



City Council Agenda Item Report

April 16, 2013

Contact – Chance Sparks, AICP, CNUa, Director of Planning
512-312-0084 / csparks@ci.buda.tx.us

SUBJECT: DELIBERATION AND POSSIBLE ACTION REGARDING APPOINTMENTS TO THE ZONING BOARD OF ADJUSTMENT.

1. BACKGROUND/HISTORY

The ZBOA is a quasi-judicial body. The ZBOA duties include:

- To hear and decide appeals where the applicant alleges that there is an error in any order, requirement, decision or determination made by city staff or the city council in the enforcement of the city's zoning regulations and ordinances;
- To hear and decide requests for special exceptions to the city's zoning regulations and ordinances;
- To hear and decide judicial variances; and
- To decide such other matters as may be assigned by the city council from time to time.

All cases before the board must be heard by at least 75% of the members. The concurring vote of 75% of the members of the board is necessary to:

- Reverse an order, requirement, decision or determination of an administrative official;
- Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance or issue; or
- Authorize a variation from the terms of a zoning ordinance or issue.

In all other cases, a simple majority of the members present at an official meeting is necessary to approve a matter.

The membership characteristics of the ZBOA are as follows:

- 5 members and 2 alternates
- All members and alternate members must be residents of the city
- 2-year staggered terms, with 4 appointed in January of even-numbered years and 3 appointed in January of odd-numbered years
- Maximum of 3 consecutive terms
- A member serving to fill an unexpired term shall be eligible for reappointment to serve 2 full 2-year terms
- Should an alternate member be appointed to serve as a board member, such appointment shall be for 2 full 2 year terms regardless of time served as an alternate member (serving as an alternate does not prevent full appointment)

2. FINDINGS/CURRENT ACTIVITY

Current membership and expiration for the Commission is as follows:

Zoning Board of Adjustment & Appeals

Highlighted places indicate those in need of City Council action:

Commissioner	Location	Term Expiration	Term Status/Eligibility
Gunn	Old Town	1/2015	Eligible for 1 more term
Dahlstrom	Old Town	1/2015	Eligible for 2 more terms
Falcon	Stone Ridge	1/2014	Final Term
Regular Vacant		1/2015	
Beth Hagan	Old Town	1/2014	Filled partial; Eligible for 3 full terms
Alternate (Vacant)		1/2015	
Alternate (Vacant)		1/2014	

Staff has not received a sufficient number of applications to fill all vacancies, but it is critical to ensure a quorum of the Commission is maintained, particularly since the current configuration requires all four be present to take action, and unanimous approval for a variance. Filling the fifth space provides a margin of error for quorum and the possibility for dissent in approving a variance without it resulting in a statutory denial.

For the regular position and two alternates available, Staff has received one application from the following:

- Application from John Jackson, Resident of Garlic Creek

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATION

During regular appointment cycles, the City Council has requested sufficient applications to generate a competitive appointment process. City Council may appoint the applicant to the Commission, or choose to leave the position vacant.

5. ATTACHMENTS

- Applications for Appointment & Reappointment
- Bylaws
- Enabling Ordinance



APPLICATION FOR APPOINTMENT TO CITY OF BUDA BOARDS AND COMMISSIONS

Name:	<u>JACKSON</u>	<u>John</u>	<u>Keivall</u>
	(Last)	(First)	(Middle)
Mailing Address:	<u>1311 Talley Loop, Buda, Texas</u>		<u>78610</u>
			(Zip)
Daytime Phone:	<u>N/A</u>	Cell Phone:	<u>630-926-8828</u>
Employer:	<u>N/A</u>	Business Phone:	<u>N/A</u>
Occupation/Position:	<u>Retired</u>	Fax Number:	<u>N/A</u>
E-mail Address:	<u>J. JACKSON 04 @ AOL.COM</u>		

The City of Buda recognizes and supports the concept of balanced representation in regard to filling vacancies on Boards and Commissions. To this end, every effort is made to appoint members who represent Buda's diverse community, including citizens of all ethnic groups as well as people with disabilities.

- In which geographic area of Buda do you reside? Garlic Creek
 - Are you a registered voter? Yes No
 - Are you a City of Buda resident? Yes No
 - Are you now or have you in the last three years registered/worked as a city lobbyist? Yes No
- § 8-16-4 of the City Code requires a person meeting the following criteria to register with the City Clerk as a registered lobbyist:
- (A) receives compensation of \$200 or more in a calendar quarter for lobbying;
 - (B) receives reimbursement of \$200 or more in a calendar quarter to lobbying;
 - (C) expends \$200 or more in a calendar quarter for lobbying; or
 - (D) lobbies as the agent or employee of a person who:
 - (1) receives compensation of \$200 or more in a calendar quarter for lobbying;
 - (2) receives reimbursement of \$200 or more in a calendar quarter for lobbying;
 - (3) expends \$200 or more in a calendar quarter for lobbying.
- Do you or your employer have any business dealings with the City of Buda that might present a conflict of interest? Yes No
 - Recognizing that serving on a Board or Commission is often time consuming, are you committed to attending all regularly scheduled meetings? Yes No
 - Do you agree to complete any training necessary for the Board or Commission to which you are applying? Yes No

• If a position on the Board to which you are applying is not available at this time, please indicate if you would be willing to serve on any of the following Boards or Commissions:

Please check all that apply:

- Historic Preservation Commission – (Meets 1st Thursday of month @ 7:00 p.m.) Yes No
- Economic Development Corporation - (Meets 1st Monday of month @ 6:00 p.m.) Yes No
- Local Government Corporation – (Meets on an as needed basis) Yes No
- Planning & Zoning Commission - (Meets 2nd & 4th Tuesday of month @ 7:00 p.m.) Yes No
- Parks & Recreation Commission - (Meets 3rd Wednesday of month @ 6:30 p.m.) Yes No
- Zoning Board of Adjustment – (Meets on 3rd Thursday and on an as needed basis) ** Yes No
- Library Commission – (Meets 2nd Thursday of month @ 7:00 p.m.) Yes No

**Zoning Board of Adjustment applicants must live inside the City Limits

Describe any qualifications, expertise, or special interests that relate to your possible appointment, and why you would wish to serve:

I am a home owner and new resident of Buda. I am a retired father and grand father. Ha degree in Chemistry. Occupations have been as a chemist, salesman, sales Manager and Company Manager. I managed an integrated company with \$45 million in sales with 65 employees. Reported to a board of directors, or company manager. Learned how to listen and work with people. I have lived in quite a few cities and towns in my life and have seen what progress they have achieved. And mistakes they have made. I would like to come on the board to assist the city in achieving its goals.

List past service on any boards or commissions. (Please includes dates of service)

*Minister, Indiana school district constitution commission
Baku University Chemistry advisory Board.*

(Applicants are encouraged to submit cover letter and resume along with their applications)

John H. Jackson
Signature

2-11-13
Date

OFFICE USE ONLY: (Applications to be kept on file for a period of two years in the City Secretary's Office.)

PLEASE RETURN TO THE CITY SECRETARY'S OFFICE

Date Application Received: *2/11/2013* *AN*

Date of First Contact: _____

Still interested? Yes No

Date of Second Contact: _____

Still interested? Yes No

Date new application mailed: _____

P. O. Box 1218/121 Main Street * Buda, TX 78610 * Phone (512) 312-0084 * Fax (512) 312-1889

Revised 07-22-10

Division 2. Zoning Board of Adjustment and Appeals*

Sec. 1.02.031 Created; appointment of members; terms

(a) This division creates the zoning board of adjustment and appeals (“board”) appointed by the city council. The board shall consist of five (5) members and two (2) alternate members. All of the members and alternate members shall be residents of the city at the time they are appointed and during their term in office.

(b) Members and alternate members shall serve two-year staggered terms with four (4) members being appointed in January of even-numbered years and three (3) members being appointed in January of odd-numbered years.

(c) The initial board shall consist of three (3) regular members appointed to two-year terms and two (2) regular members appointed to a one-year term; and one alternate member appointed to a two-year term and an alternate member appointed to a one-year term. After the initial one-year terms have expired, all members, both regular and alternate, shall be appointed to two-year terms.

(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the planning and zoning commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.

(e) Should an alternate member be appointed to serve as a board member, such appointment shall be for two (2) full two-year terms regardless of time served as an alternate member.

(f) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the city manager or his/her designee.

(g) Members and alternate members may only be removed for cause as found by the city council, on a written charge after a public hearing.

Sec. 1.02.032 Qualifications of members

(a) When appointing members, the city council shall make every reasonable and practical attempt to appoint board members and alternate board members from different geographical locations within the corporate limits of the city and from different interest groups. The council shall avoid appointing a board that has a concentration of members from the same or similar economic, business, racial or vocational interests, but instead shall endeavor to the extent reasonably practical to diversify the membership of the board to the end that the entire community is represented thereon.

(b) If a city resident member of the board ceases to reside in the city and his or her relocation reduces the number of city residents, that person shall give notice of such fact and may be deemed to have resigned, upon approval by the city council, from the board as of the date his or her residence changed, and, if approved by council, the city council shall appoint a resident board member to fill the remainder of the resigning member's term. A quorum of the board shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not be appointed as a member of the zoning board of adjustment and appeals if he or she is currently serving on the planning and zoning commission, historic preservation commission, parks and recreation commission, library commission, economic development corporation board of directors, local government corporation or any other permanent city board or commission.

Sec. 1.02.033 Officers; rules; meetings; quorum; record; conflict of interest

(a) All cases before the board must be heard by at least 75% of the members. The concurring vote of 75% of the members of the board is necessary to:

(1) Reverse an order, requirement, decision or determination of an administrative official;

(2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance or issue; or

(3) Authorize a variation from the terms of a zoning ordinance or issue.

In all other cases, a simple majority of the members present at an official meeting is necessary to approve a matter.

(b) The board shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the board.

(c) The chairperson shall preside over the board and shall have the right to vote on all items before the board. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(d) The city manager or his or her designee shall be an ex officio member of the board.

(e) The board, by majority vote, may adopt rules or bylaws in accordance with this division and the requirements of the Local Government Code as necessary for the orderly conduct of its business, subject to approval by the city council.

(f) The board shall meet upon the call of the presiding officer and at other times as determined by the board rules. The presiding officer or acting presiding officer may administer oaths and compel attendance of witnesses. All meetings of the board shall comply with the Texas Open Meetings Act.

(g) The board shall keep minutes of its proceedings and indicate the vote of each member on each question or the fact that a member is absent or abstains. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed with the city secretary and its records are public records.

(h) A board member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A board member having any potential conflict of interest on any policy, decision, or determination before the board shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the board member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the board's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in [section 1.01.009](#) of this code.

(j) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the mayor, city manager or his or her designee, or presiding officer or acting presiding officer.

Sec. 1.02.034 Powers and duties

The board shall have the following powers and duties:

- (1) To hear and decide appeals where the applicant alleges that there is an error in any order, requirement, decision or determination made by city staff or the city council in the enforcement of the city's zoning regulations and ordinances;
- (2) To hear and decide requests for special exceptions to the city's zoning regulations and ordinances;
- (3) To hear and decide judicial variances; and
- (4) To decide such other matters as may be assigned by the city council from time to time.

Sec. 1.02.035 Appeals

(a) Any of the following persons may appeal to the board a decision made by an administrative official:

(1) A person aggrieved by the decision.

(2) Any officer, department, board, commission or bureau of the city affected by the decision.

(3) Only the city manager shall have the right to request an administrative exception.

(b) Appeal of a board decision. Appeal of any decision of the board shall be taken to a state court of competent jurisdiction by filing a verified petition stating that the decision of the board is illegal in whole or in part and specifying the grounds of the illegality. The petition must be filed within ten (10) days after the date that the board's decision is filed with the city secretary.

(Ordinance 110705-5 adopted 7/5/11)

These Bylaws govern the Zoning Board of Adjustment and Appeals (ZBOA or Board) of the City of Buda.

ARTICLE ONE ORGANIZATION

1. A. The ZBOA shall consist of five (5) members and two (2) alternate members in accordance with the enabling ordinance adopted by the City of Buda, as it may be amended from time to time.

B. If the enabling ordinance sets specific residency requirements, then those requirements must be observed, provided that if a vacancy occurs as a result of the death, incapacity, resignation, or change of residency of a member (as provided above), the ZBOA may continue its functions in the interim during the process of filling the vacancy.
2. Unless otherwise required by ordinance or other applicable law, all matters shall be decided by a vote of the members present and voting. Proxy voting shall not be permitted.

ARTICLE TWO MEETINGS

1. All meetings of the ZBOA shall be conducted in strict compliance with the Texas Open Meetings Act. All members shall attend and complete a state approved Open Meetings Act training program.
2. The general public, elected officials, the Board, and city staff may request agenda items subject to approval by the Chairperson. Such items can be submitted via electronically, paper copy, agenda public comment
3. A. The ZBOA shall establish a date and time for its regular meetings. It shall not be required to give notice of regularly scheduled meetings to members, other than compliance with the Open Meetings Act.

B. Special meetings of the ZBOA may be called by:
 - (1) The Chairperson or interim Chairperson of the ZBOA;
 - (2) The City Manager or his or her designee; or
 - (3) Three ZBOA members.

Unless otherwise required by the enabling ordinance, UDC or state law, not less than three (3) days' notice shall be given by the City Manager or his or her designee of special meetings.

C. Emergency meetings may be called in accordance with the Texas Open Meetings Act.

4. A member who attends a meeting for any purpose other than objecting to the meeting because of lack of required notice, waives any objection to the meeting.
5. *Conflict of Interest.* A Board member having any potential conflict of interest, as defined by the City Code of Ordinances or State law, on any policy, decision, or determination before the Board shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the Board member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the Board's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in the City's Code of Ordinances.
 - (1) Any member of the Board who does not legally have a conflict of interest but would like to avoid the appearance of a conflict of interest may elect to follow the procedure established in Section 5.
 - (2) Members shall not represent any other person, group or interest before the Planning and Zoning Commission, the Zoning Board of Adjustments and Appeals, Historic Preservation Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council on any matter pending before such Board or Commission. This provision shall not preclude a member from representing an interest in his or her real homestead property. Members may represent the Zoning Board of Adjustment and Appeals in reporting on the activities or decisions made of the Board to the Planning & Zoning Commission, Historic Preservation Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council.

**ARTICLE THREE
OFFICERS**

Unless otherwise required by the enabling ordinance or state statute, the following provisions shall control the officers of the ZBOA:

1. The ZBOA shall have a Chairperson and a Vice-Chairperson elected from its membership to serve for a one (1) year term. Officers shall be elected annually by the ZBOA.
2. The Chairperson and Vice-Chairperson shall be residents within the city limits.
3. The Chairperson shall preside over the ZBOA and shall have the right to vote on all items before the ZBOA.
4. The Vice-Chairperson shall fulfill the duties of the Chairperson when the Chairperson is not available for any reason.

**ARTICLE FOUR
ATTENDANCE POLICY**

Recognizing that members serve voluntarily and the important quasi-judicial duty of the ZBOA, and keeping a proper balance between those principles and the important nature of the public business entrusted to the ZBOA, the following attendance policy shall apply to all members of the ZBOA:

- A. The voluntary absence of a Board Member from three (3) consecutive regular meetings of the Board will result in automatic resignation of the member from the Board.
- B. The voluntary absence of a Board Member from more than twenty-five (25) percent of the Board's regular meetings during a calendar year will result in automatic resignation of the member from the Board. However, in no case shall a Board Member, regardless of whether excused or voluntary, be absent from more than fifty (50) percent of the Board's regular meetings during a calendar year. Such absenteeism will result in an automatic resignation of the member from the Board.
- C. In this section:

- (1) *Regular meeting* includes only regularly scheduled meetings, and does not include special meetings, workshops, or committee meetings of a board or commission.
- (2) *Excused absence* means an absence that results from, including but not limited to:
- a medical reason of a board or commission member or a relative of the member,
 - child care for a newly born or newly adopted child during the first eight weeks of the child's life,
 - death of a family member,
 - a scheduled vacation
 - More than one (1) scheduled vacation will be deemed a voluntary absence.
 - business travel,
 - school, or
 - from an unexpected factor beyond the control of the Board member.

The City Manager or his or her designee shall be responsible for determining whether an absence is excused.

- (3) *Voluntary absence* means an absence other than an excused absence.

- D. Members shall strive to notify the City Manager or his or her designee in advance of any known or planned absence to enable the City Manager or his or her designee to determine if a quorum will be present. Failure to give reasonable notice may be considered when determining whether an absence shall be excused.
- E. In the event where there is an automatic resignation, the City Manager or his or her designee shall coordinate with the City Secretary to provide a list of eligible candidates to the City Council for consideration of replacement for such vacancy.
- F. The City Manager or his or her designee shall keep abreast the City Council on such voluntary absences.

**ARTICLE FIVE
RECORDS**

All records of the ZBOA are public records. All such records shall be in the custody of the City Secretary but available to the members in the due course of their proceedings. The City Manager or his or her designee of the ZBOA shall be responsible for the care and custody of the records while in the ZBOA's use.

All secretarial duties of the ZBOA shall be performed by City staff with the aid and assistance of the Chairperson.

**ARTICLE SIX
REGULATIONS**

The ZBOA is not a regulatory body and has no authority to adopt regulations governing persons or properties, nor does it have authority to adopt rules implementing City policies. Should the ZBOA determine rules or regulations would provide a public benefit, those rules or regulations shall be submitted to the City Council for review and adoption.

**ARTICLE SEVEN
RULES OF DECORUM**

1.
 - A. The purposes of these rules are as follows:
 - (1) To ensure that meetings of the city boards and commissions are conducted in a way that allows the business of the city to be effectively conducted.
 - (2) To ensure that members of the public who attend meetings of the city council and of city boards and commissions can be heard in a fair, impartial and respectful manner.
 - (3) To ensure that meetings of the city boards and commissions are conducted in a way that is open to all viewpoints, yet free from abusive, distracting or intimidating behavior.
 - (4) To ensure that the rules governing decorum at meetings of the city boards and commissions are understood by persons attending the meetings.
 - B. This section applies to meetings of boards and commissions whose membership is wholly appointed by the city council.
 - C. Members of the public may address the city board or commission at the following times during a meeting:

- (1) During citizen comment period, if such a period is on the agenda for the meeting;
 - (2) During a public hearing on an agenda item; or
 - (3) At other times with the permission of the presiding officer.
- D. Members of the public who wish to address a board or commission at any time during a meeting must complete a sign-in form prior to the meeting at the office of the staff liaison, for a board or commission meeting. Speakers must state their name and place of residence, and must limit their remarks to the specified time limit on the agenda unless otherwise determined by the presiding officer. The allotted time will commence from the beginning of the speaker's remarks and will include any time spent in discussion between the speaker and board or commission members. Issues taking longer to communicate can be addressed outside the meeting to the city staff or to individual members of a board or commission, or submitted in writing.
- E. All comments and questions by members of the public at a meeting will be directed to the presiding officer.
- F. During a citizen comment period, members of the public will be given an opportunity to speak, and they must observe the specified time-limit, unless otherwise determined by the presiding officer, under subsection D.
- G. The presiding officer and members of boards and commissions, will endeavor to ensure that meetings are conducted in a courteous manner, and in an atmosphere free of defamation, intimidation, personal affronts, profanity, or threats of violence.
- H. Members of the public shall not engage in any of the following in the meeting room during a board or commission meeting:
- (1) Shouting, unruly behavior, distracting side conversations, or speaking out when another person is talking.
 - (2) Defamation, intimidation, personal affronts, profanity, or threats of violence.
 - (3) Audible use of phones, pagers, radios, computers or other electronic equipment notwithstanding the use during presentation purposes before a board or commission.
 - (4) Booing, hissing, foot stomping, parading, singing or other similar behavior that impedes or disrupts the orderly conduct of the meeting.
- I. The rules in this section shall be enforced in the following manner:
- (1) The presiding officer will request that a person who is violating a rule cease the violation.

- (2) If the violation continues, the presiding officer will warn the person that he or she will be required to leave the meeting room if the violation continues.
 - (3) If the violation continues, the presiding officer will order the person to leave the meeting room.
 - (4) If the person does not leave the meeting room, the presiding officer may order any peace officer at the meeting to remove the person from the meeting room.
- J. It is unlawful for any person to intentionally or knowingly resist removal from a meeting room by a peace officer under subsection I of this Article.

ARTICLE EIGHT

MOTIONS AND MEETING PROCEDURES

The motions and meeting procedures set forth herein are to guide Board members during meetings. Any errors and/or omissions by a Board member(s) on a procedure during such meeting shall not constitute the action to be illegal. Any motions and/or meeting procedures not expressly defined in this section or any procedures as set forth within the City Charter shall follow under the latest edition of Robert's Rules of Order.

1. Motions. After a Board member obtains the floor, he/she may make a motion on the particular subject of discussion or a procedural point as permitted. A "Second" to the motion, if required, must be made by another Board member within a reasonable but brief time period. A "Second" merely implies that the seconder agrees that the main motion should come before the meeting and not that he/she necessarily favors the motion. Without a "Second", if required, the motion dies.
2. Debate. Debate, if permitted, must be limited to the merits of the issue under discussion as stated by the presiding officer.
3. Motion Procedures. There are eleven (11) types of motions in three (3) categories: Meeting Conduct Motions (4 types), Disposition Motions (6 types), and Main Motions. When any motion is pending, any motion listed above it on the chart below is in order; those below it are out of order.

Motion	May Interrupt Speaker	Second Required	Debatable	Amendable	Resolved by Chair No Vote	Affirmative Vote by 3 Board members	2/3 Vote
A. Meeting Conduct Motions							
1.point of privilege	yes	no	no	no	yes	no	no
2.point of procedure or order	yes	no	no	no	yes	no	no
3.to appeal a ruling	no	yes	yes	no	no	yes	no
4.to recess	no	yes	yes	yes	no	yes	no
B. Disposition Motions							
5.to withdraw	yes	no	no	no	yes	no	no
6.to postpone	no	yes	yes	yes	no	yes	no
7.to refer	no	yes	yes	yes	no	yes	no
8.to amend	no	yes	yes	yes	no	yes	no
9.to limit; extend or close debate; or to "call the question"	no	yes	yes	yes	no	no	yes
10.to count the vote	no	yes	no	no	no*	no	no
C. Main Motions							
11.to take action or reconsider action taken	no	yes	yes	yes	no	yes**	no

* Mandatory if seconded; no vote required

** Unless a greater vote is required by the Charter or State law

4. Point of Privilege. A point of privilege, sometimes called a point of personal privilege, is a communication from a Board member to the presiding officer, drawing urgent attention to a need for personal accommodation. For example, the point may relate to an inability to see or hear, a matter of comfort, a matter of requested convenience, or an overlooked right of privilege that should have been accorded to the Board member(s). In essence, it is a call to the presiding officer for the purpose

of assuring a Board member's convenient and appropriate participation in the meeting. Because of its urgent nature, a point of privilege can interrupt a speaker. Because it is addressed to the attention and action by the presiding officer, it cannot be debated or amended, and no vote is required.

5. Point of Procedure or Order. A point of procedure, sometimes called a point of order, is a question addressed to the presiding officer, no seconding is required, and either inquiring into the manner of conducting business or raising a question about the propriety of a particular procedure. It is simply an inquiry and is resolved by correction or clarification by the presiding officer. A point of procedure can interrupt a speaker. Because it is addressed to the attention of and action by the presiding officer, a second is not required, and it cannot be debated or amended, and no vote is taken.
6. To Appeal a Ruling. Decisions or rulings of the presiding officer are final on questions of procedure, except that any ruling by the presiding officer's ruling can be appealed to a vote of the Board. Whenever a Board member's questions the appropriateness or essential fairness of the presiding officer, that member can appeal the ruling to a vote of the meeting. If, however, a motion is out of order as a matter of law (not a proper subject of the meeting, improper notice given etc.), the presiding officer's ruling cannot be appealed. A motion to appeal cannot interrupt a speaker. To prevent frivolous appeals, a second is required. The motion is subject to debate (which should be brief) and, by its nature, is not amendable. To overrule a procedural decision of the presiding officer, an affirmative vote of three (3) Board members is required.
7. To Recess. A motion to recess requests a brief interruption of the meeting's business, usually so that an ancillary matter can be addressed, or simply to provide a needed break. Unless stated in the motion, the period of recess is decided by the presiding officer. If necessary, a recess can extend the meeting from one day to another, subject to State law. The motion cannot interrupt a speaker, and a second is required. It is debatable, it can be amended, and an affirmative vote of three (3) Board members is required.
8. To Withdraw. Only the maker of the motion can make a motion to withdraw it. It is essentially a communication to the presiding officer that the maker is withdrawing his/her proposal. This is the maker's privilege; thus, it does not require a second. Because the withdrawal motion obviates discussion, it can interrupt a speaker. In addition, because another Board member later can make a similar motion, a withdrawal motion is not subject to debate, amendment, or vote. The presiding officer

should simply state that the motion is withdrawn, and the meeting should proceed with a new treatment of the issue at hand – or a new issue.

9. To Postpone. This motion may arise from a need for further information, a matter of convenience, or for any other reason that will enable the Board to deal with the issue more effectively at a later time. Unless otherwise specifically provided in the motion itself, a postponed motion can be renewed at a later appropriate time during the meeting or, if properly posted, at a later meeting. This motion cannot interrupt a speaker. It requires a second, it is debatable, and it is amendable (particularly as to postponement, timing), and an affirmative vote of three (3) Board members is required.
10. To Refer. A motion to refer is typically used to submit an issue to a committee, usually for study leading to a subsequent recommendation. Because it ordinarily disposes the motion for purposes of the current meeting, a motion to refer is subject to the same rules that apply to a main motion. (See Section 14.). This motion cannot interrupt a speaker, and a second is required. It is debatable and amendable, and an affirmative vote of three (3) Board members is required.
11. To Amend. A motion to amend proposes a change in the wording of a motion then under consideration. When a motion to amend is pending and an amendment to the amendment is proposed, the presiding officer should focus discussion on the latest amendment, resolve that question, then proceed to the first amendment before continuing discussion on the main motion. Votes on amendments thus are in reverse order of the sequence in which they are proposed. A motion to amend cannot interrupt a speaker. It requires a second, and it is debatable and amendable. An affirmative vote of three (3) Board members is required for approval of the amendment. Note that State law may restrict amendments to proposals that are required to be set forth in the notice of the meeting.
12. To Limit, Extend, or Close Debate or “Call the Question”. Because the extent to which an issue is discussed rests primarily with discretion of the presiding officer, it is the presiding officer who carries the burden of ensuring that adequate time and discussion are given to differing points of view. A motion to limit, extend, or close debate is therefore an overruling of the presiding officer’s determination. A motion to close debate is the same as a motion to “call the question”. Because this motion affects the most fundamental right of any Board member, the right to speak one’s views, it is the only procedural motion that requires an affirmative vote of two-thirds of the participants voting.
13. To Count the Vote. A motion to count the vote should be limited to those circumstances where the convenient hearing of “yeas” and “nays” cannot clearly resolve the issue. It represents the right of a Board member

to have a vote demonstrated by count. That count can be directed by the presiding officer either as a showing of hands or a standing of voting members while the vote is recorded. Upon completion of the count, the presiding officer announces the result-and final disposition of the issue voted upon. This motion cannot interrupt a speaker. It requires a second; it is neither debatable nor amendable; and, because of the importance of the matter, it should be considered mandatory; thus, no vote is required.

- 14. To Take Action or Reconsider an Action; Main Motions. These main motions state proposed policy or action on a substantive issue being considered by the Board. As such, the motion can be an initial call to take particular action; to reconsider action taken; or to rescind a prior decision. Although lowest in precedence among all motions, main motions are clearly the most important: through their content, the business decisions of the Commission are determined. A main motion can be made only when a prior main motion has been disposed of. It cannot interrupt a speaker; a second is required; it is debatable and amendable; and an affirmative vote of three (3) Board members is required unless a greater vote is prescribed by the Charter or State law.

**ARTICLE NINE
AMENDMENTS TO BYLAWS**

These Bylaws may be amended only by the City Council. Requests for amendment may be submitted to the City Council by any member of the ZBOA.

APPROVED AND ADOPTED by the City Council on _____,
201___.

CITY OF BUDA, TEXAS

Sarah Manghan, Mayor

ATTEST:

Toni Milam, City Secretary