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## Chamber moving forward with appeals

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HUNTSVILLE — The Huntsville-Walker County Chamber of Commerce and Dee Everett are moving forward with the appeals process to dispute the judgment levied against both in October.

Everett and the chamber went through a civil trial with the city of Huntsville, where both the chamber and Everett were ordered by a Leon County jury to pay the city nearly half a million dollars over misspent hotel occupancy tax funds entrusted to the chamber between the years 2000 and 2009.

A request by the chamber and Everett for a new trial was denied in early December in Judge Kenneth H. Keeling's 278th Judicial District court, but the final judgment was entered so the case could enter the appeals process.

Chamber attorney Levi McCathern of Dallas said he feels the verdict and subsequent judgment were both wrong and his office will be fighting the judgment.

"The city's claims were overstated and politicized from the outset," he said. "For example, Todd Armstrong and Steve Everett were listed as defendants through the entire case, only for the city to drop its claims against them right before trial. The city's claims were always exaggerated and no funds were misspent."

McCathern pointed out that before the case went to trial, the city was seeking more than \$700,000 in damages and the jury awarded about half that amount. With detailed financial information spanning 10 years, McCathern implied the jury had little chance of coming up with an educated conclusion.

"The vast majority of the amount awarded was not for money the city proved was misspent, but rather situations where the chamber couldn't produce every receipt from the last 10 years supporting the expenditure," he said. "We believe even the number awarded by the jury is excessive. The case involved 10 years of financial transactions. Although the Leon County jurors did the best they could, they faced an impossible task of sorting through all that complicated financial documentation."

The question of how much the trial cost the city is a mixture of both actual money the city spent in hiring the Houston forensic auditing firm of Alvarez & Marsal as well as time spent by city employees working on various aspects of preparing the case for trial. So far, the numbers show a net monetary gain by the city, but McCathern claims it's not a large enough number to justify going to trial in the first place.

"This was not, and never will be, cost-effective litigation for the city," he said. "The prior city council was

offered several opportunities to resolve this matter prior to trial in a way that benefited the taxpayers, but those offers were rejected.”

Because the judgment has been entered in favor of the city, city attorney Leonard Schneider said he didn't feel further comment was needed from his office now that the case is in the appellate courts.

“As city attorney, I do not wish to make comments on the chamber lawsuit, positive or negative,” he said. “The trial record, testimony, documents provided and the statutory law are sufficient.”

City manager Bill Baine echoed that sentiment, and said he has no positive comments to make.

“The truth is available and not determined by personal opinions,” he said. “I would invite the community to explore what we can do positively.”

Chamber president Carol Smith said the entire situation has had a negative impact on what she feels is a good organization doing positive things for growth in the city.

Smith said she feels the case and subsequent trial has shed a negative light on Huntsville statewide that all started when the city pulled its contract with the chamber. The chamber was in charge of spending the city's hotel occupancy tax funds and when city officials felt they weren't seeing a true picture of how the money was being spent, they terminated the contract and hired Alvarez & Marsal to look into the books.

“The strong, concentrated efforts by the chamber's convention and visitors bureau for 35 years were diminished drastically due to the loss of the tourism contract,” Smith said. “This is a true loss for our community, and the large number of individuals that served for many years on our CVB. I'm extremely proud of the fact that for over 35 years (and continuing currently), the chamber did a great job promoting tourism in Huntsville. Such a good job, in fact, that Huntsville was recognized in 2002 by the Texas Travel Industry Association as the “Best City” in Texas.”

Smith listed other awards the chamber has been awarded over the years through the CVB arm of the organization. She said she finds it odd that the city sued the chamber for repayment of funds during a time frame in which the chamber was winning statewide tourism awards.

Although the case has entered the appeals process, chamber attorney David Dodge said he's still hopeful a lower settlement amount can be reached between the city and chamber.

“We believe there were errors in the case that resulted in an improper judgment, so we are moving forward with an appeal,” he said. “If the case is not resolved by agreement, the appellate courts will ultimately decide whether the judgment will stand and the chamber or Ms. Everett have to make any payment to the city. If the chamber and Ms. Everett win the appeal, the most likely result is that the case will need to be re-tried. I suspect that's a result no one really wants.”

Huntsville mayor J. Turner declined to comment on this story.