



Agenda Item: Discuss and Consider Approval of Questions to be Submitted for Attorney General Opinion on the interplay and interpretation of Numerous State Laws, City Charter, Ordinances and Related Agreements Impacting the Division of Rights, Duties and Responsibilities between the Park Board of Trustees and the City of Galveston

Background: Over the last several months, the Galveston Park Board has been in dispute with the City of Galveston over the scope of the Park Board's authorities and powers. The city has sought to increase its control over Park Board activities and funds, making the claim that the Park Board legally cannot hold Hotel Occupancy Tax funds within its own accounts, approve budgets or authorize capital expenditures with funds appropriated to the Board.

The Park Board is considering seeking an Attorney General opinion to clarify the relationship between the Park Board and City related to the responsibilities and authorities of both organizations, particularly related to the **Hotel Occupancy Tax (HOT) funding**. The Park Board believes it is important to seek clarity from the Attorney General out of due diligence so that both organizations can be confident they are taking actions fueled by legal integrity while honoring the intent of the people of Galveston who voted to create the Park Board 60 years ago.

It is appropriate for the Attorney General opinion to inform local policy related to Hotel Occupancy Tax funding. The Texas Tax Code provides directives on the use of HOT as it is not generated by local taxpayers and is a specialized fund restricted for specific uses. In Galveston, the Park Board was specifically created to manage the HOT funds that are restricted for tourism advertising and promotions.

By seeking an Attorney General opinion, the Park Board is following precedence on how previous legal questions have been addressed in Galveston. For example, an Attorney General opinion was used in 2011 to inform City policy regarding how the Galveston Island Convention Center Hotel Occupancy Tax "trickle down" funds could be used.

What specific issues are being brought to the Attorney General?

The Park Board believes that based on its interpretation of the law, it has always operated legally and within its powers. (The Park Board's view is that it is a separate government entity endowed with powers and responsibilities supported by city charter and state law, including the ability to house and manage HOT funds as well as disperse those funds "without further authorization" once its budget has been approved by the Galveston City Council). Since the city has challenged this fact by passing local ordinances to make changes to how the Park Board holds and receives funding, the Park Board would like clarity on whether the City of Galveston may use local ordinances to circumvent state law.

- The Park Board would like clarity on which section of the tax code is applicable to its operations. The City has used Texas State Tax Code §351.101 for the basis of its non-compliance claims which does not reference park boards and is arguably superseded by the more specific language in 351.105(f)(2) which expressly references park board authority to spend appropriated funds "without further authorization."

- The City has called into question the method in which the Park Board assigns HOT funding. May Park Board revenues from non-HOT sources, such as advertising revenue, merchandise sales, sponsorships and other non-HOT sources be lawfully characterized by the City as restricted HOT revenue and restrict the Park Board's use of those funds?
- The legislation that created the Park Board expressly authorizes duties and responsibilities including but not limited to entering long term leases, issuing bonds, and other activities. May the city by ordinance limit the Park Board's powers granted by the State?

Discussions will circulate around the value of these questions in helping to clarify roles, expected timeframes for a potential decision from the AG office and the impact of a decision.

Additional documentation will be provided at the meeting.