

**THE BARTONVILLE COMMUNITY DEVELOPMENT CORPORATION MEETING  
HELD ON THE 8<sup>th</sup> DAY OF SEPTEMBER 2022, AT BARONVILLE TOWN HALL, 1941  
E. JETER ROAD, BARTONVILLE, TEXAS, AT 6:00P.M.**

The Community Development Corporation met in a meeting with the following members present:

Dwain Skrobarcek, Chair  
Terry Rock, Vice Chair  
Randy Van Alstine  
Brenda Latham  
Jim Langford

With the following members absent: Jim Foringer and Vicki Burford

Also present: Thad Chambers, Town Administrator; Tammy Dixon, Town Secretary; Cathy Welborn, Deputy Town Secretary; and Jeff Moore, Board Attorney.

**A. CALL TO ORDER**

Chairman Skrobarcek called the meeting to order at 6:15 p.m.

**B. PUBLIC PARTICIPATION**

There was none.

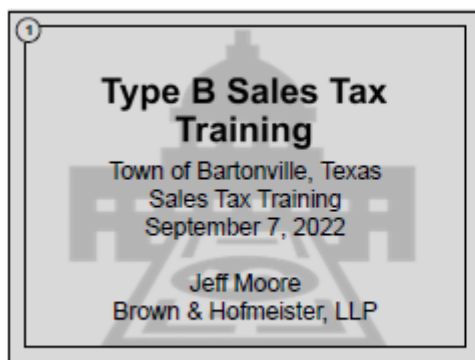
**C. ITEMS**

1. Consider approval of the August 10, 2022, meeting minutes.

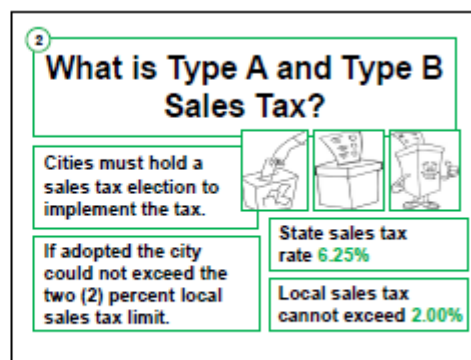
Brenda Latham moved to approve the August 10, 2022, meeting minutes. Terry Rock seconded the motion. The motion carried by a vote of 5 to 0.

2. Board Training on Chapters 501, 504 and 505 of the Local Government Code (LGC) regarding Type B Economic Development Corporations.

Mr. Moore gave the following power point presentation and provided Type B Sales Tax Training which included a review of Chapters 501, 504, and 505 of the LGC. He explained the different types of projects the Board could fund, the process of approving funds, and answered questions from the Board.



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**4 What is the Tax Rate for a Type A or Type B Sales Tax?**

The sales tax rate for either a Type A or Type B sales tax is in increments of 1/8 <sup>th</sup> of one-percent.	$\frac{1}{8}$
The total rate for all local sales and use taxes may not exceed two (2) percent.	< 2%

Tex. Loc. Gov't Code Ann. §§ 504.252(b) and 505.252(b).

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**6 Can Type A or Type B corporations grant or gift Type A or Type B proceeds to a business entity without a performance agreement?**

Must have a performance agreement. Performance agreement must contain the following:

- schedule of additional payroll or jobs to be created or retained
- schedule of capital investment to be made, and specify the terms for any repayment.

Tex. Loc. Gov't Code § 501.158

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**7 Who Administers and Oversees a Type A or Type B Sales Tax?**

Type A or Type B sales tax are administered by non-profit corporations.

The corporations through a board of directors determine which projects to fund.

City council retains approval authority over all expenditures of the corporation.

§ 501.073(a) and 501.084(a)(2)

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**8 Does City Council have to Approve Expenditures for Permissible Type A and Type B Projects?**

The Type A or Type B corporation has the power to expend the sales tax revenue.

Yet, city council retains authority to "approve all programs and expenditures of a corporation," § 501.073(a).

City council's oversight includes the authority to approve promotional expenditures as well.

Op. Tex. Atty Gen. No. 04-098 (2007).

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**9 Does City Council Appoint the Directors of the Type A and Type B Corporation?**

Type A board of directors consists of at least five (5) directors.

Type B board of directors consists of seven (7) directors.

Both Type A and Type B board members are appointed by City Council and can be removed with or without cause.

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**10 How Long a Term do Type A and Type B Board of Directors serve?**

Type A board of directors serve a term not to exceed six (6) years. § 504.051(c).

Type B board members serve a two (2) year term. § 505.051(b).

**6 ≥ term** **2 = term**

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**11 Can a Type A or Type B director be reappointed to a subsequent term?**

The Attorney General concluded Type A board member could be reappointed to a subsequent term, absent any contrary provision in the articles of incorporation or bylaws, or in a city charter, ordinance or resolution of the city.

- Op. Tex. Atty Gen. No. JC-0349 (2007).

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**12 Who determines which board members serve as president, secretary and other officers of the corporation?**

The board of directors appoint the officers to serve as president, secretary, and other officers.

Tex. Loc. Gov't Code §§ 504.052 and 505.053.

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**How long a term do the President, Secretary and other officers serve as an officer?**

- One term as officer is the term provided for in the certificate of formation or bylaws.
  - Bylaws provide 1 year term.
- If the certificate of formation or bylaws do not address the term of office, the officers are elected annually.

Tex. Loc. Gov't Code § 501.065(p).

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**Must a Type B Board Member be a Resident of the City?**

City with a population of 20,000 or more,	must be a resident of the city.
City with a population of less than 20,000,	<ul style="list-style-type: none"> <li>a resident of the county in which the major part of the area of the eligible city is located; or</li> <li>reside at a place that is within ten (10) miles of the eligible city's boundaries and is in a county bordering the county in which the major part of the area of the eligible city is located.</li> </ul>
<ul style="list-style-type: none"> <li>must be a resident of the eligible city;</li> </ul>	

Tex. Loc. Gov't Code § 505.052.

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**What Constitutes a Quorum of the Type A or Type B Board of Directors?**

**A majority of the board constitutes a quorum.**

Type A:	Generally, three (3) members of a five (5) member Type A board constitute a quorum. <small>§ 504.050</small>
Type B:	Four (4) members of a seven (7) member Type B board constitute a quorum. <small>§ 505.054</small>

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**Must Type B Corporations Conduct a Public Hearing Prior to Funding Type B Projects?**

<p>Generally, must conduct at least one public hearing on proposed Type B projects. <small>§ 505.156</small></p> <ul style="list-style-type: none"> <li>Type B's in a city with a population of less than 20,000 are not required to hold public hearings on projects authorized by sections 501.101 to 501.107 of the Act. <small>(§505.159(b)).</small></li> </ul> <p><small>(§505.156p)</small></p>	<ul style="list-style-type: none"> <li>Must obtain city council approval of the expenditure.</li> <li>Must publish notice of the project in newspaper.</li> <li>Once sixty (60) days have passed since the first published notice of the projects, the Type B corporation is authorized to make expenditures related to the projects.</li> </ul> <p><small>§ 505.159(p)</small></p>
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**When must a Type B corporation publish notice of a proposed project?**

Type B corporations must publish notice of all projects pursuant to section.

§505.160(p) of Texas Local Government Code.

The Act does not require public hearings on projects authorized by sections 501.101 to 501.107 of the Act for Type B corporations located in a city with a population of less than 20,000. Nonetheless, notice of the "project" must still be published.

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**Type A and Type B Sales Tax Permissible Projects**

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**Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS.**

In this subtitle, "project" includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

1 for the creation or retention of primary jobs; and	2 found by the board of directors to be required or suitable for the development, retention, or expansion of:	a manufacturing and industrial facilities;
		b research and development facilities;
		c military facilities, including closed or realigned military bases;
		d transportation facilities, including airports, harbors, bridges, toll facilities, railroads, and related facilities, except facilities located on or adjacent to an airport or related facility, marine parks, inland ports, water connecting facilities, and parking facilities; (removed for Type A corporations pursuant to 604.103(a)(5)).
		e storage or waste water treatment facilities; (removed for Type B corporations pursuant to 604.103(a)(4)(D)).

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**Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS. (cont'd)**

f recycling facilities;	small warehouse facilities capable of serving as decentralized storage and distribution centers;
g air or water pollution control facilities; (removed for Type A corporations pursuant to 604.103(a)(6));	primary job training facilities for use by institutions of higher education; or
h facilities for furnishing water to the public; (removed for Type A corporations pursuant to 604.103(a)(4));	i regional or national corporate headquarters facilities.
i distribution centers;	

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### What is a “Primary Job”?

The Loc. Gov't Code § 501.002(12)

**A job that is:**

- available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and
- is included in one of nearly sixteen (16) NAICS sector codes.

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### What is a “Primary Job”? (cont'd)

NAICS sector code categories include:

A job included within national security sector number 800000.

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### Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS.

In this subtitle, “project” includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:

1	streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;	2	telecommunications and Internet improvements; or	3	beach remediation along the Gulf of Mexico.
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### Sec. 502.052. USE OF TAX REVENUE FOR MASS TRANSIT-RELATED FACILITIES.

A corporation may, as authorized by the corporation's board of directors, spend tax revenue received under this subtitle for the development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses.

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### Sec. 505.152. PROJECTS RELATED TO RECREATIONAL OR COMMUNITY FACILITIES.

For purposes of this chapter, “project” includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by this section.

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### Sec. 505.153. PROJECTS RELATED TO AFFORDABLE HOUSING.

For purposes of this chapter, “project” includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745.

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### Sec. 505.154. PROJECTS RELATED TO WATER SUPPLY FACILITIES AND WATER CONSERVATION PROGRAMS.

For purposes of this chapter, “project” includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for:

1	the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or	2	the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.
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See, Section 505.304 of Texas Local Government Code for ballot wording.

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### Sec. 505.155. PROJECTS RELATED TO BUSINESS ENTERPRISES THAT CREATE OR RETAIN PRIMARY JOBS.

For purposes of this chapter, “project” includes land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including:

1	a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipal owned improvements, and any improvements or facilities related to a project described by this subdivision; and	2	any other project that the board of directors in the board's discretion determines promotes or develops new or expanded business enterprise that create or retain primary jobs.
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**Sec. 505.158. PROJECTS RELATED TO BUSINESS DEVELOPMENT IN CERTAIN SMALL MUNICIPALITIES.**

a) For a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development.

b) A Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

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**APPROVAL OF PROJECTS**




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**Sec. 501.073. 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.



**Type B Corporations**

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**Sec. 505.159. HEARING REQUIRED TO UNDERTAKE PROJECT.**

a) Except as provided by Subsection (b), a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project.

b) A Type B corporation the creation of which was authorized by a municipality with a population of less than 20,000 is not required to hold a public hearing under this section if the proposed project is defined by Subchapter C, Chapter 501.


**Type B Corporations**

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**Sec. 506.180. ELECTION REQUIRED FOR PROJECT; PETITION.**

a) A Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken. . . .



**Type B Corporations**

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**Procedural Steps - Generally:**

<b>1</b> Publish notice of project/public hearing in the newspaper (Section 505.180(a)) (Publication can occur later in the process)	<b>4</b> City Council posts agenda (72 hours in advance)
<b>2</b> Type B posts agenda (72 hours in advance)	<b>5</b> City Council meeting o City Council takes action on the item (votes up or down the project)
<b>3</b> Type B meeting o Conduct public hearing on project (Section 505.159(a)) o Board takes action on the item (votes up or down the project)	<b>6</b> Once 60 days have from published notice (step 1) can fund the project (need a performance agreement) (Section 505.180(a))

**Type B Projects Approval Process**

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1 Publish notice of project/public hearing in the newspaper (Section 505.180(a))

2 Type B posts agenda (72 hours in advance of meeting)

3 Type B meeting

- o Conduct public hearing on project (Section 505.159(a))
- o Board takes action on the item (votes up or down the project)

4 City Council posts agenda (72 hours in advance of meeting)

5 City Council meeting

- o Section 505.158 – conducts first reading of resolution
- o Section 505.158 – conducts second reading of resolution (or conduct second reading at separate City Council meeting) (if project is less than \$10,000 readings are not required)
- o City Council takes action on the item (votes up or down the project)

6 Once 60 days have from published notice (step 1) can fund the project (need a performance agreement) (Section 505.180(a))

Downloaded From: Statutes 505.158 (Only Difference - City Council Meetings at Same Meeting or Separate Meetings)

**Type B Projects Approval Process**

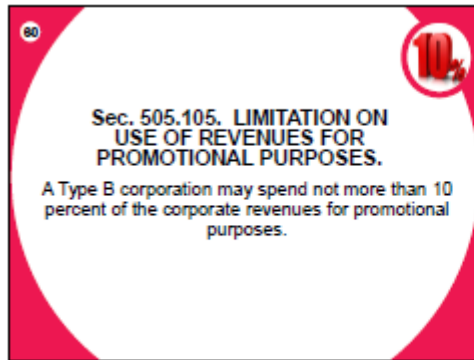
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**Promotional Expenditures**

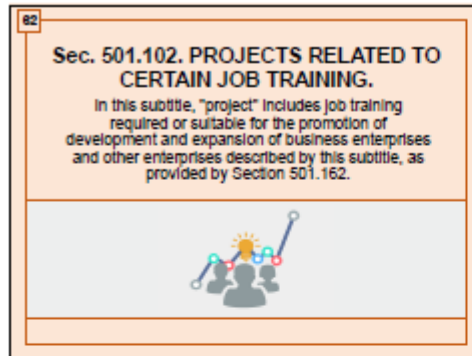
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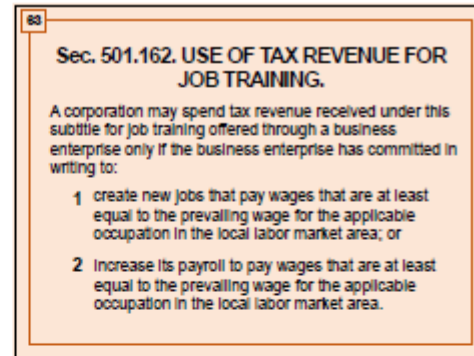
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3. Update on development activity (new businesses, prospective businesses, expansion of businesses).

Ms. Dixon provided the Board with an update on new businesses

- Whataburger submitted an application for a Conditional Use Permit – public hearings should occur in October
- Marty Bs To Go - CO should be issued this month.
- Marty Bryan application for Conditional Use Permit and Site Plan for an event center at 1001 I.T. Neely – public hearings scheduled for September 14<sup>th</sup> and September 20<sup>th</sup>.

**F. FUTURE ITEMS**

- Traffic Count – scheduled for October
- Cell Phone Analysis
- Social Media Advertising Assistance

**G. ADJOURNMENT**

Chairman Skrobarcek adjourned the meeting at 7:24 p.m.

**APPROVED this the 14<sup>th</sup> day of December 2022.**

Approved:

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Dwain Skrobarcek, Chair

Attest:

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Tammy Dixon, Town Secretary