll call. All council members were present. Mayor Senkevech announced the presence of a quorum.

- C.- D. Pledge of Allegiance and Invocation:** Darrell Watson led the Pledge of Allegiance and gave the invocation.

- E. Citizen Comments:** Mayor Senkevech announced the opportunity of citizens to speak on any posted agenda item, limited to three (3) minutes each, as long as they had signed up prior to the meeting either by emailing contact@poetrytexas.org or by signing up in person at the meeting location prior to the start of the meeting at 6:30 pm. She reminded all present of the Offenses Against Public Order and Decency as outlined in Texas Penal Code §§ 38.13, 42.05.

- F. Items of Community Interest:** Pursuant to Section 551.0415 of the Texas Government Code, the Town Council may report on the following items: 1) expression of thanks, congratulations, or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders upcoming Town Council events; 5) about community events, and 6) announcements involving an imminent threat to public health and safety.

Mayor Senkevech:

- Thanked all the volunteers; Herbert Fletcher, Mike Griffin, Cliff Mangrum, Ken Phillips, Josh Senkevech, Kevin Senkevech, Mike Tillinghast, Darrell Watson and CM White who worked on Four Post Lane/Green Meadow Lane as well as CR 249 doing road safety repairs.
- Thanked the volunteers who worked on the mailing for the Zoning Meeting.
- Thanked CM Jafee, CM Fowler, Mike Broshous for the culvert repair and Chad Dalida for rock donations for the culvert repair.
- Announced regret for the unavoidable conflict of the Poetry zoning meeting coinciding with the TCEQ hearing regarding the potential rock crushing plant on Hwy 276.

G. Reports:

1. Financial Report for February:

- a) **Beginning balance** of \$89,803.05. Ending balance of \$88,418.80
- Application for release from ETJ \$125.00

- Withdrawals and debits \$3595.53
 - Checks paid \$9090.85
 - 11 FEC checks are still outstanding
- b) **Sales and Use Tax Receipts Report:** 100% goes to Maintaining roads in Poetry
- Texas Comptroller Allocation for February is \$11,177.13
 - Total allocation currently is \$88,386.01
- c) **Solid Waste/Trash Transition Update:**
- Currently 540 households have subscribed to Blackjack Disposal
 - 115 higher than estimation from “free market” system in previous years.

2. Legal Report: Presented by Town Counsel David Berman

- Mr. Berman addressed the citizens in an attempt to alleviate some misconceptions regarding annexations in response to the increase in ETJ release petitions.
 - Poetry is a General Law Town with an ETJ that is approx. half a mile outside of the Town limits.
 - Within that ETJ, the Town of Poetry has the right to develop subdivision regulations and other minor things such as sign regulations and cemetery requirements. Poetry has no subdivision regulations, so the area whether it is in the ETJ or outside the ETJ defaults to either Hunt or Kaufman subdivision ordinances at this time.
 - Property within a city’s ETJ for some cities used to be able to forcibly annex, which he believes is where the fear may lie.
 - The Texas State legislature removed most of that ability of all cities in recent years.
 - Annexations: Mr. Berman believes that there is misinformation going around that if you are with the ETJ of Poetry, then one day the town can annex your property. Poetry is a Type A, General Law municipality. Unless the Town reaches a population of over 5,000, adopts a Home Rule Charter (by vote of the people) and the state law completely reverts back, that is impossible. No Texas General Law Town like Poetry has ever had the ability to forcibly annex someone else’s property. Type A General Law municipalities in Texas without utilities do not and have NEVER had the authority to forcibly annex someone else’s territory whether it’s in their ETJ or not.
 - The Town of Poetry DOES NOT and HAS NEVER had the authority to annex anyone’s territory without consent. The trend of legislation has been to restrict cities’ abilities to annex territory in the past ten years.
 - Regardless of how many properties leave the ETJ, the Town will remain intact.

3. Secretaries Report:

- Town Secretary and Deputy Secretary reports read by Town Secretary, Anne Hamilton.

H. Public Hearing on proposed Comprehensive Zoning Ordinance and Zoning Map:

- Council Member White presented a breakdown of the proposed zoning map and ordinance to the citizens in attendance.
- Council then discussed the proposed zoning ordinance page by page.
- Discussion had to be paused multiple times due to citizen interference.
- Citizen Tracie Hibbs had to be removed due to multiple instances of disruption during council discussions.

Five Minute Recess at 9:28 PM – Public Portion of the Hearing is open to questions.

- **Citizen Daryl Watson** – he is in support of the zoning proposal and is pleased with the limited growth in Poetry and the attempts to keep developers out. He is however concerned that the current influx of migrants to Texas is going to affect crime in all communities, including Poetry.
- **Citizen Jack Mullins** – suggested that access roads or access drives for agrarian use. He had a question about an acre and a half of property that he owns that

was surveyed and filed in Kaufman County in 1974 that was consistent with the minimum requirements at that time, will that be grandfathered in with the new zoning requirements?

- **Citizen Scott Lehew** – Appreciates all the effort and time the council has put into this zoning proposal. He is opposed to the zoning, however, as he doesn't want to feel like he has to ask for permission to make changes to his land. He moved to the country to get away from HOA's and their rules and restrictions. He also feels that section 14.2 regarding a Board of Adjustment is currently too vague. Citizen A may want something that Citizen B does not. How will that be handled and what will the method be for conflict resolution, appeals, etc.?
- **Citizen Laura Lehew** – She also appreciated the council's effort put into the zoning proposal. While she agrees with the effort to keep Poetry as it is and stop developments and undesired businesses from moving in, she opposes the proposal as she feels the map is unclear, she doesn't like the driveway restrictions as she doesn't like being told what to do with her property. She acknowledges that you can't have both. She has concerns about having to get permission from the council to move her parents onto her property in a mobile home or opening a business like a hair salon.
- **Citizen Billy Bourland** – He is opposed to zoning. He says he lives next to the largest business reflected on the map and asks that if zoning is going to be enacted, a minimum of 50 feet side setbacks be enacted.
- **Citizen Robbyn Followill** - She says that she is an expert at code enforcement, has an international property maintenance inspector license, and is a zoning inspector for the city she works for. Feels like this zoning would be telling her what to do. Her husband just spent \$20,000 on a rock entrance and their driveway is crushed asphalt and isn't going to let someone tell him what he can and cannot do. Thinks that a Board of Adjustments should be someone other than the town council, thinks it will be a conflict of interest. Feels like in the past people have not treated fairly. Would like an appeal process be put in place. Requests that if a sign ordinance is put into place something restricting illumination should be included as well. Says we currently don't have a way to enforce regulations or issue citations. Says that if one were to be hired, then they would have to be authorized in three (3) counties.
- **Citizen Kris Brown** – Concerned about the gate restrictions. She has a rock entrance and her gate is sixteen and a half (16.5) feet. Moved to Poetry in 1999 from an HOA environment and wanted the freedom of country life. Believes section seventeen (17) of the proposed zoning needs more definition. She also has concerns about the agrarian entrance restrictions. She currently has multiple entrances as you cannot access all of her property from one entrance.
- **Citizen Haley Dennis** – Disagrees with wording in section 1.3. She says that it states that "we" have jurisdiction over the ETJ. Claims that is not true, that as a town, they can make their own rules. Section 7.1, states that wholesale sales can be conducted from homes, suggesting that the word "retail" be added. Section 7.2.5, suggested that a definition be added for "commercial feed lots" as it might differ between parties. Section 8.2 permitted uses for single-family residential estates, she says that "cottage businesses" should be added in that section as well as farming, ranching, gardening, and any orchards. The definition in section 15.2 under "Farm, Ranch, Orchard, specifies five acres or more, however, some people farm on less than five acres.
- **Citizen Dale Bryant** – begins by speaking about the survey which was completed last year. He is asked by the Mayor to stay on the topic of zoning which he says

will tie in with his conversation. He says that he obtained a copy of the Ordinance of Incorporation and requested a copy of the survey. He begins to address the audience and holds up some papers as he speaks, he is asked by CM Anderson to only address the Council. He continues to talk about the Ordinance of Incorporation. He is asked once again to stick to the topic of zoning. He says that he asked for the metes and bounds as they should be part of the survey. Secretary Teresa contacted Stovall Surveyors requesting the metes and bounds and field notes. He states that he received a response from the surveyors, on city letterhead, that said that they did not provide metes and bounds legal descriptions or field notes for the city. He once again turns to address the audience. As the Mayor tries to explain the situation, he continues to talk over her. Again, he is asked to stick to the topic of zoning and to speak only to the council. He asks why we need a survey under 42.002 when we should have already had one. He acknowledges that when a group of citizens gather together to incorporate, a survey is not required as it is cost prohibitive and no one would ever be able to incorporate if it were required, therefore the only requirement is a map. He continues to address the audience holding up a map claiming that 20 roads are illegally defined, and that council member White doesn't live in Poetry. He is reprimanded 3 more times by 3 different council members and the Mayor asks to have him escorted out.

- **Citizen Patty Buikema** – She states that she is for zoning and appreciates the hard work of the council and acknowledges that you cannot please everyone all of the time.
- **Citizen Doug Kendrick** – Agrees that zoning is needed and that it is understandable that people want the ability to live how they want on their property. He feels that council should really zone in on the specific ordinances and not make it easy for developers to come in and build subdivisions. He also doesn't quite understand that some people are saying they don't want zoning but want to promote a board of adjustment, when without zoning you have no need for a board. He mentioned that his background is in safety and when Councilmember Fowler was bringing up his concerns about safety, that the breakdown of ordinances is where you can put those specifics instead of trying to include it all in one document. Focus on some of the harder issues by ordinance and that will help to protect the town from outsiders and their lawyers.
- **Citizen Tim Smith** – Is concerned about how this will affect the ability for his business growth opportunities. Also concerned about entrepreneurs wanting to sell items like hay or eggs and how they will be affected because their property may not be considered retail.
- **Citizen Kevin Potts** – Moved out here to get away from HOA rules and feels like this zoning would require citizens to ask permission before they do anything with their property. Feels like Poetry is a broken and divided town in chaos and has not been a community since it was incorporated. Requested that the zoning be paused until the town has mended its differences.
- **Citizen Chad West** – Is against the zoning. He feels that the town is experiencing a false sense of security that it will be able to keep out developers. Also feels like zoning means asking for permission to do anything on his property.
- **Citizen Glenn Straus** – Moved to Poetry 18 years ago and loves his town. Feels zoning is necessary. Told a story of how his parents bought a beautiful property at the end of a county road with beautiful views two miles long. A year later, less

than 200 feet from their property, a place where you raise, and process chickens was built. They had to sell their land because of the stench. This is how zoning can stop things like that from occurring.

- **Citizen Josh Senkevech** – He agrees with zoning and says that three (3) main principles were important to the town when incorporated. To keep the town of Terrell from expanding, to be able to maintain the roads, and to have some sort of zoning to keep Poetry, Poetry. He believes the zoning presented is a step in the right direction but it's not perfect. He believes that 2.5 acres might be a little excessive for people just starting and wanting to live here. He points out that Kaufman is one acre and Hunt is 1.5. He also thinks the language should include more than just "Horse and Stables".
- **Citizen Kenneth Eaton** – Has lived in other small communities that exploded overnight. He believes that change is coming and that whatever can be done to slow it down should be done. He still believes that people should be able to do whatever they want to do and that the council is approaching the citizens as management and should be approaching them as neighbors. He says that he is not sure if his house is conforming or not. He has a business office building of 5000 square feet that he built for his wife who is in a wheelchair. He also needs to remodel his own house for her needs and to make it ADA-compatible. He said that if he finds that it is currently non-conforming, he's not going to spend the money, he will just sell it and find something else. He feels that this zoning will punish people who want to make improvements to their property. He says that he currently has two driveways to his home, one on Poetry Road and the other on CR 2454. He wants to connect these driveways and make one circular drive with two different entry points. Though he is in favor of what the council is trying to accomplish with the proposed zoning, slowing down the growth of the community. He feels that a survey should be done first to find out how many people are in/out of compliance before a decision is made. He feels that not enough research has been done and that there should be more due diligence before this step is taken.
- **Citizen Jack Senkevech** – He believes that rules and regulations are needed to stop people from moving into the community and turning everything upside down. He feels that the zoning is reasonable.
- **Citizen Shelley Smith** – She is concerned about putting a house on some extra property that they purchased for future use. She also feels that the current zoning proposal only hurts the people with small amounts of acreage. She requested that the zoning be put on hold and a committee be formed of more citizens.
- **Citizen Patrick Smith** – Feels that this zoning is significant and has a widespread impact on citizens. Feels like this proposed zoning has been done in secret and off the record and in violation of state law. Accused the council of covering up a law violation.
- **Citizen Mike Griffin** – He believes the zoning will be a limited tool to use against development. He said that he believes that the objective of a comprehensive plan would be better by focusing on setbacks only.

Five Minute Recess at 10:29 PM (at which point Councilmember Anderson needed to leave the meeting for the rest of the evening.)

Meeting resumed at 10:36 – The public portion of the hearing is announced as officially closed. Mayor and Legal Council will answer the questions that were asked by citizens during the public portion of the meeting.

- **Jack Mullins – Answer: Attorney Berman:** whatever uses there are existing on all properties in town as of the date of adoption of this ordinance will be grandfathered, they will be lawful non-conforming uses and they will be allowed to continue indefinitely. Those are non-conforming lots, and they can still be used under our ordinances. Mayor Pro Tem Mike Jaffe clarified that in his opinion it sounded like Mr. Mullins's property has already been platted since 1974 but he hasn't done anything with it yet but he still has a standing approval. Attorney Berman said that if they have already been platted then yes, the lots are the lots. They may not be conforming, yet but he's still allowed to use them.
- **Tim Smith – Answer: Attorney Berman:** The permissible uses that are identified in the B business district, are uses that are currently on his property. Those uses are not limited by this ordinance, he can continue to use them, or put his property to use as he sees fit. He can increase and expand or decrease them as he wants to. The only difference that this ordinance will have, is if he wants to create or put his property to a new use, but is not a listed one, he will have to get permission from the Council, in terms of non-conforming use. Vested rights and lawful non-conforming uses can continue indefinitely. The transfer of a piece of property that has a non-conforming use, lot, or structure on it, does not terminate its non-conforming status. A nonconforming use or a non-conforming structure will continue indefinitely, notwithstanding changes of ownership, until the uses or structure has been abandoned or the owner converts it to a lawful conforming use or structure. It doesn't matter if you sell the property or if you pass away and your estate is inherited, the non-conformity continues to exist. Council member Fowler mentioned that Mr. Smith is wondering about what that would mean if he were to purchase the property next to his business, would he need to meet with the council to have this additional property zoned? Attorney Berman said that yes, he would have to apply to have the new addition re-zoned as a business. Councilmember Fowler acknowledged that this regulation is a good thing, otherwise, businesses would be able to keep buying neighboring properties and continue expansion.
- **Followill/Lehew answer: Board of Adjustment Questions: Attorney Berman -** We don't have detailed provisions in our ordinance regarding the Board of Adjustment because the ordinance's goal is simply to create and establish the council of the BOA. Texas Law Section 211.008 and 211.009 of the Texas Local Government Code contain fairly comprehensive provisions that outline the jurisdiction of all Boards of Adjustment. That outlines processes and procedures and dictates a method of appeal, and it's a pretty simple straightforward method of appeal. Although the appellate timetable is short, our ordinances don't need to detail all of those requirements because they're already stated in state law. There's no need for us to reprint them so we're defaulting to the state law which we would have to do no matter what.
- **Attorney Berman:** There were some specific questions regarding specific articles and there was a provision in 1.3 that addresses the town in the ETJ. I said this earlier when I spoke and I want to make sure that everybody completely understands this. Our zoning regulations, unlike subdivision regulations, our zoning regulations do not apply in our ETJ. There's a provision that one provision that might specifically the sign regulation but nothing else will right and that's why that section says something like subject to exclusions and state law these zoning regulations will not apply to any territory within the town ETJ except the sign regulations.
- **Haley Dennis --answer: Attorney Berman:** someone said, single family residential "there's nothing in there that says that we can have Cottage businesses". There is. You are allowed to have home occupations and it's in the definitions. A cottage business is a

home occupation if you use it in accordance with the definition which doesn't impose any limitations at all because this really is a minimal zoning ordinance.

- **Attorney Berman:** I understand that nobody wants to live under regulations. But you all understand that there's a tradeoff here. You know what you want to do with your property, but at the same time, you all understand that the lack of rules that you want to live by will also apply to your next-door neighbor. So, when your neighbor sells their property, to DR Horton as an example, or to a concrete batch mixing facility or a slaughterhouse, these rules that would apply to you will also apply to your neighbors. If you want to preserve the rural character of the town of Poetry the only tool you have, to have any control over, is your zoning regulations. And these are really loose they don't say very much at all. If you don't adopt these at all, you understand, that when someone comes into town and applies for some type of a permit, or gives the town or the county, fair notice of a project or a commercial development smackdab within the middle of the town of Poetry, once we have knowledge of that fair notice, any regulations that we adopt afterward will not apply to that development. So, if we don't adopt this tonight and a concrete batch mixing facility submits a permanent application in Kaufman County, these regulations won't apply to them and they can continue to develop their property all day long in the ETJ. All we can do is adopt these and impose them within our town limits.
- **Citizen Kenneth Eaton – Answer: Attorney Berman:** He does not see that Mr. Eaton's house is non-conforming, as it is well past the proposed setback limit, so there would be no problem with him wanting to add to it.
- **Citizen Shelley Smith – Answer: Attorney Berman:** He is not quite sure that he understood what her concerns are but that yes, the only way that you can truly control what happens on your neighbor's property is by actually buying it. Councilmember White added that he understands that the original wording is a bit confusing, where it said "one driveway per residence", so now it will read "per dwelling unit". So, if you have two houses, you can have two driveways. If you build a third and fourth house, you can build a third and fourth driveway. So as in Mrs. Smith's case, she is completely fine.
- Mr. Patrick Smith began shouting from the back of the room his question wasn't answered about the current zoning committee operating in secret meetings and against state law. He was told by Mayor Senkevech that he was out of order. Attorney Berman said that Mr. Smith is talking about a committee that the town used to have, but does not any longer. This Town has never appointed a Planning and Zoning Commission and the proposed ordinance would do that. Mayor Senkevech added that the Council decided to have two council members fine-tune the proposed ordinance, which we all just looked at, for months. Because this is difficult to do in a group setting, in front of people, it was done, fine-tuned, and brought to this meeting for review. Councilmember White also added that councilmembers looking over and tweaking a document is not considered a Commission.
- Mayor Senkevech asked if there were any other amendments that the council wanted to make. Councilmember Fowler asked if there was to be no more discussion on the district regulations section regarding the setbacks. He suggested that the council go back to the setback requirements that were outlined in a previous draft of the proposed zoning ordinance, dated March 14th. He felt that this current version has taken a step backward. Councilmember White agreed that it should not be as restrictive. He feels that the setback shouldn't be 110 feet and that there are too many non-conforming uses. He believes that the Council owes it to the townspeople to make sure that liberties aren't infringed upon. Mayor Pro Tem Jaffe asked Councilmember Fowler to clarify that he is NOT agreeing to the numbers that are in the March 15th, 2024 printing, under District Regulations Appendix One (1). Councilmember Fowler affirmed that was correct. Mayor Pro Tem Jaffe asked Councilmember Fowler to outline the figures that he wanted to roll back to as he didn't have a copy of that previous version with him. Councilmember Fowler read the maximum height stayed the same in both documents so

4:03:58

4:08:19

4:10:07

that is good. Side yards were 35 feet across the board. Mayor Senkevech asked if he intended to be more restrictive concerning side yards. She said that she listened to the citizens and they didn't want to be too restrictive as 35 feet for barns and shops etc. Councilmember Fowler said he also spoke with citizens and they don't want zero-lot line properties either. The Mayor said that originally they considered not having any side or back setbacks. After speaking with legal counsel and listening to citizens, it was advised that there should at least be five feet so as to not infringe on the fence rows. Councilmember Fowler suggested that no one knew how many non-confirming houses there were in Poetry and felt that the 35-foot side and back setback would protect everyone for the future. He said that he moves that it is changed back to 35 feet and it can be voted on. After some back-and-forth discussion, Councilmember White suggested that they move forward with the vote that Councilmember Fowler asked for. Mayor Pro Tem Jaffe said his motion was to table the zoning vote as his concern is that he hasn't seen the same document two days in a row as it continues to change. The Mayor said that she then proposed that the meeting continue the next evening at 6:30 pm. Councilmember White pointed out that there is a motion on the table and it would need to have a second before they could move on. Mayor Senkevech pointed out that the next meeting would need to be decided because it was suggested that the proposed zoning ordinance be "tabled" and "table" is not a term that is legal to use. If the vote needs to be postponed, then there needs to be a meeting decided as to when it would be postponed. Councilmember White disagreed and said he wanted to deal with it right then. He said there have been no major edits suggested. Mayor Pro Tem Jaffe clarified his motion by stating that this is the single most impacting thing that this Council has done to date and may ever do and he doesn't want to feel pressured and he feels that he needs more time to plan and doesn't feel that tomorrow night would allow his enough time either. Mayor Senkevech announced that the motion on the table is to "table" the vote to the next month's meeting from Mayor Pro Tem Jaffe and a second by Councilmember Fowler. Councilmember White said that he wasn't going to be guilty by omission. The developments can come in as they have been coming in. He said that this was a long time in the making and a lot of time was spent developing this zoning proposal. If there are continued delays then he feels like he will be letting down more of his neighbors. The vote was 2:2 and the Mayor was the tiebreaker with a vote of "no".

Motion failed 3:2

- The next motion, made by Councilmember White was to approve the proposed zoning map and ordinance with the changes that were discussed during the evening. This motion was seconded by Councilmember Blake. The vote was 2:2, the Mayor was the tiebreaker with a vote of "yes". **Motion Passes 3:2**

The remainder of the Regular meeting agenda items was announced postponed until a continuation meeting can be scheduled.

Meeting adjourned at 11:06 pm.

Minutes by Town Secretary Anne E. Hamilton