

# City of Copperas Cove Information Item No.

APRIL 6, 2016

## Dues Paid With Public Funds

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SUBJECT: REPORT ON DUES PAID WITH PUBLIC FUNDS.

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### 1. BACKGROUND/HISTORY

The Copperas Cove Economic Development Corporation assumed payment of the Heart of Texas Defense Alliance dues from FY 2005 to FY 2016. Some years were formalized with a written and executed contract that included specific deliverables.

Council Member Place 7, Matthew Russell, requested a report from the City Attorney regarding the use of public funds to pay membership fees.

### FINDINGS/CURRENT ACTIVITY

The City Attorney provided the City Manager with the following Attorney General Opinions:

Opinion JM-1257 references Attorney General Opinion H-397 (1974) which held that a county could not become a dues-paying member of a chamber of commerce operated by a private corporation. The opinion determined that the payment of dues would be a donation of public funds to a private entity in violation of the Texas Constitution. Please note that Texas cities are also prohibited from donating public funds to private entities. But note that section 81.026 of the Local Government Code empowers a commissioners court, "in the name of the county," to spend "money from the county's general fund for membership fees and dues of a nonprofit state association of counties" if certain conditions are fulfilled.

In Opinion No. JM-516, the Attorney General opines that while a County cannot become a dues paying member of a chamber of commerce it may contract with a private corporation such as a chamber of commerce for the provision of business and industrial development services if the county receives adequate consideration and if the contract provides adequate assurance that the public purpose will be accomplished.

In Opinion No. DM-29 the Attorney General opined that the Dallas County Hospital District is not authorized to become a dues-paying member of various private,

nonprofit corporations and associations nor to reimburse its administrator for maintaining an individual membership in such organizations on statutory and constitutional grounds.

The Attorney General's analysis in these opinions is similar in scope to our opinion regarding the leasing of City property to non-profit corporations. As the City cannot gift the use of public property, even to non-profit organizations, the general rule is it cannot pay dues to organizations, such as the Chamber of Commerce. In regards to the lease agreements, the City Council made determinations that the non-profits provided public services, which benefited the community and included performance requirements to insure the City would receive value for the use of its property.

With regards to HOTDA, it is our opinion that the City could enter into such an agreement with HOTDA provided the agreement identified a public purpose and required HOTDA to produce deliverables which fulfill the public purpose.

Any questions or concerns regarding the payment of HOTDA dues or any other dues by the Copperas Cove Economic Development Corporation will need to be addressed by the CCEDC's Attorney.