



# FOUNDERS DAY COMMISSION MEETING

City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX

Monday, March 13, 2023 at 6:30 PM

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## Agenda

### CALL TO ORDER AND ROLL CALL

#### Commission Members

Brenda Medcalf, Chair  
Jake Adams, Vice Chair  
Susan Warwick, Secretary  
Brian Daniel  
Darrell Debish  
Lisa Garza  
Sharon Goss  
Larry Hans  
Clinton Holtzendorf  
Dee Marsh  
Michael Monaghan  
Jeff Shindler  
Brad Thomas  
Brian Varnell

#### Staff, Consultants & Appointed/Elected Officials

Parks & Community Services Director Andy Binz  
Community Events Coordinator Johnna Krantz  
Council Member Sherrie Parks

### PRESENTATION OF CITIZENS

*A member of the public who desires to address the Commission regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the Commission's consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are allowed two (2) minutes to speak during presentation of citizens or during each public hearing. Speakers may not cede or pool time. Members of the public requiring assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the Board. It is the request of the Board that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speaker are encouraged to sign in. Anyone may request a copy of the City's policy on presentation of citizens for the City Secretary. By law no action may be taken during Presentation of Citizens.*

## MINUTES

- 1. Discuss and consider approval of the February 27, 2023, Founders Day Commission regular meeting minutes.**

## BUSINESS

- 2. Discuss and consider possible action regarding the use of Hotel Occupancy Tax (HOT) Funds for activities related to the Founders Day Festival.**
- 3. Discuss and consider approval of an amendment to the 2023 Founders Day Festival site plan to include the use of the parking lot located at 299 Mercer Street as an in-kind sponsorship from Roxie's, LLC.**

## STANDING COMMITTEE REPORTS

*The following reports relate to the administration and planning of the Founders Day Festival. The Commission may provide staff direction; however, no action may be taken.*

- 4. Arts & Crafts Committee**  
*Commissioner Monaghan*
- 5. Carnival & Food Committee**  
*Commissioners Goss and Warwick*
- 6. Entertainment Committee**  
*Commissioners Thomas, Daniel and Holtzendorf*
- 7. Parade Committee**  
*Commissioners Medcalf and Holtzendorf*
- 8. Publicity Committee**  
*Commissioners Adams, Holtzendorf, Daniel, Marsh and Lisa Sullivan*
- 9. Sanitation Committee**  
*Commissioner Hans*
- 10. Security Committee**  
*Commissioners Medcalf and Debish*
- 11. Site Plan Committee**  
*Commissioners Monaghan, Shindler and Medcalf*
- 12. Sponsorship & Underwriting Committee**  
*Commissioners Adams, Debish, Daniel and Marsh*
- 13. Traffic & Parking Committee**  
*Commissioners Medcalf and Debish*
- 14. Volunteer Committee**  
*Community Events Coordinator Johnna Krantz*

## UPCOMING MEETINGS

### Founders Day Commission Meetings

March 27, 2023, at 6:30 p.m.

April 10, 2023, at 6:30 p.m.

April 24, 2023, at 6:30 p.m.

### City Council Meetings

March 21, 2023, at 6:00 p.m. (CC)

April 4, 2023, at 6:00 p.m. (CC & BOA)

April 18, 2023, at 6:00 p.m. (CC)

May 2, 2023, at 6:00 p.m. (CC & BOA)

## ADJOURN

## TEXAS OPEN MEETINGS ACT PUBLIC NOTIFICATION & POSTING OF MEETING

*All agenda items listed above are eligible for discussion and action unless otherwise specifically noted. This notice of meeting is posted in accordance with Chapter 551, Government Code, Vernon's Texas Codes. Annotated. In addition, the Commission may consider a vote to excuse the absence of any Commissioner for absence from this meeting.*

*I certify that this notice of meeting was posted at the City of Dripping Springs City Hall and website, [www.cityofdrippingsprings.com](http://www.cityofdrippingsprings.com), on **March 10, 2023, at 1:00 p.m.***

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*Deputy City Secretary*

*This facility is wheelchair accessible. Accessible parking spaces are available. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling (512) 858-4725.*



# FOUNDERS DAY COMMISSION MEETING

## City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX  
Monday, February 27, 2023 at 6:30 PM

## MINUTES

### CALL TO ORDER AND ROLL CALL

With a quorum of the Commission present, Vice Chair Adams called the meeting to order at 6:33 pm.

#### **Commission Members present**

Jake Adams, Vice Chair  
Susan Warwick, Secretary  
Darrell Debish  
Lisa Garza  
Sharon Goss  
Larry Hans  
Clinton Holtzendorf  
Dee Marsh  
Michael Monaghan  
Jeff Shindler

#### **Commission Members absent**

Brenda Medcalf, Chair  
Brian Daniel  
Brian Varnell  
Brad Thomas

#### **Staff, Consultants & Appointed/Elected Officials present**

Parks & Community Services Director Andy Binz  
Community Events Coordinator Johnna Krantz  
Content Marketing Specialist Stephanie Hartnett  
Emergency Management Coordinator Roman Baligad  
City Treasurer Shawn Cox

A motion was made by Commissioner Debish to excuse tonight's absences of Chair Medcalf, Commissioners Daniel, Thomas, and Varnell. Commissioner Marsh seconded the motion which carried unanimously 9 to 0.

### PRESENTATION OF CITIZENS

*A member of the public who desires to address the Commission regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the Commission's consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are*

*allowed two (2) minutes to speak during presentation of citizens or during each public hearing. Speakers may not cede or pool time. Members of the public requiring assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the Board. It is the request of the Board that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speaker are encouraged to sign in. Anyone may request a copy of the City's policy on presentation of citizens for the City Secretary. By law no action may be taken during Presentation of Citizens.*

No citizen spoke during the Presentation of Citizens.

## MINUTES

- 1. Discuss and consider approval of the February 13, 2023, Founders Day Commission regular meeting minutes.**

A motion was made by Commissioner Hans to approve the February 13, 2023, Founders Day Commission regular meeting minutes. Commissioner Holtzendorf seconded the motion which carried unanimously 9 to 0.

## BUSINESS

- 2. Discuss and consider possible action regarding the use of Hotel Occupancy Tax (HOT) Funds for activities related to the Founders Day Festival.**

City Treasurer Cox discussed the nine categories that qualify for use of Hotel Occupancy Tax (HOT) by an organization. Consideration of the Founders Day Commission request for HOT funds would occur in May during the budget process for the next fiscal year. This year's funds have already been allocated. Treasurer Cox recommended an email be sent to him outlining the amount for which categories funds are requested and an explanation of how they might qualify. Our request would be reviewed by Treasurer Cox, City Attorney Mueller and other staff before it is presented to the City Council for consideration. (Because the Commission is a part of the City, the formal application does not need to be submitted.)

- 3. Discuss and consider recommendation regarding Founders Day Facility Use Agreement between the City of Dripping Springs, Dripping Springs Independent School District, and the Dripping Springs Lions Club during the 2023 Founders Day Festival.**

Community Events Coordinator Krantz presented the reviewed and updated Founders Day Facility Use Agreement for the Commission to look at before it goes to City Council and DSISD for their approval. The agreement includes the Rotary Club use of DSISD property for the shuttle bus and their booth at the drop-off area. The agreement also includes DSISD employees will have access to the parking lot until 4:00 pm on Friday, April 28, 2023.

- 4. Discuss and consider staff direction regarding sponsorship and vendor agreements for Founders Day Festival related to sale of food and beverage, including alcohol beverages.**

City Council has approved the sponsorship and vendor agreements for Founders Day Festival related to sale of food and beverage, including alcoholic beverages. This would provide an

opportunity for sponsors to sell food or beverages. No more than a total of 5 sponsorships for \$10,000 plus a percent of their proceeds or for \$15,000 plus zero percent of their proceeds will be offered. The location of these booths will be strategically located so as to not compete with the DS Lions Food Vendors on College Street or with St Martin de Porres Beer booth on Mercer Street. Community Events Coordinator Krantz relayed a message from City Secretary Cunningham that if alcoholic beverages are to be sold on city property that the vendor must obtain a license from TABC.

## **STANDING COMMITTEE REPORTS**

*The following reports relate to the administration and planning of the Founders Day Festival. The Commission may provide staff direction; however, no action may be taken.*

### **5. Arts & Crafts Committee**

*Commissioner Monaghan*

Arts & Crafts Booths are full with 37 on the waiting list. Commissioner Monaghan requests from the Sponsorship Committee the number of booths he needs to reserve for sponsors wanting a booth.

### **6. Carnival & Food Committee**

*Commissioners Goss and Warwick*

Food Vendor Booths are full with a number on the waiting list. Arrangements are being made with the Ranch Park for the carnival workers and vehicles to be housed there.

### **7. Entertainment Committee**

*Commissioners Thomas, Daniel and Holtzendorf*

The Entertainment Committee is meeting this next week to finalize the line-up of bands.

### **8. Parade Committee**

*Commissioners Medcalf and Daniel*

Applications for entries to be in the parade “Founders 34, Celebrations Galore” will be posted on March 1.

### **9. Publicity Committee**

*Commissioners Adams, Holtzendorf, Daniel, Marsh and Lisa Sullivan*

The area magazines *Dripping Springs Neighbors* and *City Lifestyle* will feature a Founders Day article in their April issues. *Community Impact* will also include Founders Day in their publication.

### **10. Sanitation Committee**

*Commissioner Hans*

Commissioner Hans reported he has arranged Waste Connections for dumpsters and Texas Disposal Systems for portable bathrooms and hand washing stations. Both expenditures are coming in higher than the funds budgeted. His supplies list has been turned into the city. Commissioner Marsh has arranged for two utility carts for Sanitation committee to use during

the event to pick up trash. Commission Hans continues to reach out to Church of the Springs for a commitment from their group to pick up trash during the event again this year. He is also contacting the street sweeper this week.

#### **11. Security Committee**

*Commissioners Medcalf and Debish*

Commissioner Debish stressed the urgency in processing the signed agreement for acquiring the security light sets and also in submitting the plan to TXDOT to close down one lane of Hwy 290 for the parade on Friday, April 28, 2023

#### **12. Site Plan Committee**

*Commissioners Monaghan, Shindler and Medcalf*

Commissioner Shindler has completed the site maps for Sanitation. He is working on the site map for Fire and EMS. A decision was made to move the fire truck and EMS onto Bluff Street at 290 so they have easy ingress and egress in case they have to make emergency runs.

#### **13. Sponsorship & Underwriting Committee**

*Commissioners Adams, Debish, Daniel and Marsh*

\$31,000 in-hand sponsorships as of today, February 27, with another \$2000 committed, for a total of \$33,000. Efforts continue to obtain more sponsorships. The new sponsorship forms (updated from Early Bird) are posted on the website.

#### **14. Traffic & Parking Committee**

*Commissioners Medcalf and Debish*

Because of the construction in the DSISD parking lot, our staging area for the parade is much smaller.

#### **15. Volunteer Committee**

*Community Events Coordinator Johnna Krantz*

Community Events Coordinator Krantz requested that committees send to her the number of volunteers needed, the days and times, and a short description of the tasks involved.

### **UPCOMING MEETINGS**

#### **Founders Day Commission Meetings**

March 13, 2023, at 6:30 p.m.

March 27, 2023, at 6:30 p.m.

April 10, 2023, at 6:30 p.m.

April 24, 2023, at 6:30 p.m.

#### **City Council Meetings**

March 7, 2023, at 6:00 p.m.

March 21, 2023, at 6:00 p.m.

April 4, 2023, at 6:00 p.m.

April 18, 2023, at 6:00 p.m.

## ADJOURN

A motion was made by Commissioner Debish to adjourn the meeting. Commissioner Marsh seconded the motion which carried unanimously 8 to 0.

This regular meeting of the Founders Day Commission was adjourned at 8:06 pm.

*Susan Warwick*

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Susan Warwick, Secretary  
Founders Day Commission

## CITY OF DRIPPING SPRINGS

### LOCAL HOTEL OCCUPANCY TAX GRANT FUNDING PROGRAM

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By law of the State of Texas, the City of Dripping Springs, Texas, collects a Hotel Occupancy Tax (HOT) from hotels, bed & breakfasts, and other lodging facilities. Under state law, HOT revenue may be used only to directly promote tourism and the hotel and convention industry. **Chapter 351 of the Tax Code states that the use of HOT funds is limited to:**

- a) **Convention Centers and Visitor Information Centers:** the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing operation and maintenance of convention center facilities or visitor information centers, or both;
- b) **Registration of Convention Delegates:** the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- c) **Advertising, Solicitations and Promotions that Directly Promote Tourism and the Hotel and Convention Industry:** advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- d) **Promotions of the Arts that Directly Promote Tourism and the Hotel and Convention Industry:** the encouragement, promotion, improvement, and application of the arts that can be shown to have some direct impact on tourism and the hotel/convention industry. The impact may be that the art facility or event can show hotel nights that are booked due to their events or that guests at hotels attend the arts event. Eligible forms of art include instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture photography, graphic and craft arts, motion picture, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.
- e) **Historical Restoration and Preservation Activities that Directly Promote Tourism and the Hotel and Convention Industry:** historical restoration and preservation projects or activities or advertising and conducting solicitation and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums.
- f) **Sporting Event Expenses that Substantially Increase Economic Activity at Hotels:** Expenses including promotional expenses, directly related to a sporting event in which the majority of participants are tourists. The event must substantially increase economic activity at hotels within the city or its vicinity.
- g) **Funding transportation systems for transporting tourists from hotels to and near the city to any of the following destinations:**
  - 1. The commercial center of the city;
  - 2. a convention center in the city;
  - 3. other hotels in or near the city; or
  - 4. tourist attractions in or near the city.

The law specifically prohibits the use of the local hotel tax to cover the costs for general city transit

- h) **Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.**
- i) **Promotion and preservation of dark skies:** Construction and maintenance of infrastructure and the purchase and installation of hardware that reduces light pollution and sky glow.

The City of Dripping Springs, Texas, accepts applications from organizations and businesses whose program fits into one or more of the above categories. All requests for funds should be submitted in writing accompanied by the official application by **April 7th, 2023**. The application will be reviewed by the Hotel Occupancy Tax Grant Program Application Review Committee at the earliest possible regularly scheduled meeting. The applicant may be asked to be present at the meeting to answer any questions regarding the application. Applicants will be notified one week prior to the meeting of the time and place for the review.

Based on the application, the Hotel Occupancy Tax Grant Program Application Review Committee will make a recommendation to the City Council. The City Council will make the final decision on your request.

Priority will be given to projects and events based on their ability to generate overnight visitors to Dripping Springs. The requested amount should not exceed more than 50 percent of the gross amount of hotel night revenue predicted to be created by your event. Events can demonstrate this potential to generate overnight visitors by:

- a) **historic information on the number of room nights used during previous years of the same events;**
- b) **current information on the size of a room block that has been reserved at area hotels** to accommodate anticipated overnight guests attending the funded event;
- c) **historical information on the number of guests at hotel or other lodging facilities that attended the event (through surveys, guest directories, or other sources); and/or**
- d) **examples of the planned marketing of the programs and activities that will likely generate overnight visitors** to local lodging properties from this event.

Along with the application, please submit the following:

- Proposed Marketing Plan for Funded Event/Project
- Schedule of Activities Relating to the Funded Event/Project
- Board of Directors Contact Information
- Proof of Non-Profit Status (if applicable)
- Proof of Registered Business (obtained through Secretary of State)

#### **Submit Completed Applications to:**

##### **By Mail:**

City of Dripping Springs  
Attn: City Administrator  
PO Box 384  
Dripping Springs, TX 78620

##### **In Person to:**

City of Dripping Springs  
City Hall  
511 Mercer Street  
Dripping Springs, TX 78620

##### **By Electronic Submission:**

[mfischer@cityofdrippingsprings.com](mailto:mfischer@cityofdrippingsprings.com)

**Grant Application Timeline:**

- Mar 3rd                      Application submission open.
- Apr 7th                      Application submission deadline at 5:00 p.m.
- Apr 10th - 28th          City staff review of applications for administrative completeness and basic requirements.
- May 1st - 31st            HOT Grant Funding Program Application Review Committee discuss and provide funding allocation recommendations for City Council.
- Aug 11th                   City Council discuss HOT Grant Program funding requests.
- Sep 19th                   City Council consider approval of funding recommendations in Fiscal Year Budget.
- Oct 1st                     Executed agreements due for disbursement of funds from City Treasurer.

*The City deadlines are only an estimate based on optimum circumstances related to the review, approval, and execution of the program and its agreements. These items could be delayed based on a variety of factors. Please call (512) 858-4725 or email [kcampbell@cityofdrippingsprings.com](mailto:kcampbell@cityofdrippingsprings.com) if you have any questions about this program.*



Promotion and preservation for dark skies	\$			
<b>Sporting Event</b>				
Total Participants				
Visitors attending				
Quantify the increase economic activity at hotels within the City	\$			
<b>Transportation Funding</b>				
What sites/attractions will tourist be taken to				
Will general public be riding on this transportation				
Percentage of local citizens	%			
<b>Signage</b>				
What tourist attractions will be the subject of the signs?				
<b>Dark Skies</b>				
Describe Construction or Maintenance project? Include: Location, Type of infrastructure, Type of hardware to be installed?				
<b>Funding Request</b>				
<i>Section must be completed for City to evaluate this application. Incomplete applications are subject to automatic denial.</i>				
How man years have you held this event/Project?				
What is the expected attendance of the Event/Project?				
How many visitors will use Dripping Springs Hotels?				
How many nights will attendees be staying for the Event/Project?				
Did you reserve a room block and how many?				
How many rooms did you reserve?				
What hotels did you use for reservations?				
<b>Event History</b>				
	Month/Year Held	Grant Amount	# of Hotel Rooms	
1				
2				
3				
<b>Event Details</b>				
How will you measure the impact of your event on area hotel activity?				
List organizations, government entities and grants that have offered financial suport to your event/Project.				
Admission Fee		\$		
Anticipated Net Profit		\$		
<b>Media Promotion Efforts</b>				
Newspaper		\$		
Internet		\$		
Radio		\$		
Tv		\$		
Other Paid Advertisement		\$		
Number of Press Releases to media				
Number of Direct Mailings to out of town recipients				

Other Promotion				
Link to Dripping Springs Visitors Bureau for Hotel Booking	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Link to other source for Hotel Booking	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Negotiated special rate to attract overnight stays	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
What new marketing initiatives will you utilize to promote hotel and convention activity fo this event/project?				
What geographical areas does your advertising and promotion reach?				
How many individuals will your proposed marketing reach who are located in another city or county?				
<b>Permanent Facility Funding</b>				
Expected Monthly attendance				
Expected yearly attendance				
Percentage staying in hotels/lodging	%			
<b>Acknowledgement</b>				

I fully understand the Local HOT Grant Program Application and Guidelines established by the City of Dripping Springs. I intend to use this grant for the aforementioned Event/Project expenditure to forward the efforts of the City in directly enhancing and promoting tourism and the convention and hotel industry by attracting visitors from outside Dripping Springs into the city or its vicinity. I have attached to this application:

- proposed marketing plan for event/project
- schedule of activities for event/project
- a list of the organization/business board of directors
- proof of non-profit status (if applicable)
- proof of registered business with the State of Texas (if applicable), and

I understand that if I am awarded a Local HOT Grant by the City of Dripping Springs, I will be required to enter into a Local HOT Grant Program Agreement with the City and any deviation from the approved project and the Agreement may result in the partial or total withdrawal of the Local HOT Grant Program funds.

Business/Organization Name

Applicant's Signature

Date

# THE HOTEL TAX “TWO-STEP”

By **Bill Longley**, TML Legislative Counsel



In the grand scheme of things, city hotel occupancy taxes account for just a small amount of city revenue. Property taxes and sales taxes are far more important to most cities. Why does it seem, then, that hotel taxes generate so much confusion and controversy?

The answer is this: Hotel taxes, unlike most other taxes, are levied on a specific category of businesses—hotels. As a result, these businesses tend to pay close attention to how cities expend these funds. Spend city sales taxes in a controversial way, and no particular category of business feels singled out enough to raise a fuss. Perceived misuses of hotel taxes, on the other hand, are a different story.

Fortunately, it's very easy for a city official to remember how to legally spend hotel taxes. A city simply needs to remind itself to always follow the "two-part test." The key element of a two-part test is – surprise – that it has two parts! Cities frequently remember to meet one element of the test, but then entirely forget the other part. This article will succinctly describe the two-part test, and then describe some common situations to which we can apply the test.

### Part 1: Heads in Beds

The first element of the two-part test is this: Every expenditure of hotel taxes must put "heads in beds." What this means is that every funded project must attract overnight tourists to the city's hotels and motels, thus promoting the city's hotel industry.

For example, how about a weekend-long arts and crafts show? There's a very good chance that out-of-town guests might come to visit such an event, so expenditure of hotel tax money on that event would likely qualify.

On the other hand, how about a quilting bee at a local nursing home? While a worthy cause, the quilting bee is unlikely to attract overnight tourists and, therefore, probably wouldn't qualify to receive hotel tax funds.

### Part 2: The Nine Categories

Once a project has cleared the first part of the test, it's time for – you guessed it – the second part of the test. Here it is: Every expenditure of hotel taxes must also fit into one of nine statutorily authorized categories. These are the nine categories: (1) convention and visitor centers; (2) convention registration; (3) advertising the city; (4) promotion of the arts; (5) historical restoration and preservation; (6) sporting events in a county under one million in population; (7) enhancing or upgrading existing sports facilities or sports fields (only in certain cities); (8) tourist transportation systems; and (9) signage directing the public to sights and attractions that

are visited frequently by hotel guests in the city.

Thus, even if an event puts heads in beds, it cannot receive hotel tax money unless it also fits into one of the nine categories. For instance, what about a livestock auction that will attract attendees from surrounding counties? While that event is likely to attract overnight tourists, it doesn't fit neatly into one of the nine categories. Therefore, it's likely not a valid recipient of hotel tax money.

It's not enough to meet one of the two prongs of the two-part test. A city must meet both! The following are some real-life examples that have been the focus of inquiries received by the Texas Municipal League (TML) Legal Department.

#### Fireworks, Anyone?

The prototype hotel tax controversy is an event like a fireworks show or a parade. Cities frequently ask if they can fund a fireworks show with hotel tax money.

Let's subject a fireworks show to the two-part test. Does a fireworks show put heads in beds? The answer is "probably not," unless it is a truly spectacular event. But let's give it the benefit of the doubt. Suppose the Town of Pyrotechnic, Texas, truly does put on a fireworks extravaganza that attracts tourists from around the state. So far, so good.

But what about the second part of the test – the nine categories? Do fireworks shows fit neatly into any of the nine? Not really. Some may argue that such shows "advertise" the city, but this is likely not what that category means. Advertising the city literally means some sort of print or other media that explicitly promote the city. Otherwise, a city could simply say that any popular event "advertises" the city that holds it. Direct funding of fireworks displays and the like are, usually, not a very good fit.

#### Signs of the Times?

Another frequent question concerns highway signs promoting the city. May a city fund a billboard touting the city's attractions, restaurants, and hotels? Let's put it to the two-part test. Heads in beds? Well, why not? If a billboard encourages motorists to stop in town, those motorists might stay the night, whereas without the sign they would have driven on to the next city. This is exactly what the statute intends. The nine categories? How about advertising? Prior to 2009, a convincing argument could be made that because a billboard literally advertises the city it refers to, that it would fit within the advertising category. All doubt was erased in 2009, when the Texas Legislature added the ninth category – signage directing the public to



sights and attractions. Travel signs are a perfect fit for hotel occupancy tax expenditures.

### Chambers of Commerce?

Cities frequently wonder if they can fund the local chamber of commerce using hotel tax money. Do chambers put heads in beds? Maybe, maybe not. Chambers of commerce are typically charged with promoting economic development, not tourism. Even assuming a chamber does promote tourism though, how about the nine categories? Funding a chamber doesn't, in itself, fall into any of the nine categories.

Fortunately, there is an easy solution. The laws governing hotel tax expenditures permit the city to delegate expenditure of hotel tax money to another entity, typically a chamber or convention and visitor bureau. As long as the chamber spends the money on projects that otherwise meet the two-part test mentioned above, it's fine to delegate some funds to them. There must be a written contract laying out the duties of the chamber, though. Also, the chamber must keep the hotel funds in an account separate from its general operating fund.

### Arts Organizations

City arts organizations are a common trouble area. It seems that every arts council in the state knows that promotion of the arts is one of the nine categories on which city hotel taxes may be expended. Cities know this because these

arts groups frequently come asking for the money.

The thing to remember about arts groups is this: Direct funding of the organization's operations does nothing in and of itself to put "heads in beds." Put another way, funding the operating budget of an arts council meets the second part of the test (promotion of the arts) but not necessarily the first.

The solution? The city should encourage the group to seek funding only for its festivals and shows that do, in fact, attract tourists to the city. By limiting the expenditure to such events, the city meets both parts of the test.

### Don't Forget to Report

Legislation passed in 2017 that requires cities to annually report hotel occupancy tax information to the comptroller, including information on how the funds are spent. Not later than February 20 of each year, a city that imposes a hotel occupancy tax must submit to the comptroller information that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers
- Convention delegates registration
- Advertising to attract tourists
- Arts promotion and improvement
- Historical restoration and preservation projects
- Signage directing the public to sights and attractions

Cities must comply with the annual reporting requirements by either submitting the report to the comptroller on a form prescribed by the comptroller, or alternatively providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the city's website.

### What Else?

There are numerous other technical details about how to legally expend hotel tax funds. In truth, by simply learning and remembering the two-part test, city officials are 99 percent of the way toward full compliance with hotel tax laws. City officials with questions about the hotel occupancy tax should call the TML Legal Department at 512-231-7400. ★



**STAFF REPORT**  
**City of Dripping Springs**  
**PO Box 384**  
**511 Mercer Street**  
**Dripping Springs, TX 78620**

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**Submitted By:** Johnna Krantz, Community Events Coordinator

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**Commission Meeting Date:** March 13, 2023

**Agenda Item Wording:** Discuss and consider approval of an amendment to the 2023 Founders Day Festival site plan to include the use of the parking lot located at 299 Mercer Street as an in-kind sponsorship from Roxie's, LLC.

**Agenda Item Requestor:** Johnna Krantz, Community Events Coordinator

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**Summary/Background:** The City seeks to include the parking lot at 299 Mercer Street in the Founders Day Festival site plan. If agreed, the City would identify and acknowledge the property owner, Roxie's LLC, as an in-kind sponsor in the City's marketing, advertising, and promotional media in connection with the Event.

**Commission Recommendations:** Approve an amended festival site plan utilizing the parking lot located at 299 Mercer St.

**Recommended Council Actions:**

**Attachments:** Roxie LLC's Parking Lot site plan for 2023 festival (proposed DRAFT); Parking Lot Use Agreement.

**Next Steps/Schedule:** Determine appropriate lot usage and finalize agreement with Roxie's LLC.

## PARKING AGREEMENT

This Parking Agreement (the “**Agreement**”) is made as of this \_\_\_\_ day of March 2023 (the “**Effective Date**”) by and between the City of Dripping Springs, Texas (the “**City**”) and Roxie’s, LLC (“**Roxie’s**”).

WHEREAS, City seeks to use the parking lot at 299 Mercer Street, Dripping Springs, Texas 78620 (the “**Premises**”) for the City’s Founder’s Day (the “**Event**”); and

WHEREAS, the City finds that it is a benefit to the City and its residents to use the premises for the described Event; and

NOW THEREFORE, for valuable consideration, the receipt which is hereby acknowledged, the City and Roxie’s, LLC agree as follows:

### A. LIABILITY COVERAGE

The City hereby agrees that it will obtain and keep in force liability coverage to cover its liability for its events to take place on the Premises in the minimum amounts of \$1,000,000 per occurrence (or another appropriate agreed upon amount) and will add Roxie’s and owner Charles Hayden as covered parties for personal injury, bodily injury and property damage claims arising from the City hosting the Event on the Premises. Said liability policies shall name Roxie’s and owner as additional covered parties. The City shall furnish to Roxie’s and the owner Certificates of Coverage evidencing that the aforesaid insurance coverage is in full force.

### B. SPONSORSHIP

During the term of this Agreement, the City agrees to identify and acknowledge Roxie’s as a sponsor of the Event, by displaying Roxie’s’ logo and other agreed-upon identifying information on the City’s marketing, advertising, and promotional media in connection with the Event, in the manner (placement, form, content, etc.) reasonably agreed upon by the City and Roxie’s, if any. Further, the City agrees to identify and acknowledge Roxie’s as an in-kind sponsor for the Event. Roxie’s agrees to provide all the necessary content and materials for use in connection with such sponsorship if needed. During the term of this Agreement, the Founders Day Festival will access and use the parking lot from 12:00 p.m. Thursday, April 26, 2023 to 12:00 a.m., Sunday, April 30, 2023.

### C. TERM AND TERMINATION

The Term of this Agreement will begin on the Effective Date and continue for a period of one (1) year. The Agreement shall automatically renew for one (1) year Terms unless (i) either party terminates for any reason upon sixty (60) days prior written notice to the other party; or (ii) both parties agree to terminate by mutual written consent. Notwithstanding the foregoing, should Roxie’s end its lease or the owner sells the Premises to any party other than Roxie’s, LLC, this Agreement may be terminated on the sale date of the Premises.

### D. CLEANUP

The City agrees that it will, within a reasonable period and using its own money and resources, clean the Premises after the Event is over.

**M. Scott Roberts**

**CITY**

**Roxie's, LLC**

Name: \_\_\_\_\_

Bill Foulds, Jr.

Title: \_\_\_\_\_

Mayor, City of Dripping Springs

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_