

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: February 24, 2015		DATE SUBMITTED: February 11, 2015	
DEPARTMENT OF ORIGIN: City Manager's Office		SUBMITTED BY: Hugh R. Walker	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of a resolution expressing support of proposed bracketed legislation for Section 351 of the State of Texas Tax Code relating to the allocation of municipal hotel occupancy tax (HOT) revenue in certain municipalities, which would include the City of Bryan, Texas.			
SUMMARY STATEMENT: For almost two years, City staff has explored options to improve and expand athletic facilities and fields. As part of this review, funding options for such facilities/fields have been explored. On August 21, 2014, City staff visited with the Texas Hotel & Lodging Association President/CEO, Scott Joslove, who offered his expertise and assistance with possible bracketed legislation regarding hotel occupancy tax (HOT) revenue. Mr. Joslove is considered by many individuals as the HOT expert in the State of Texas.			
<p>During the August 26, 2014, City Council Executive Session, legal advice was provided "regarding use of hotel/motel occupancy tax revenues for park improvements." From this session, staff proceeded with including such language in the 2015 Legislative Plan, which the City Council approved on February 10, 2015. In particular, the Plan states, "Seek introduction and passage of bracketed legislation that would allow expanded utilization of hotel occupancy tax funds relative to the construction and maintenance of city owned parks and recreational facilities."</p> <p>Additionally, since August 26, 2014, City staff drafted bracketed language regarding allocation of municipal hotel occupancy tax revenue. As part of this process, City of Bryan staff shared initial draft legislation with City of College Station staff who expressed a willingness to work with the City of Bryan staff. Once the two staffs agreed upon a draft document, the draft bracketed legislation was shared for comments and suggestions on January 23, 2015, with the City of Bryan City Council, the Texas Hotel & Lodging Association President/CEO, the Brazos Valley Lodging Association President, and the BCS Convention & Visitors Bureau President/CEO.</p> <p>On February 3 and 4, 2015, City staff visited with Mr. Joslove about the proposed bracketed legislation. Mr. Joslove offered assistance in refining the draft document and his staff provided a revised version to City staff on February 5, 2015. The revised version, according to Mr. Joslove, is one the Texas Hotel & Lodging Association supports and will assist with through the legislative process, if the City of Bryan City Council approves the document.</p> <p>On February 5, 2015, staff from the two cities met with representatives of the Brazos Valley Lodging Association (President Dan Eichler) and the BCS Convention & Visitors Bureau (President/CEO Shannon Overby). The revised document, as provided by Mr. Joslove, was reviewed. Since that meeting and with minor changes to the version provided by the Texas Hotel & Lodging Association, the local lodging association president, the CVB president/CEO, and the CVB Board chairman offered support of the proposed bracketed legislation.</p> <p>On February 6, 2015, the Texas Hotel & Lodging Association version was forwarded via email to the Bryan City</p>			

Council. Through discussions with other parties involved in the review of the draft legislation, three minor changes were made to the Texas Hotel & Lodging Association version forwarded to the City Council. Those three changes include the following:

- Adding the word “fields” wherever the word “facility” exists;
- Changing the word “facilities” to “facility” on Page 3 section (2) of that version. The word “facility” is used throughout the proposed legislation and modifying the one reference from “facilities” to “facility” brings consistency to the document; and,
- Adding the word “of” on Page 2 in (b)(2) between the words “amount” and “hotel” (i.e., a grammar correction).

A goal of the proposed bracketed legislation is to expand and grow the number and size of tournaments attracted to the community. In doing so, the number of visitors to the community is increased, which should result in increased HOT tax revenue and sales tax revenue. Consequently, local hotels and retail businesses may benefit from additional visitors to the community. If this proposed legislation is approved, the City of Bryan will be provided another funding source for parks projects (e.g., athletic facilities and fields) that can be used for tournaments and other activities/events that attract overnight visitors. The proposed legislation also provides for the use of HOT revenue to be used for the operation of such facilities/fields when used for tournaments that attract overnight visitors.

The proposed bracketed legislation highlights include (the below summary are highlights provided by Texas Hotel & Lodging Association staff with slight modifications being added to address the aforementioned minor changes):

- **Section 1** (amends Section 351.101(a)):
 - This bill applies to Bryan and College Station.
 - Bryan and College Station may use HOT funds for the construction, operational costs, or expansion of a sporting related facility/fields owned by the municipality—but ONLY if the majority of the events at the facility/fields will be directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.
- **Section 2** (amends Section 351.1076):
 - Bryan and College Station may not use HOT revenue to acquire the land for the sports facility/fields.
 - If Bryan or College Station use HOT revenue under this new authority, for the 5 years following the expenditure, the city must annually determine and prepare a report on:
 1. The events held at the facility/fields,
 2. The number of hotel room nights attributable to events at the facility/fields, and
 3. The amount of hotel revenue generated by events at the facility/fields.
 - Operational expenses of the facility/fields can only be paid with hotel tax if the costs are directly related to a sporting event in which the majority of the participants are tourists who substantially increase economic activity at area hotels.
 - Prohibits spending HOT funds on the facility/fields in excess of the hotel revenue attributable to the expenditure. If this is violated, the city must repay the HOT fund from General Fund revenue.
- **Section 3:** provides an effective date

The existing State statute and the proposed bracketed legislation include reporting requirements. In particular, Section 351.108 of the existing Tax Code addresses “Records” and the proposed legislation requires the preparation of an annual report on the events held at the facility/fields, the number of hotel room nights attributable to the event, and the amount of hotel revenue attributable to the event. City staff is working with CVB staff and College Station staff to be prepared to meet these requirements, if needed, in the future. Presently, City of Bryan Finance Department staff is familiar with and abides by reporting requirements that pertain to existing HOT revenue use.

A comparison between current legislation and proposed legislation: current legislation allows for the use of HOT revenue for the “enhancement and upgrading of existing sports facilities or fields” (Section 351.101(a)(7); the key word being existing. The proposed legislation provides for similar facilities/fields but for such to be constructed on property that is not in the City’s existing inventory as a sports facility or field; this version provides flexibility to construct new facilities/fields on currently non-existing sports/parks complexes.

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends the City Council approve the proposed resolution expressing support of the bracketed legislation relating to the allocation of municipal hotel occupancy tax (HOT) revenue in certain municipalities. While at this time the City does not have a specific project to benefit from this proposed legislation, should the opportunity arise for the construction of new athletic facilities/fields, using HOT revenues may be one funding option available to the City.

One goal of the proposed bracketed legislation is to provide for opportunities to expand and grow the number and size of tournaments attracted to the community. Adding athletic facilities, fields, venues, and events should attract overnight visitors who can provide a benefit to local motels/hotels as well as retail establishments through expenditures made during a visit to the community.

The objectives of the proposed legislation include: The proposed legislation provides that HOT revenue can be used as a funding source for the construction of new parks projects (e.g., athletic facilities and fields) used for tournaments that result in overnight stays. Additionally, the proposed legislation allows for the use of HOT revenue for operations of events at these new facilities/fields that result in overnight stays. The proposed legislation does not allow for the use of HOT revenue for general maintenance of facilities/fields.

If approved, the intent is to have the bracketed legislation introduced during the 2015 State legislation session. Ideally, the bracketed legislation is approved at the State level and effective September 1, 2015. Depending on future parks projects and facility/fields needs and based on direction from the City Council, the City could pursue using HOT revenue for the development of certain new facility/fields. According to Texas legislative policy, bills (i.e., legislation) may be introduced for the first sixty (60) days of the legislative session. The 2015 Texas legislature convened on January 13, 2015.

Note: At Parks & Recreation Advisory Board meetings, the Board has been provided updates about possible HOT revenue legislation. As of the writing of this Council Action Form, the Tuesday, February 17, 2015, Parks & Recreation Advisory Board agenda includes an action item for the Board to consider making a recommendation, regarding the proposed HOT bracketed legislation, to the City Council. Also as of the writing of this Council Action Form, the City of College Station is scheduled to consider the proposed HOT bracketed legislation on Thursday, February 26, 2015.

OPTIONS (In Suggested Order of Staff Preference):

1. Approve the proposed resolution expressing support of the proposed bracketed legislation as written
2. Approve the proposed resolution after modifying the proposed bracketed legislation, which may require consideration at a future City Council meeting. Additionally, other entities involved in the review of the proposed legislation might want to comment on modifications suggested by the City Council.
3. Do not approve the proposed resolution and provide direction to staff
4. Take no action and provide direction to staff
5. Other

ATTACHMENTS: (attachments #2 and #3 are pdf files)

1. Proposed resolution expressing support of proposed bracketed legislation for Section 351 of the State of

Texas Tax Code relating to the allocation of municipal hotel occupancy tax revenue in certain municipalities, which would include the City of Bryan, Texas

2. Proposed bracketed legislation relating to the allocation of municipal hotel occupancy tax revenue in certain municipalities (the proposed version has been reviewed by other entities including the Texas Hotel & Lodging Association President/CEO, Texas Hotel & Lodging Association General Counsel, Brazos Valley Lodging Association President, BCS Convention & Visitors Bureau Chair, BCS Convention & Visitors Bureau President/CEO, and City of College Station staff)
3. Texas Tax Code, Title 3. Local Taxation, Subtitle D. Local Hotel Occupancy Taxes, Chapter 351, Municipal Hotel Occupancy Tax, Subchapter A. Imposition and Collection of Tax

FUNDING SOURCE: Approving this agenda item does not require funding other than possible staff time and related resources to support the proposed legislation at the State capitol and related interaction with appropriate individuals and events.

APPROVALS: Hugh R. Walker, 02/11/2015

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 02-17-2015

APPROVED FOR SUBMITTAL: CITY ATTORNEY

Revised 05/2013

RESOLUTION NO _____

A RESOLUTION OF THE CITY COUNCIL OF BRYAN, TEXAS, TO SUPPORT THE INTRODUCTION AND PASSAGE OF PROPOSED BRACKETED LEGISLATION THAT WILL AMEND CHAPTER 351, SECTION 351.101(A), TAX CODE, BY ADDING SUBSECTION (13), AND CHAPTER 351, SECTION 351.1076 BY ADDING NEW SUBSECTION (B) AND RENUMBERING CURRENT SUBSECTIONS, IN ORDER TO ALLOW EXPANDED UTILIZATION OF HOTEL OCCUPANCY TAX REVENUE FOR THE CONSTRUCTION, OPERATION, OR EXPANSION OF SPORTING RELATED FACILITIES OR FIELDS OWNED BY THE CITY FOR THE PURPOSE OF PROMOTING TOURISM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Bryan, Texas is a Home Rule City, duly organized and functioning under the laws of the State of Texas; and

WHEREAS, the City of Bryan, as authorized by Chapter 351 of the Texas Tax Code, levies a local hotel/motel occupancy tax (HOT) to promote tourism within the city; and

WHEREAS, the proceeds of this tax are used to promote a number of local events that bring overnight travelers to the City; and

WHEREAS, the Bryan City Council would like to provide more help in the improvement of the City's sporting related facilities and fields to attract regional tournaments that bring overnight travelers to the City and increase the impact of municipal hotel occupancy tax funds for both the community at large and the hotel and lodging community; and

WHEREAS, the City of Bryan has worked in concert with the City of College Station and the state and local hotel and lodging associations to draft proposed legislative language; and

WHEREAS, it is the desire of this City Council that a copy of this resolution with appropriate names affixed and draft legislation attached be presented to the City's state representative and state senator;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

Section 1.

That the Governor and members of the 84th Legislature of Texas seek passage of proposed legislative language maximizing the use and impact of revenue from the municipal hotel occupancy tax in the cities of Bryan and College Station

Section 2.

This Resolution shall be immediately effective upon its passage and adoption.

Approved and adopted this 24th day of February, 2015.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney