



**NOTICE OF MEETING OF THE
Buda Economic Development Corporation
Wednesday, May 8, 2019 at 6:00PM
Buda Municipal Complex – Multipurpose Room
405 East Loop Street, Bldg. 100, Buda, TX 78610**

The Buda Economic Development Corporation will hold a special called board meeting at **6:00PM, Wednesday, May 8, 2019** at **Buda Municipal Complex – Multipurpose Room**, 405 East Loop Street, Bldg. 100, Buda, Texas.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. PUBLIC COMMENTS

At this time, comments will be taken from the audience on non-agenda related topics for a length of time not to exceed three minutes per person. To address the EDC Board, please submit a Citizen's Comment Form to the Operations & Finance Administrator prior to the state of the meeting. No action may be taken by the EDC Board during Public Comments.

D. GENERAL AGENDA ITEMS

1. Discussion and possible action on the approval of the Minutes from the May 1, 2019 Board Meeting – *SHAW*
2. Discussion and possible action regarding a FY 2018-2019 Budget Amendment pertaining to Personnel Matters – *STORM*
3. Discussion and possible action regarding ICSC ReCon Buda EDC Representation – *STORM*
4. Discussion and possible action regarding Future Staffing options – *STORM*
5. Discussion and possible action regarding the City Council proposed 5th Amendment of the Buda EDC Bylaws – *STORM / SHAW*
6. Discussion and possible action regarding the formation of a Budget Committee – *TOMME / SHAW*
7. Discussion and possible action regarding a change in meeting day and time for future Buda EDC Board Meetings – *SHAW*
8. Discussion and possible action regarding the addition and removal of members from the Buda EDC TexPool Accounts – *SHAW*

E. EXECUTIVE SESSION

1. The Buda Economic Development Corporation Board of Directors will meet in a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:

Section 551.071 – Consultation with Legal Counsel regarding legal issues related to personnel matters, BEDC Bylaws revision and related procedures, and Resolution # 2019-R-13 passed by Buda City Council on April 30, 2019.

Section 551.074 – Deliberation regarding Personnel Matters

To discuss or deliberate regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of, or to hear a complaint or charge against the following employees:

Executive Director
Operations & Finance Administrator
Retail & Marketing Coordinator
Planner II – ED Specialist

Section 551.087 – Deliberation regarding economic development negotiations:

- A. To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.
 - B. To deliberate the offer of a financial or other incentive to a business prospect.
2. The Buda Economic Development Corporation Board of Directors will reconvene into open session to discuss, consider, and/or take any action necessary related to the executive session, and/or related items.

F. UPDATES

1. Buda EDC Staff Report – *SHAW*
 - Ethics Training – City of Buda Requirement
 - Prospect Update
 - EDC & Community Events/Programs
 - EDC Activities Update
2. Buda EDC Board President Report
 - Update on EDC Activities
 - Update on EDC Projects

3. Report on City Activities

- Update on City of Buda Activities including: Capital Improvements Projects, Road Projects, Finance, Grants, Tourism, Events, Park & Recreation, Legislative, Library, Development Projects

4. Report on Chamber of Commerce Activities

G. FUTURE AGENDA ITEMS

H. ADJOURNMENT

Attendance by Other Elected or Appointed Officials:

It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the boards, commissions and/or committees may be permitted to participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

The Buda Economic Development Corporation reserves the right to adjourn into Executive Session at any time regarding any issue on this agenda for which it is legally permissible. The meeting venue is wheelchair accessible and accessible parking spaces are available. Requests for accommodations must be made 48 hours prior to the meeting. Please contact the Operations and Finance Administrator at 512.295.2022 for information or assistance. I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the Buda Economic Development Corporation was posted on the door of the Buda Economic Development Corporation and Buda City Hall, which is readily accessible to the public at all times, by 5:00 p.m. on Friday, May 3, 2019.

Mandy Shaw

Mandy Shaw, Operations & Finance Administrator, Buda EDC





**City of Buda 4B Corporation Minutes
May 1, 2019**

A. CALL TO ORDER

The meeting was called to order at 5:45 p.m.

B. PRESENTATIONS

ADMINISTER THE OATH OF OFFICE TO NEWLY APPOINTED BUDA ECONOMIC DEVELOPMENT CORPORATION BOARD MEMBERS

Oaths/Statement given to the following new Buda Economic Development Board Members

1. John Tomme
2. Jennifer Storm
3. Lee Urbanovsky
4. LaVonia Horne-Williams
5. Ray Bryant
6. Elizabeth Urban
7. Monica Davidson

C. EXECUTIVE SESSION

The Board went into Executive Session from 5:46 pm to 7:00 pm to consult with Legal Counsel regarding legal issues related to personnel issues.

- a. No action taken

D. GENERAL AGENDA ITEMS

2. DISCUSSION AND POSSIBLE ACTION REGARDING THE ELECTION OF OFFICERS OF THE BUDA ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS

RESOLVED, that the Board approve the following slate of Officers:

- President – Jennifer Storm
- Vice President – Monica Davidson
- Secretary – LaVonia Horne-Williams
- John Tomme – Treasurer

Motion by Director Urbanovsky, seconded by Director Horne-Williams. Motion passes 7-0-0.

E. PUBLIC COMMENTS – NONE

F. GENERAL AGENDA ITEMS

3. DISCUSSION AND POSSIBLE ACTION ON THE APPROVAL OF THE MINUTES FROM THE APRIL 15, 2019 BOARD MEETING

RESOLVED, that the Board approve the Minutes from the April 15, 2019 Board Meeting as presented with the proviso that the Board is allowed to bring the item back if corrections are needed. Motion by Director Bryant, seconded by Director Urbanovsky. Motion passes 7-0-0.

4. DISCUSSION AND POSSIBLE ACTION ON THE APPROVAL OF THE MARCH 2019 TREASURER’S REPORT

RESOLVED, that the Board approve Treasurer’s Report as of March 31, 2019. Motion by Director Bryant, seconded by Director Urbanovsky. Motion passes 7-0-0.

5. DISCUSSION AND POSSIBLE ACTION TO APPOINT MANDY SHAW AS INTERIM EDC DIRECTOR AND COMPENSATE ACCORDINGLY

RESOLVED, that the Board approve a motion to postpone this item to a future meeting. Motion by Director Urbanovsky, seconded by Director Bryant. Motion passes 7-0-0.

6. DISCUSSION AND POSSIBLE ACTION TO ELIMINATE PLANNER II – ED SPECIALIST POSITION

RESOLVED, that the Board approve a motion to postpone this item to a future meeting. Motion by Director Bryant, seconded by Director Davidson. Motion passes 7-0-0.

7. DISCUSSION AND POSSIBLE ACTION REGARDING RETAIL RECRUITMENT SERVICES ASSOCIATED WITH THE ICSC RECON CONFERENCE

The Board of Directors gave direction to Staff regarding this item. This item will be readdressed at the next Buda EDC Board Meeting.

8. DISCUSSION AND POSSIBLE ACTION REGARDING THE PROCUREMENT OF A CORPORATE CREDIT CARD

RESOLVED, that the Board approve a motion to start the procurement process of acquiring a new Corporate Credit Card with the same parameters as the previous corporate card. Motion by Director Urbanovsky, seconded by Director Davidson. Motion passes 7-0-0.

9. DISCUSSION AND POSSIBLE ACTION REGARDING ADDING AND REMOVING SIGNATORY ACCESS FROM/TO THE BUDA EDC BROADWAY BANK ACCOUNTS

RESOLVED, that the Board approve a motion to **ADD** the following Board Members to the Broadway Bank Accounts: Jennifer Storm, Monica Davidson, LaVonia Horne-Williams, and John Tomme. Motion by Director Storm, seconded by Director Horne-Williams. Motion passes 7-0-0.

RESOLVED, that the Board approve a motion to **REMOVE** the following Board Members to the Broadway Bank Accounts: Jose Montoya, James Lewis, Joy Hart, John Hatch and Ann Miller. Motion by Director Storm, seconded by Director Urbanovsky. Motion passes 7-0-0.

RESOLVED, that the Board approve a motion to grant Maranda “Mandy” Shaw the ability to transfer funds from Broadway Bank Accounts. Motion by Director Storm, seconded by Director Tomme. Motion passes 7-0-0.

G. EXECUTIVE SESSION

The Board went into Executive Session from 8:11 pm to 10:42 pm to discuss Economic Development Negotiations and consult with Legal Counsel regarding legal issues related to personnel issues.

- a. RESOLVED, that the Board approve a motion to direct EDC Board Attorney Monte Akers to discuss personnel matters with Ms. Miller as discussed in Executive Session. Motion by Director Tomme, seconded by Director Horne-Williams. Motion passes 7-0-0.

H. UPDATES

1. Board President Update: None.
2. City Activities: None.

I. FUTURE AGENDA ITEM

1. Budget Amendment regarding Personnel
2. ICSC Las Vegas – possible Representatives
3. Future Staffing Agreements
4. Bylaws
5. Budget Committee
6. Change Meeting time going forward

J. ADJOURNMENT

With no further business, President Storm adjourned the meeting at 11:02 p.m.

LaVonja Horne-Williams, Secretary

APPROVED:

Jennifer Storm, President

Approval of Minutes:

The foregoing minutes are approved as the acts of the Directors of the Corporation.

Jennifer Storm, Director

Monica Davidson, Director

LaVonia Horne-Williams, Director

John Tomme, Director

Elizabeth Urban, Director

Lee Urbanovsky, Director

Ray Bryant, Director

FIFTH AMENDED BYLAWS
OF
CITY OF BUDA 4B CORPORATION

These Bylaws govern the affairs of CITY OF BUDA 4B CORPORATION, a nonprofit corporation.

ARTICLE 1
OFFICES

Principal Office

1.01. The Corporation's principal office in Texas is located at 405 E. Loop Street, Building 100-EDC, Buda, Texas. The Corporation may have such other offices, in Buda, Texas as the Board of Directors may determine.

Registered Office and Registered Agent

1.02. The Corporation will maintain a registered office and registered agent in Buda, Texas. The registered office may, but need not, be identical with the Corporation's principal office in Texas. The Board of Directors may change the registered office and the registered agent as permitted under The Development Corporation Act, Chapters 501 to 505 of the Texas Local Government Code, as amended (hereinafter referred to as the "Act").

ARTICLE 2
BOARD OF DIRECTORS

Management of Corporation

2.01. The Board of Directors will manage corporate affairs.

Number, Tenure and Qualifications of Directors

2.02. The number of Directors will be seven. Directors serve staggered two-year terms of office. The terms of three (3) directors begin on May 1st of each odd-numbered year and expire on April 30th of the next following odd-numbered year. The terms of four (4) directors begin on May 1st of each even-numbered year and expire on April 30 of the next following even-numbered year. All Directors shall be residents of the City of Buda or of the extra-territorial jurisdiction of Hays County, Texas. At least three of the Directors shall not be persons who are employees, officers or Councilmembers of the City of Buda, except that ~~at least two but~~ no more than ~~three two~~ of the Directors ~~shall may~~ be City Councilmembers of the City of Buda. Effective in 2020, one of the three persons appointed to fill the odd-year Director positions ~~shall may~~ include a City Councilmember. One of the four persons appointed to fill the even-year Director positions shall include a City Councilmember. Except as otherwise provided herein, Directors shall routinely serve regular two-year terms.

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Commented [LGL1]: TLGC 505.052(c): "Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality." COMMENT: State law considered what number of city officials is appropriate on an EDC Board and limited it to 4. The City Council chose 3, which ensures citizens maintain a majority, but keeps elected City Council members who remain responsible to the people for the tax dollars spent, fully engaged in economic development issues.

Commented [LGL2]: This position was designed to ensure continuity in council representation on the Board, so that as councilmembers transition in and out of office, replacements may serve and retain institutional knowledge on the Board.

Appointment of Directors

2.03. Directors shall be appointed by ~~and shall serve at the pleasure of the Buda City Council. Directors may be reappointed to a new term at the end of any term at the pleasure of the City Council. Directors who are not replaced at or before the expiration of their respective terms shall continue to serve until replaced. Any new Director appointment made by the City Council may include the obligation to complete any then remaining unexpired term at the time of appointment and to serve the following regular term of appointment. the mayor, when confirmed by City Council.~~

Vacancies

2.04. The Board will promptly notify the City Council of any vacancy occurring on the Board, and the vacancy will be filled by the City Council at its pleasure.

Meetings

2.05. The Board will meet from time to time, but at least once a calendar quarter to carry out its duties. The Board may provide for regular meetings by resolution stating the time and place of such meetings. The meetings must be held within the City of Buda. All meetings shall be held in accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended.

Special Meetings

2.06. Special Board meetings may be called by, or at the request of, the president or by the chief administrative employee of the Board as a result of a request by any three Directors. A person or persons authorized to call special meetings of the Board may fix any place within the City of Buda, Texas, as the place for holding a special meeting. The person or persons calling a special meeting will inform the administrative staff of the Corporation of the information to be included in the notice of the meeting. The administrative staff of the Corporation will give notice to the Directors and the City Manager, in the form that these Bylaws require and in compliance with the Texas Open Meetings Act, as amended.

Notice

2.07. Written, printed or emailed notice of any special meeting of the Board will be delivered to each Director not less than three, nor more than 30 days before the date of ~~any~~the meeting. The notice will state the place, day, and time of the meeting; who called it; and the purpose or purposes for which it is called. Notice is sufficient if it includes a copy of the Notice provided to the public in accordance with the Texas Open Meetings Act, as amended.

Quorum and Action

2.08. Four (4) Directors shall constitute a quorum for the conduct of the official business of the Corporation. No action of the Corporation shall be valid unless approved by the affirmative vote of four (4) Directors, except as provided in Section 2.13 of these Bylaws. The affirmative vote of

Commented [LGL3]: TLGC §501.062(c): “The governing body of the corporation’s authorizing unity may remove a director for cause or at will.”; 2017 TML Eco. Devo. Handbook: “...directors serve at the pleasure of the City Council and may be removed by the City Council at any time without cause.”

COMMENT: **Definition of at the pleasure of (someone) idiom** —used to say that something is done or can be done because someone wants it to be done. Example: I serve at the pleasure of the president, and I will continue to serve as long as the president wants me to.

Source: <https://www.merriam-webster.com/dictionary/at%20the%20pleasure%20of%20someone>

Replacement and hold-over language is common legal question avoided if included in bylaws.

an action by four (4) Directors shall constitute an act of the Board and of the Corporation unless a vote of a greater number of ~~Directors~~ is required by law. Directors must be present in order to vote at any meeting.

Proxies

2.09. A Director may not vote by proxy.

Compensation

2.10. Directors may not receive compensation but are entitled to reimbursement for actual expenses ~~incurred~~ in the performance of their duties on behalf of the Corporation.

Removing Directors

2.11. The City Council may remove a Director at any time, with or without cause.

Board Meeting Attendance

2.12. The voluntary absence of a Director from three (3) consecutive meetings, or more than a total of six (6) meetings within a calendar year, will result in automatic resignation of the Director from the Board. An absence of a Director from a regularly scheduled Board meeting may be regarded as excused, rather than voluntary, at the discretion of the Board, if it results from the illness or from a factor beyond the control of the Board Director.

Education Obligation Training Requirements

~~2.13. The Buda EDC shall comply with all Education Requirements as provided by Texas Local Government Codes 502.101. All members of the Board of Directors shall be encouraged to attend the Basic Economic Development Course at an acceptable education provider such as the Texas Economic Development Council within six months of initial appointment date to the Board of Directors. An acceptable alternative course that would meet the curriculum requirements may be substituted with approval in advance by a majority vote of the other Directors. Corporation funds shall be used to pay the costs of attending the required course as provided by Texas Local Government Code § 502.101.~~

~~2.14. The chief administrative employee of the Corporation and the City Attorney or the City Manager or the City Clerk of the City of Buda is required to attend an economic development training seminar within 90 days of taking office. The seminar must be repeated every two years. Corporation funds shall be used to pay the costs of attending the seminars as provided by Texas Local Government Code § 502.101.~~

Commented [LGL4]: TLGC 501.062: "A director serves without compensation, but is entitled to reimbursement for actual expenses *incurred* in the performance of the director's duties under this subtitle."

Comment: removing the statutory language appears to suggest a broader scope of entitlement than state law allows.

Commented [LGL5]: This was policy language in support of greater education regarding economic development to better empower board members to be able to adequately supervisor the activities of staff and show a commitment to pay for the education. The programs typically include the required training related to Open Meetings and Public Information obligations placed on the Board members as well as an introduction to the laws regulating economic development.

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Commented [LGL6]: This is again a restatement of Texas law to provide a resource and demonstrate the City's and Board's commitment to comply with and stay up to date on the educational requirements. It further represents the state's view that the City staff have oversite responsibilities regarding the operation of its EDC.

ARTICLE3
OFFICERS

Officer Positions

3.01. The Corporation's officers will be a president, a secretary, a vice president, and a treasurer. The Board may define the authority and duties of each such position and shall elect or appoint persons to fill the positions by Resolution of the Board. The same person may hold any two or more offices, except for president and secretary. To avoid the appearance of any impropriety's, no member of the Corporations Officers can be someone currently serving as a member of the Buda City Council or City Staff.

Election and Term of Office

3.02. The Corporation's officers will be appointed annually by the Board and will remain in office until their successors have been appointed and qualified. An officer may be appointed to succeed himself or herself in the same office.

Removal

3.03. Any officer elected or appointed by the Board may be removed by the Board or the City Council at any time, with or without good cause.

Vacancies

3.04. The Board may select a person to fill a vacancy in any office for the unexpired portion of the officer's term.

President

3.05. The president is the Corporation's chief executive officer. He or she will supervise and control all of the Corporation's business and affairs and will preside at all meetings of the members and of the Board. The president may execute any deeds, mortgages, bonds, contracts, or other instruments that the Board authorizes to be executed. However, the president may not execute instruments on the Corporation's behalf if this power is expressly delegated to another officer or agent of the Corporation by the Board, these Bylaws, or statute. The president will perform other duties prescribed by the Board and all duties incident to the office of president.

Vice President

3.06. When the president is absent, cannot act, or refuses to act, a vice president will perform the president's duties. When acting in the president's place, the vice president has all the powers of-- and is subject to all the restrictions on--the president. A vice president will perform other duties as assigned by the president or Board.

Commented [LGL7]: TLGC 501.065 governs the corporate officers and contains no such restriction.

COMMENT: This edit is illustrative of and reflects that the prior Board of Directors held distrust for the governing body and its staff. To suggest that "an appearance of impropriety" could occur when one appointed to serving at the pleasure of another, shows the dysfunction present on the BEDC Board.

This further unnecessarily denies the Board the discretion to select by majority vote the best person to serve as its corporate officers. With four citizens on the Board, they could ultimately control the election of officers. In operation, this provision can demonstrate that the City Council and the Board does not trust future appointments to exercise proper judgment in carrying out their duties on the Board.

This sentence is also grammatically incorrect in its use of a possessive "'s".

Treasurer

3.07. The treasurer will:

- (a) Have charge and custody of--and be responsible for--all the Corporation's funds and securities.
- (b) Receive and give receipts for moneys due and payable to the Corporation from any source.
- (c) Deposit all moneys in the Corporation's name in banks, trust companies, or other depositories as these Bylaws provide or as the Board or president directs.
- (d) Write checks and disburse funds to discharge the Corporation's obligations, except that, funds may not be drawn from the Corporation or its accounts for amounts greater than \$1,500.00 without signature of the president or a vice president in addition to that of the treasurer.
- (e) Maintain the Corporation's financial books and records.
- (t) Prepare financial reports at least annually.
- (g) Perform other duties as assigned by the president or the Board.
- (h) If the Board requires, give a bond for faithfully discharging his or her duties in a sum and with a surety as determined by the Board.
- (i) Perform all of the duties incident to the office of treasurer.
- (~~jk~~) Will serve as the Chair of the Budget Committee.

3.08. The Treasurer may assign any duties to the staff or a hired agent of the Corporation upon approval of the Board. The Treasurer will maintain a supervisor role regarding these duties if assigned.

Secretary

3.09. The Secretary will:

- (a) Give all notices as provided in the bylaws or as required by law.
- (b) Take minutes of the meetings of the members and the Board and keep the minutes as part of the corporate records.
- (c) Maintain custody of the corporate records and seal.
- (d) Affix the corporate seal to all documents as authorized.
- (e) Perform duties as assigned by the president or the Board.
- (t) Perform all duties incident to the office of secretary.
- (g) Comply in all respects with the Texas Open Meetings Act and the Texas Public Information Act.

3.10. The Secretary may assign any duties to the staff or a hired agent of the Corporation upon approval of the Board. The Secretary will maintain a supervisor role regarding these duties if assigned.

ARTICLE4
TRANSACTIONS OF THE CORPORATION

Contracts

4.01. ~~Subject to the approval of any expenditure as provided in Section 6.02 of these Bylaws,~~ the Board may authorize any officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of, and on behalf of, the Corporation. This authority may be limited to a specific contract or instrument, or it may extend to any number and type of possible contracts and instruments.

Deposits

4.02. All the Corporation's funds will be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Board selects.

Gifts

4.03. The Board may accept, on the Corporation's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation.

Prohibited Acts

4.04. As long as the Corporation exists, the Corporation and its Board and Officers shall comply in all respects with the Act, as amended, and shall not take any action that shall be inconsistent with the requirements of that Act. In addition, no Board member or Officer shall:

- (a) Do any act in violation of these Bylaws or a binding obligation of the Corporation.
- (b) Do any act with the intention of harming the Corporation or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the Corporation's intended or ordinary business.
- (d) Receive an improper personal benefit from the operation of the Corporation.
- (e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.
- (f) Wrongfully transfer or dispose of Corporation property.
- (g) Use the Corporation's name (or any substantially similar name) except on behalf of the Corporation in the ordinary course of its business.

ARTICLES
BOOKS AND RECORDS

Required Books and Records

~~5.01. The Corporation's authorizing unit, hereby known as the Buda City Council, is entitled to access to the Corporations books and records at all times subject to section 5.2: The Corporation will keep correct and complete books and records of account and shall maintain such books and records in a form which always allows unrestricted access to all the~~

Commented [LGL8]: TLGC 501.073(a): SUPERVISION BY AUTHORIZING UNIT. (a) The corporation's authorizing unit will approve *all programs and expenditures* of a corporation and annually review any financial statements of the corporation. COMMENT: All means "all". To ensure officers and agents of the Corporation have approval of the expenditure of tax dollars by the authorizing unit (City Council), we must remind them to ensure better compliance with state law.

The City Council experienced arbitrary and capricious interpretation of the BEDC Budget Approvals in the course of this budget year. The BEDC had previously considered anything contained in the Budget, if approved, automatically meant that the expenditure was approved as well, when appropriation of funds and the expenditure of funds are two distinct things.

For instance, the City is not approached for approval of expenditures that have been included in the BEDC Budget in the past; however, on September 4, 2018, the City Council approved the BEDC Budget for the 2019 fiscal year (10/2018-9/2019). Within the budget was "Capital Expenditures – City of Buda – Sportsplex Finish Out with \$400,000 noted as funds to match Hotel Occupancy Tax used to complete Sportsplex.

However, on February 19, 2019, at 3:10 p.m. Ms. Miller shot an email to Deputy City Manager Grau, Parks Director Olmer and Finance Director Ellis stating: At our February 6, 2019 Board meeting, the Buda EDC Board decided that going forward all expenditures for Special Projects, Sponsorships and Events have a proposal presented by the requesting party, regardless of whether or not they are budgeted items." The email goes on to indicate that the Board is now imposing never before conditions on the use of the funds as it doesn't appear to agree with the direction of City Council in its attempt to obtain a Private-Public-Partnership for operation of the Sports Plex.

Apparently, the BEDC made this decision 13 days prior to notifying the city and provided notification less than three hours prior to the City Council meeting slated to award the lighting improvement contract with the selected vendor. The City Council meeting and action item was known to the BEDC and Ms. Miller for days, yet Ms. Miller waited until hours before the meeting no notify the City that the Board has unilaterally pulled funding obligations represented to the City as approved budget items in September, of which the city acts upon, only to pull the funding only hours before closing the project. This resulted in huge losses in invested staff and legal time devoted as a result.

~~records of the Corporation by the City of Buda, as required by Texas Local Government Code § 5.01. 501.073(b). The books and records include:~~

- (a) A file-endorsed copy of all documents filed with the Texas Secretary of State relating to the Corporation, including but not limited to the articles of incorporation, and any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or registered agent.
- (b) A copy of all bylaws, including these Bylaws, and any amended versions or amendments to them.
- (c) Minutes of the proceedings of the Board.
- (d) A list of the names and addresses of the Directors and officers of the Corporation.
- (e) A financial statement showing the Corporation's assets, liabilities, and net worth at the end of the three most recent fiscal years.
- (f) A financial statement showing the Corporation's income and expenses as required by law.
- (g) All rulings, letters, and other documents relating to the Corporation's federal, state, and local tax status.
- (h) All information within the custody and control of the corporation without exception, including any such information which is defined by the Texas Public Information Act, as amended, as information subject to the Act.

Commented [LGL9]: TLGC 501.073: (b) A corporation's authorizing unit is entitled to access to the corporation's books and records at all times. COMMENT: The revision limits the scope of access to only those records listed and is inconsistent with Texas law as Texas law provides no limitation in scope of access.

~~5.02 Due to the confidential nature of document located in the Corporations offices, no one other than Buda EDC Staff may enter the EDC Offices after hours, or when offices are closed, without notifying the Executive Director or President and only then, must be accompanied by a member of EDC Staff or Law Enforcement, who will notate the date, time, duration and names of all individuals who enter the property and documents inspected.~~

Inspection and Copying

~~5.02.~~ 5.03. The Corporation is subject to the Texas Public Information Act, as amended, and shall at all times comply with the requirement of that law.

Commented [LGL10]: COMMENT: This again shows withdrawal and a limitation to access to the BEDC records "at all times" and is contrary to State Law. The City maintains a badge access system that limits and records access to space in City Hall. With today's technology, we suggest that BEDC, if not already, goes 100% paperless and then cloud access be used to allow City access "at all times" however, the law provides access to the records at all times and does not require the City to notify or record when and what they look at. The city can designate persons by policy that have access and they can equally maintain the confidence of any prospect or other related information. This is easily done by policy and if necessary non-disclosure agreements in connection with access.

ARTICLE6 FISCAL MATTERS

Fiscal Year

6.01. The Corporation's fiscal year will begin on the first day of October and end on the last day in September of each following year.

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Budgets and Expenditure Approvals

6.02. At least ~~ninety-sixty (6090)~~ days prior to the beginning of each fiscal year, the chief administrative employee of the Corporation must prepare and submit to the Board of Directors and to the City Manager a proposed budget for the Corporation for the upcoming fiscal year. The budget shall provide a plan for a program of activities, include a budget message, explain any major changes in fiscal policy and provide detail regarding any notable changes from the current budget in expenditure and revenue items. It shall also show revenues and expenditures to date for the then current year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the Buda City Council. At least ~~sixty-thirty (3060)~~ days prior to the beginning of each fiscal year, the Corporation must submit for City Council's

Commented [LGL11]: Past Budgets demonstrate integration of the BEDC Budget with the City's Budget. The City Charter places an obligation on the City Manager to present a budget much earlier than 60 days prior to Oct. 1 and in order for the City Council to have a budget that is accurate, to including any joint project expenses, etc. the city would need the BEDC Budget with sufficient time to amend its own budget for City Council approval as it approves both budgets.

consideration the Corporation's budget. The Corporation's budget and any amendments to the budget are not effective until approved by the Buda City Council. Expenditures which are specifically identified with sufficient detail within the Corporation's budget are considered approved by the City when the Corporation's budget is approved by the Buda City Council. Expenditures not included in the Corporation's budget must be presented to and must be approved by the Buda City Council by City Council Resolution prior to expenditure in compliance with Texas Local Government Code § 501.073(a). All expenditures made by the Corporation shall comply with State law, the City's Home Rule Charter and Code of Ordinances, the Corporation's Articles of Incorporation, and these Bylaws, and all expenditures shall be presented to and authorized by the Buda City Council.

Reserves

6.03. The Corporation shall maintain in its operating fund unencumbered cash reserves equivalent to ~~three-six (63)~~ months of expenditures. Any long-term debt shall have at least a ~~three-six (63)~~ month reserve or such amount as may be required by bond ordinance or instrument. ~~Unencumbered cash reserves in excess of the recommended amounts may be moved by action of the Board of Directors to fund capital projects, the expenditures for which have been approved in compliance with Section 6.02 of these Bylaws. Upon approval by the City Council, funds may also be transferred from the Corporation's capital project fund to the Corporation's operating fund when the level of reserve of the operating fund falls below minimum levels.~~

Bonds and Certificates of Obligation

6.04. The Corporation shall not take action to issue any bonds or certificates of obligation, unless the Buda City Council has approved such issuance more than thirty (30) days prior to date of the Corporation's action on the issuance of the bonds or certificates of obligation.

Investments

6.05. Temporary and idle funds, which are not needed for immediate obligations of the Corporation, may be invested in any legal manner as provided in Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, as amended.

Audits

6.06. The Corporation shall undergo and maintain annual audited financial statements of all funds of the Corporation. This audit shall be prepared by a competent independent audit firm as soon as practical following the end of each fiscal year. The Corporation ~~shall~~ use the Auditor selected by the City of Buda to conduct its annual audit to conduct the Corporation's annual audit. The Corporation's audit shall be submitted annually to the Buda City Council as soon as practical following the end of the Corporation's and City's fiscal year. The audit shall be presented to the Buda City Council for approval.

Commented [LGL12]: The level of cash reserves when dealing with tax dollars requires a very careful balancing test. Over retention of tax dollars deprives the public of the availability of services and amenities that would otherwise improve their community, unless the reserve is purposeful.

Alarmists criticize and suggest that the capital project fund transfer is some money-grab. It is nothing of the sort. TLGC 505.158 specifically allows BEDC's to fund targeted infrastructure that the BEDC Board determined promotes economic development. The transfer envisioned here would be one which evaluates the CIP plan, benefits by the projection of growth and need, and then identifies from that plan where water, wastewater and drainage infrastructure could accelerate economic development and then partially or fully fund those projects, similarly to the Robert S. Light and the Buda Mill & Grain projects that have been previously celebrated by the BEDC. The provision builds transparency as to where the tax dollars will be reinvested into the community and indirectly assist properties along the way develop, such as Schools, Hospitals, etc.

Commented [LGL13]: TLGC 501.073(a) and (b): SUPERVISION BY AUTHORIZING UNIT. (a) The corporation's authorizing unit will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation. (b) A corporation's authorizing unit is entitled to access to the corporation's books and records at all times. COMMENT: Texas law requires the City Council to annually review any financial statements of the Corporation and is the ultimate judge of the fiscal health of the corporation. The use of an auditor that is selected by the City Council rather than the parties that have access to the funds provides greater independence to the Audit and if the use of the City's Auditor is also used by the BEDC for its audit, the citizens obtain a cost benefit by bundling the project.

ARTICLE 7
NOTICES

Notice by Mail or Telegram

7.01. Any notice required or permitted by these Bylaws to be given to a Director or officer of the Corporation may be given by mail or electronic transmission. If mailed, a notice is deemed delivered when deposited in the mail addressed to the person at his or her address as it appears on the corporate records, with postage prepaid. If given by electronic transmission, it is deemed given the day after it is transmitted. A person may change his or her address in the corporate records by giving written notice of the change to the secretary of the Corporation.

Signed Waiver of Notice

7.02. Whenever any notice is required by law or under the articles of incorporation or these Bylaws, a written waiver signed by the person entitled to receive such notice is considered the equivalent to giving the required notice. A waiver of notice is effective whether signed before or after the time stated in the notice being waived.

Waiving Notice by Attendance

7.03. A person's attendance at a meeting constitutes waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

ARTICLE 8
AMENDING BYLAWS

8.01. These Bylaws may be amended by the Corporation, provided ~~that~~ any such amendment is consistent with state law and the Corporation's certificate of formation and is approved by Resolution of the Buda City Council.

ARTICLE 9
MISCELLANEOUS PROVISIONS

Legal Authorities Governing Construction of Bylaws

9.01. These Bylaws will be construed generally under Texas law and specifically under the Act. All references in these Bylaws to statutes, regulations, or other sources of legal authority will refer to the authorities cited, or their successors, as they may be amended from time to time.

Legal Construction

9.02. To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any bylaw provision is held invalid, illegal, or

unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the bylaws will be construed as if they had not included the invalid, illegal or unenforceable provision.

Headings

9.03. The headings used in the bylaws are for convenience and may not be considered in construing the bylaws.

Number

9.04. All singular words include the plural, and all plural words include the singular.

Seal

9.05. The Board of Directors may provide for a corporate seal. Such a seal would consist of two concentric circles containing the words "City of Buda TYPE-4_B Corporation", "Texas", in one circle and the word "Incorporated" together with the date of incorporation in the other circle.

CERTIFICATE OF SECRETARY OF CORPORATION AND OF CITY CLERK

I certify that I am the duly elected and acting secretary of City of Buda 4B Corporation and that these Bylaws were considered and duly ~~approved~~adopted at a meeting of the Board of Directors held on _____, 2019.

Dated: _____, 2019

Secretary of the Corporation

Commented [LGL14]: Corruption in document on the "S"

I certify that I am the duly appointed city clerk of the City of Buda and that these Bylaws constitute the Corporation's Bylaws. These Bylaws were considered and duly approved by Resolution #2019-R-__ at a meeting of the City Council held on _____, 2019, as provided by Texas Local Government Code § 501.064.

Dated: _____, 2019

City Clerk

Commented [LGL15]: Corruption in document on the C