

June 1, 2018

TO: ICVB Board Development Committee

FR: Maura Allen Gast, FCDME 

RE: Governance Review Report

The 2015-18 Irving Convention and Visitors Bureau Strategic Plan included this statement as a primary objective for the Board Development Committee, which has served as the “Task Force” noted:

- Create a Task Force to analyze the best possible structure and focus for Irving’s CVB.
- Review successful (and unsuccessful) models around the country.
 - Keep current employee benefits in mind in any pro forma.

These are the scenarios that were reviewed: Local Government Corporation/Authority (LGC) and a 501(c)6 structure, such as the Irving-Las Colinas Chamber’s. The baseline scenario is that of the current structure today – a department of city government that reports to a City Council-appointed Board of Directors.

For historic perspective, past reviews of the Irving organizational structure primarily have occurred reactively, and primarily in response to brewing political situations. This has been the first time we have had the luxury of analyzing the details with openness and the easy cooperation of all those whose assistance we have needed. My efforts in the past typically have had to be conducted out of sight, singularly by me in coordination with our board chair at the time, often as we awaited the outcome of a charter election.

I want to acknowledge the hard work, patience and persistence of Mike Zumbaugh, our VP/Finance & Administration, who has taken on the lion’s share of the review and research detail for this report. It has been a primary focus of his for the past 18 months or so. I also appreciate the assistance we have received from the City Attorney’s Office, particularly Christina Weber and Karen Brophy, for their work with Mike on this. Upon review of the Charter, the City Attorney’s Office has indicated a charter election would be needed in order to change our structure. This adds a key timing element to any conversation about change.

At every internal and external meeting we conducted as part of this review, I repeatedly have made the statement that this process is about the study of various organizational structures, and that there has been no decision made to “go private.” The perception that a decision was already made has nonetheless existed, causing considerable angst and concern (and rightly so), particularly for our staff. While I have done my best to calm those fears, they are nonetheless present, and I want to make sure you are aware of that. I’ve shared that I am wearing two hats throughout this process – one is a very personal and selfish hat, that of my own employment, retirement, insurance, etc.; and the other being the one you’ve charged me with wearing, which is



what is best for the organization. Part of that second hat also requires me to put on the perspective of my eventual successors, and the board's ability to successfully recruit the right candidates to next lead this organization.

Human factors critical to this process include:

- Keeping our employees
- Keeping tenure/vesting status and protecting those employees close to vesting with TMRS
- Maintaining – or improving – current benefits
- Maintaining – or improving – retirement plan and its security; including protecting current TMRS investments

In addition to the human factors, there are a couple of other key elements that I would want to be assured of with any change to our organizational structure:

- Continued authority and responsibility for the convention center
- Same percentage (or more) of the hotel occupancy tax with which to operate
- Long-term contract (if a 501(c)6 were to be considered)
- The CVB keeps its current Cash balances and its reserve funds
- The CVB keeps its existing assets, equipment, etc. (These remain City property, but we are not forced to go out and buy new furniture, computers, etc.)
- The CVB pays no rent for our offices at the convention center as is the current situation (although we do pay for the building's operations instead)

With any change, it would be critical to recognize we are still entrusted with public funds; transparency and integrity must remain top of mind for all policies and procedures. A different structure may not require us to be subject to Open Records Requests, but it would be my priority to make sure we continue to operate in full transparency and that we would always be willing to provide the information requested, provided it did not compromise our ability to operate and compete, nor our clients' rights. We would also continue to be subject to the same legal uses of the hotel occupancy tax, regardless of how we are structured.

I have no desire to see this organization shift into a "Membership" structure as a result of any change. A membership mindset forces you to serve only those who choose to write you a check, and I believe that is a tremendous disservice to our clients and to our community. I do not believe outside revenues would be there to allow a membership structure to pay for itself. And I do not believe our current structure prevents us from being able to generate other revenues, just that regardless of structure, those revenue opportunities are limited (outside of a legislative structure such as a Tourism Improvement District).

A key element for consideration of a change in structure is about the Board itself, and how appointments occur. Today, that is a process directed and controlled by the City Council; that likely would be the same under an LGC.



The big variable here would be how that might look within a 501(c)6 structure – a negotiating term within the contract likely would be board composition, and the City Council could determine they want to maintain control of that process because of the convention center responsibility and the use of hotel occupancy taxes. This committee has had prior discussion about the process and how it might be improved from the board’s perspective. But if that is the primary case to be made for a change in structure, then we are better served for the Board to have a purposeful, respectful and focused conversation with the City Council about how to make the process better, rather than to re-invent the organization to serve that purpose.

We have a very unique situation here in Irving in our structure, which I somewhat fondly refer to as a “Frankenstein.” There are days when I am quite certain that no one in their right mind would have ever intentionally built something like this. But there are more days when I realize that as unique as this structure is compared to the majority of my peers, it is a structure that has worked well for 45 years now. And when it hasn’t worked, it comes down to two things each and every time: people and politics. As we have gone through this process, the most clarity comes from that “people and politics” awareness. Regardless of our structure, the things that can and will interfere will always come down to people and politics. Three percent of our peers are structured as part of government; the largest portion of the remainder (94%) are primarily structured as some form of independent not-for-profit. And regardless of that, structure has never protected any Convention and Visitors Bureau from people and politics.

The ability to recruit the right candidate to (eventually) succeed me is not so simply summarized as people and politics, although those will remain critical. It was intentional that we conduct this governance study as we were also conducting the compensation study. The charter designates the right to establish compensation levels as part of this board’s responsibilities, separate and distinct from that of the City Manager. And to his credit, Chris Hillman has been extremely supportive, respectful and cooperative through this governance review, and of our salary survey process. He respects the board’s role and rights, and that is a distinct plus which goes a long way in minimizing the “people and politics” issues that could impact hiring the right candidate.

The right candidates will be interested in this job if: the destination is focused and has the support of its board and community to support visitor growth; if the organization budget is sufficient to do what needs to be done, and to accomplish any miracles expected to accomplish; the structure allows the organization to do what needs to be done and to accomplish the miracles; and if the salary and benefits are competitive. Ultimately, these elements are within the board’s authority to direct. The salary structure has been a sticking point in the past, and is a key factor in the weighing of the various options. It should not be as much of an issue going forward, pending the Board’s direction at the completion of the compensation study process.

With all that said, I am **NOT** recommending any changes be made to our operating structure. While it is unusual and occasionally clunky, it has served this community well for many years. The majority of the elements that could benefit from adjustment primarily are within the board’s power and authority to adjust, and it is my



recommendation that we deal with them in that way. Equally importantly, if not more so, the disruption that any change would cause to the personnel in this organization at this time just can't be overlooked. And finally, the interpretation from the City Attorney's Office that a Charter Election would be necessary to implement any change in our structure, definitely changes how the organization would want to approach the issue in the future.

The following provides an overview of the issues associated with each of the items that were established as the checklist for this process, broken down into two categories: Human/Personnel Issues and Operational/Business.



Human/Personnel

Employee Status

- Consideration of the option to “buy back” any CVB employees who may be nearing a key vesting date with the city, so that they will be willing to remain with the bureau in a new structure, but allowing the employee to remain on the city’s system.
 - Discussions would need to be held with the City regarding the parameters of this process. For either governance model, the option to remain within the City for a specified amount of time would be crucial to assist employees during the transition. This would become a item for negotiation in either structure; if a “buy back” option is a possibility, it would ultimately come down to a budgetary decision for the transition per the board’s direction. The assumption is that we would establish a fixed period of time that we would consider, in order to allow employees near the city’s vesting date (five years) to complete that vesting. San Antonio was able to do this.
- Work with employees who will not want to leave city employment, and for whom we would help place elsewhere in the city, but there would be no guarantees.
 - With San Antonio’s transition, approximately one-third of their staff opted to find a position elsewhere in the city. That one-third ratio is likely representative of the positions on the ICVB staff that potentially could find similar roles elsewhere in the City, were any positions available.

Employee Benefits

- Impact on employees of insurance cost & benefit changes, since the CVB would no longer have the “buying power” of a company of 2,000 enrollees and our budget capacity to absorb an increase would be limited.
 - **LGC:** It would be up to the City Council to determine if it would allow LGC employees to be eligible for the city’s insurance.
 - **501(c)6:** The CVB would be responsible for creating its own benefit package, and would evaluate various “pool” options such as those available through Chambers of Commerce, Society of Association Executives, etc. Preliminary research indicates that the ICVB’s expenditures potentially could remain at a similar level, depending on the pool ultimately chosen. If expenses for the CVB would ultimately be higher, this would come down to Board priorities and budget capacities.



- Determine if there is an operating structure that could be established which would allow continuation as a TMRS participant.
 - If not TMRS eligible, establish a retirement plan for employees to contribute to, and determine rate of CVB contribution. “Rollover” of vacation and sick leave benefits and establishment of any new structure i.e., PTO bank, different accrual rates, etc.
 - **LGC:** Employees likely would be able to remain within TMRS. (NOTE: We are still awaiting a final response from TMRS regarding this.)
 - **501(c)(6):** Employees would NOT be able to remain within TMRS, and new health insurances would be obtained. Employees that choose to stay with the new organization would in essence “retire” from TMRS, although they would not be obligated to actually utilize their retirement benefits, unless they individually chose to. It would be the same situation for any employee in the current organization who leaves his or her ICVB job and goes to work elsewhere with a different retirement benefit.
- City employees do not participate in Social Security, and instead have a different option available through a Supplemental Benefit Plan.
 - **LGC:** This may remain an option, pending City Council direction.
 - **501(c)6:** Employees would be enrolled in Social Security.
- Other programs to consider establishing for employees such as FSA, HRA/HSA, Education Assistance, etc.
 - In either structure, this would come down to Board priorities and budget capacities.

Employee Compensation

- There are other “additional pay” items to consider when setting new salary structure. Do these remain, or get rolled into a new base salary? (bilingual, longevity, I-Win, sick leave bonus)
 - **Governance model would not affect this item differently. In either structure, this would come down to Board priorities and budget capacities.**
- Worker’s Compensation Insurance
 - **Governance model would not affect this item differently.**
- Develop Personnel Policies
 - **Governance model would not affect this item differently.**



Operational/Business

Corporate Structure

- Determine best organizational structure
- Determine if any City of Irving ordinance is necessary to achieve separation.
 - A charter amendment would be necessary for either model. The ordinance would be changed, assuming the results of a charter election; any other documents needed as a result of the structure decision would need to be created, and legal costs would be associated with same.

Separation Agreement

- Determine costs associated with separation and prepare budget considerations for Board/Council.
 - Governance model would not affect these items differently. If there is a decision made to change structures, there will be legal costs incurred, as the City's attorneys would no longer be able to represent us. There will also be costs incurred with a Charter Election; whether or not we would be responsible for those costs will ultimately be a decision of the City Council. There would be legal costs likely with the transfer of any existing contracts currently with the City that would need to be changed over to the CVB.
- Negotiation of administrative fees, including percentage level and what services will be provided for those charges.
 - Governance model would not affect this item differently. This would be an item for negotiation.
- Allows official transfer to ICVB all assets previously paid for by the CVB's portion of the hotel tax.
 - Governance model would not affect this item differently. This would be an item for negotiation.
- Allows the CVB to keep its current Cash balances
 - Governance model would not affect this item differently. This would be an item for negotiation.
- Allows for access to old accounting data
 - Governance model would not affect this item differently. This would be an item for negotiation.

Ongoing Funding/Operations Contract

- Stabilizes the bureau's funding at the existing percentage (or greater) of hotel tax collections
- Provides roll-over capabilities with automatic renewals
- Sets forth mutually agreeable City oversight, performance measures & reporting requirements
- Provides continued use of office space at no charge
- CVB defined as "lead agency" for visitor-oriented/tourism development, allowing continued responsibility for convention center and/or other resulting facility or tourism development efforts.



- Governance model would not affect these items differently. Each of these would be items for negotiation in either structure.

Policies & Procedures

- Develop accounting policies and procedures for purchasing and financial practices, as well as others.
 - Any policies and procedures established would be approved by the board, regardless of the structure. The LGC structure may also require City Council approval of these, which would be subject to negotiation.
- Verify if future contracts would be subject to Forms 1295 & TGC2270, as well as any other city purchasing requirements such as \$50K council review, etc.
 - Neither governance model necessarily would **require** us to follow City purchasing requirements; however, these would be subject to negotiations. It would be assumed that the Board would establish certain parameters for which contracts would need to come forward through the Board for action.

Board of Directors

- Board structure and by-laws will determine framework of board meetings.
- Negotiate a board structure that allows appropriate Council influence and accountability.
 - **LGC:** Council would choose board members.
 - **501(c)(6):** ICVB would *potentially* choose its own board members; however, this would be subject to negotiation.

Tasks that would need to be completed with any structural change

- Contracts & leases
 - Items currently under the city's name, but for which the Bureau is directly responsible will need to be re-established in the Bureau's name.
 - Regardless of the organizational structure, legal fees would be anticipated with this.
 - Potential change in rates within existing and/or future contracts due to change in governmental status.
 - Regardless of the organizational structure, legal fees would be anticipated with this. There then could also be budgetary implications.
- Establish contract between the new organization and its CEO.
 - Regardless of the organizational structure, some legal fees would be anticipated with this.
- Banks will/may need to be changed; certainly accounts.
- Determine how/if Open Records requests need to be handled.
 - **LGC:** Still subject to open records.
 - **501(c)(6):** *Potentially* not subject to open records. Would need legal review.
- Budget implications with changes in sales tax exemption



- **LGC:** Exempt from Sales Tax.
- **501(c)(6):** Not exempt from Sales Tax.
- Outside counsel, external audit, human resources, insurance provider, etc.
 - We would anticipate an annual retainer with a lawyer/law firm, the costs associated with an annual audit, the outsourcing of payroll processes, the hiring of an HR professional staff member, and any fees associated with an insurance provider.
- Potential Administrative Fee change
 - Regardless of organizational structure, this would be an item for negotiation. While it *could* be assumed that the current 4% would be reduced if we are no longer receiving the city services it currently funds, that is certainly not a guarantee.
- Some new software systems or online service costs for items like payroll, HR, etc.
 - Regardless of the organizational structure, there would be financial implications with all of these.
- Some training in financial and accounting policies and procedures for new practices (vs. current governmental accounting) may be needed for administrative personnel.
 - Regardless of organizational structure, this would be required although costs should be minimal and short-term.
- Acquire general liability insurance, property insurance, etc.
 - Regardless of organizational structure, this would be required. The City is self-insured, and the Bureau budget carries its share of these obligations, but there likely would be increases in cost.
- Determination of any additional staffing needs (vs. what can be out-sourced) or reduced staffing.
 - Regardless of organizational structure, some functions could be outsourced (such as payroll processing); however, as noted above, we would recommend adding a human resources professional to the staff.

Board Liability

In an alternative structure, considerations must be given as to whether the board would be additionally legally liable (and thus subject to suit) for their actions. The federal Volunteer Protection Act (1997) limits the personal liability of non-profit directors (and applies to governmental entities as well), provided they are: not compensated for their board service; acting within the scope of their board responsibilities; and not engaging in criminal or reckless misconduct.

- **LGC:** Board falls under City authority and therefore remains under the same protections.
- **501(c)(6):** The CVB would provide Director & Officers insurance.



Governance Review Resources

Karen Jordan - Governance Study, performed in 2004 for the ICVB

Bill Geist - American CVB Governance Models, performed in 2005 for the ICVB

Steve DeLaHaya, San Antonio CVB - February 10, 2017

DT Minich, Kissimmee CVB - March 24, 2017

Waco CC/CVB Report, JLL Analysis - August 2017

ICVB Departmental Meetings to review staff questions and concerns

Executive Team – May 11, 2018

Marketing & Communications – May 14, 2018

Sales & Services – May 22, 2018

Finance & Administration – May 30, 2018

2017 Destinations International Organization & Financial Profile survey

Organizational Structure	621 respondents
Chamber of Commerce (Division of)	1%
State/Regional/Provincial Government Agency	1%
City/County Government Agency	2%
Private/Public Sector Non-Profit	94%
Corporation/LLC/Joint Venture	1%
Other	2%

SOURCE: 2017 Organizational & Financial Profile Survey by Destinations International

