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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 18561 C.M.S.

ORDINANCE AMENDING AND RESTATING ORDINANCE NOS. 11323 C.M.S. AND 11778 C.M.S. TO REDEFINE DUTIES, MODIFY MEMBERSHIP AND QUORUM AND CLARIFY THE APPOINTMENT PROCESS OF THE CULTURAL AFFAIRS COMMISSION

WHEREAS, the Cultural Affairs Commission (the "Commission") was established pursuant to Section 601 of the City Charter on May 1, 1991 by Ordinance No. 11323 C.M.S. for the purpose of advising the Mayor, City Council, and City Administrator on matters affecting cultural development in the community; and

WHEREAS, on March 14, 1995 the Oakland City Council amended provisions governing the Cultural Affairs Commission by Ordinance No. 11778 C.M.S. in order to incorporate uniform requirements regarding the selection and duties of the Commission's members; and

WHEREAS, the City of Oakland merits a robust, active, and relevant culture commission to reflect the importance of the arts and cultural expression in Oakland, and the city's size, stature and diversity; and

WHEREAS, Cultural Affairs staff recommends modifications to the Commission to enhance the effectiveness of the Commission; and

WHEREAS, the Commission has historically functioned as the appointed body that advises the City on funding for arts and culture, based upon recommendations forwarded from the Public Art Advisory Committee (the "PAAC") and the Cultural Funding Program; and

WHEREAS, the Commission will also operate as advocates and ambassadors for arts and culture in the city, while continuing to receive informational updates about Cultural Affairs division activities, the PAAC, and the Cultural Funding Program; and

WHEREAS, the PAAC is a body with subject matter jurisdiction over public art in Oakland, makes recommendations to the Mayor, City Council, and City Administrator on

the expenditure of funds for public art, and oversees quality control of the public art program and other related matters; and

WHEREAS, staff recommends, in accordance with national best practices, that the bodies have one member in common so that the PAAC and the Commission can function harmoniously and the members of each body understand and respect the advisory process of the other; and

WHEREAS, currently the Commission has 15 members and a quorum requirement of eight members; and

WHEREAS, the Commission has continually struggled to achieve a quorum at its meetings and most meetings were cancelled due to the lack of a quorum, which lead to the disbandment of the Commission in 2014; and

WHEREAS, a board of 15 members is more typical of arts commissions with a larger service area such as the Alameda County Arts Commission and the San Francisco Arts Commission; and

WHEREAS, other Bay Area cities, including San Jose, Sacramento, Berkeley, and Richmond, have 11-seat art commissions; and

WHEREAS, allowing seated Commission members to recommend one new Commission member, subject to the Mayor's approval and appointment, will foster a sense of ownership and control among Commission members over the decisions and responsibilities of the Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and hereby adopts and incorporates them into this ordinance.

SECTION 2. The provisions governing the Commission as set forth in Ordinance No. 11323 C.M.S. and Ordinance No. 11778 C.M.S. are hereby amended and restated to add, delete or modify sections as set forth below; additions are indicated by double underscoring and deletions are indicated by ~~strike-through type~~.

SECTION 3. CREATION OF COMMISSION. As of May 1, 1991, pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created a Cultural Affairs Commission.

SECTION 4. GOALS AND DUTIES.

It shall be the function and duty of the Cultural Affairs Commission to:

- a. Advise the Mayor, City Council, and ~~City Manager~~ City Administrator, on all matters affecting cultural development in the community;
- b. Review and comment on all City and community policies, programs and actions which affect arts and cultural development in Oakland the community;
- c. ~~Actively participate in the community cultural planning process and~~ Advise the Mayor, City Council, and City Administrator on recommendations arising out of said ~~process~~ the Cultural Plan affecting City support for cultural development;
- d. ~~Render advice and assistance to other City boards and commissions, to City departments and to private agencies on matters related to cultural affairs in the community;~~ Act as ambassadors and advocates for the people of Oakland through the design, development, and implementation of a Commission work plan after consultation with the Cultural Affairs Manager, or other City staff as designated by the City Administrator;
- e. ~~Invite the Library Commission, Parks and Recreation Commission, and the Museum Foundation Board of Directors to participate in Cultural Affairs Commission meetings in a non-voting capacity;~~
- e. Encourage and assist in the development of support for individual artists, traditional artists and nonprofit arts and culture organizations within Oakland;
- f. Make cultural planning status regular reports and recommendations to the Mayor, City Council, and City Administrator regarding actions to be taken by the City to fund, assist, and encourage activities in support of artistic, cultural and humanities activities in the City;
- g. In addition to the reporting requirements ~~in subsection (g) stated in this Section,~~ the Commission shall submit regular status reports an informational report to the City Council committee designated as liaison to the Commission ~~The regular status reports must be submitted at least once a year, or more frequently as directed by the Chairperson of the City Council said committee to which the Commission reports;~~
- h. ~~Status reports~~ Informational reports submitted in fulfillment of section ~~(l) above as required in this Section~~ must include detailed descriptions of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the commission;
- h. ~~Advise the City of the placement of works of public art throughout the City and/or the inclusion of artists and design teams in certain City capital improvement projects.~~

- ~~i. Recommend to the Mayor appointments persons to serve on the Public Art Advisory Committee, Grants Review Committee, Marketing Advisory Committee, Traditional Arts Advisory Committee, Cultural Plan Committee and Task Forces, and other Committees and Task Forces as deemed necessary to fulfill the duties of the Commission;~~
- i. Take such other actions as may be necessary or desirable to promote public awareness of, and participation in artistic, cultural, and humanities activities in Oakland;
- j. Perform such other functions and duties pertaining to Commission member's role as advocates and ambassadors as may be directed by the Mayor, City Council, or the ~~City Manager~~ City Administrator;
- ~~n. Each year the Commission shall review the annual goals and objectives of City Council. Review of City Council goals and objectives shall be undertaken to provide the Commission the opportunity to better integrate the activities of the Commission with the City's overall goals and objectives;~~
- k. City Council approval must be obtained prior to the creation of any standing committee of the Commission. A proposal to create a standing committee of the Commission must include information regarding the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Commission.

In prescribing the above duties and functions of the Cultural Affairs Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities of another board or commission or of a department of the City, the Cultural Affairs Commission will render assistance and advice to such board, commission or department as may be requested.

SECTION 5. AUTHORITY

The Cultural Affairs Commission shall directly report to and advise the Mayor, City Council, and the ~~City Manager~~ City Administrator.

SECTION 6. MEMBERSHIP

- a. The Commission shall consist of ~~fifteen (15)~~ eleven (11) members, made pursuant to ~~Section 601 of the Charter~~, who shall serve without compensation. Appointments shall be made pursuant to Section 601 of the Charter. The Mayor shall appoint, subject to confirmation by the City Council, the ~~fifteen (15)~~ eleven (11) representatives.

- b. ~~Eight (8)~~ Six (6) members shall constitute a quorum, and any decision by the Commission shall require a majority of those members present.
- c. To the extent practicable, appointments to the Cultural Affairs Commission shall be made using the guiding principles of cultural equity to help reflect the diversity of the City ~~in accordance with the City's affirmative action policies.~~
- d. To the extent practicable, appointments to the Cultural Affairs Commission shall reflect the geographical diversity of the City.
- e. In making appointments to the Cultural Affairs Commission, the Mayor shall consider recommendations for appointments offered by each Councilmember. Councilmembers must submit recommendations to the Mayor for consideration at least 30 days prior to expiration of an existing Commission member's term.
- f. The Commission shall recommend to the Mayor at least one (1) member for appointment.
- g. The Commission shall include at least one (1) member of the Public Art Advisory Committee (PAAC) to be selected by the Mayor and appointed pursuant to Section 601 of the Charter. If no PAAC member agrees to accept an appointment to serve, the Mayor may appoint another member pursuant to Section 601 of the Charter.

SECTION 7. APPOINTMENT

- a. ~~Staggered Terms of Appointment. Commencing with the effective date of this Ordinance, Commission members shall be appointed to staggered terms, said terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the term only. All terms shall commence on October 1 and end on September 30. For the initial appointment only, four (4) members shall be appointed for a three-year term, four (4) members shall be appointed for a two-year term, and three (3) members shall be appointed for a one-year term. Thereafter, all appointments shall be for three (3) years, except that an appointment made to fill a vacancy created by the premature departure of a Commission Member shall be for the unexpired portion of the departed Commission Member's term only.~~
- b. ~~Length of Terms. Appointments made immediately following passage of this ordinance and thereafter appointments shall be for a period of three (3) years.~~
- eb. ~~Limit on Consecutive Terms. Commencing with the effective date of this Ordinance, no person shall be appointed to serve as a member of the Cultural Affairs Commission for more than two (2) consecutive three-year terms plus any initial term of less than two years as a member of the Cultural Affairs Commission. Members of the Cultural Affairs Commission sitting on the~~

~~effective date of this Ordinance shall not be appointed to serve more than (1) additional consecutive term as a member of the Cultural Affairs Commission. A former member of the Commission can be appointed to the Commission for another two consecutive terms only after a full term of three (3) years has passed after the completion of the member's second term.~~

Holdover. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Commission member's term, that member may continue to serve as a member of the Commission during the following term in a holdover capacity for a period not to exceed one year, to allow for the appointment of a new Commission member to serve the remainder of said following term. The newly appointed member shall be appointed pursuant to Section 7.a, above, notwithstanding any holdover period.

- c. Removal. To assure participation of Commission members, attendance by the members of the Commission to all regularly scheduled and special meetings of the Commission shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three (3) consecutive regular meetings except on account of illness or when absent from the City by permission of the Commission, shall may constitute cause for removal.

SECTION 8. VACANCIES

A vacancy on the Cultural Affairs Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within thirty (30) days of appointment. An appointment to fill a vacancy shall be for the unexpired portion of the term only.

SECTION 9. OFFICERS AND MEETINGS

The Mayor shall appoint the chairperson of the Commission. At the first regular meeting of each year the members shall elect a vice chairperson. The Cultural Affairs Commission shall establish the date, time and location for its regular meetings in its bylaws, and shall conduct its regular and special meetings in accordance with state and local open meeting laws ~~meet each third Thursday of the month at 14th Street, 9th Floor, or at any other location the Commission may from time to time designate, and at an established time suitable for its purpose. Such meetings shall be designated regular meetings. Other meetings called by the Mayor or City Manager and meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of a special meeting shall be provided to the members, the Council, the public press at least twenty-four (24) hours before the meeting is scheduled to convene.~~

SECTION 10.

RULES AND REPORT

The Commission shall establish reasonable rules for the conduct of its business and a copy of said rules and any amendments thereto shall be delivered to the ~~City Manager~~ City Administrator for review and approval. Voting shall be required ~~for the adoption of~~ to pass any motion or resolution. An affirmative vote of the majority of the members present at the meeting is required to pass any motion or resolution. The Cultural Affairs Commission shall make cultural planning status reports, findings, and recommendations either to the Mayor, the City Council or ~~City Manager~~ the City Administrator, as appropriate. ~~An annual report will be presented in writing to the City Council.~~ The Cultural Affairs Commission shall submit an informational report to the City Council committee designated as liaison to the Commission as directed by the Chairperson of said committee. Recommendations from the Cultural Affairs Commission shall be carefully and fully considered by the ~~City Manager~~ City Administrator. If rejected by the ~~City Administrator~~ City Manager, the Commission may submit recommendations to the Council for consideration, as appropriate.

SECTION 11.

STAFF

The ~~City Administrator~~ City Manager, or his designee, shall provide the Cultural Affairs Commission with staff assistance as needed.

SECTION 12.

SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 13. EFFECTIVE DATE

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 16 2019

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 

LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of Oakland,
California

Introduction Date

JUL - 9 2019

Date of Attestation: July 23, 2019

NOTICE AND DIGEST

ORDINANCE AMENDING AND RESTATING ORDINANCE NOS. 11323 C.M.S. AND 11778 C.M.S. TO REDEFINE DUTIES, MODIFY MEMBERSHIP AND QUORUM AND CLARIFY THE APPOINTMENT PROCESS OF THE CULTURAL AFFAIRS COMMISSION

This Ordinance would amend and restate Ordinance No. 11323 C.M.S. and Ordinance No. 11778 C.M.S. to define the duties and functions of the Cultural Affairs Commission, modify the Commission's membership terms to decrease the number of members from 15 to 11 and modify the quorum requirement to six members. This Ordinance would clarify the appointment process for the Commission to require that one member from the Public Art Advisory Committee be nominated to the Commission, and require that the Mayor consider candidate recommendations from the sitting Commission members.