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OFFICE OF THE CITY CLERK
OAKLAND

2014 NOV 17 AM 9:36

AGENDA REPORT

DATE: 11/13/14
TO: City Councilmembers
FROM: Mayor Jean Quan
SUBJECT: Ordinance to Amend Cultural Affairs Commission

RECOMMENDATION

Mayor Jean Quan recommends that the City Council adopt:

An Ordinance Amending And Restating Ordinance No. 11323 C.M.S. And Ordinance No. 11778 C.M.S. To Change The Name Of The Cultural Affairs Commission To The Oakland Arts & Culture Commission, To Expand The Duties Of The Commission, And To Modify The Commission's Membership And Quorum Requirement And Membership Recommendation Process

EXECUTIVE SUMMARY

As a culturally diverse, arts-focused city, Oakland would benefit from a well-qualified, vital and active arts commission to advise the City on all matters related to arts and culture in our community. Although the City is currently well-served by boards which review funding recommendations from the Public Art Program and the Cultural Funding Program, an arts commission with broader purview is needed to afford the public the opportunity for clear access and input to City government with regard to a full spectrum of arts and cultural policy.

The Cultural Affairs Commission, which met intermittently up through 2011, often struggled with its own mission and purpose. Through research and evaluation, and incorporating recommendations from former Commissioners, the Office of the Mayor has developed an ordinance that amends and restates previous ordinances to make several relatively simple fixes that will contribute to the greater relevancy and effectiveness of a reactivated arts commission.

The proposed ordinance renames the Cultural Affairs Commission the "Oakland Arts & Culture Commission," (hereinafter "Commission") to clarify its role and scope. The renaming also provides the opportunity to align written policy with historic practice. The Commission will receive recommendations on public art projects, artists, proposals, and funding from the Public

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Art Advisory Committee (PAAC); this was observed historically but was not spelled out in the establishing ordinance or amendments. The Commission's responsibility to review and pass along grant recommendations from the Cultural Funding Program to City Council is also made explicit as a function of the Commission. The section providing that the Mayor shall consider recommendations for appointments from each Councilmember has been deleted, as this practice was not historically observed. The Commission serves as a citywide advisory body with broad expertise across cultures and disciplines, rather than one with a geographic focus.

The proposed ordinance modifies the Commission's membership terms so that the Commission would operate with 11 seats, reduced from 15. The cities of San Jose, Sacramento, Berkeley, Richmond, and leading cultural arts agencies nationally, have 11 seats on their arts commissions. (Note that 15 seats are more common on county arts commissions, with their broader areas of service.) The lower number of members will make it easier to keep seats filled and to achieve a quorum at all meetings. The proposed ordinance modifies the quorum requirement from eight members to six members.

To ensure a high level of cooperation and understanding between the PAAC and the Commission, and to ensure that the bodies can function harmoniously, it is recommended that the two bodies have two members in common. The ordinance provides that the Mayor must appoint two members from PAAC to the Commission.

PUBLIC OUTREACH/INTEREST

There is no public outreach required for adoption of the proposed legislation.

For questions regarding this report, please contact Melissa Vargas, Office of Mayor Jean Quan at (510) 238-7072 or Steven Huss, Cultural Arts Manager at (510) 238-4949.

Respectfully submitted,

Mayor Jean Quan

Reviewed by:
Melissa Vargas, Office of the Mayor

Prepared by:
Steven Huss, Cultural Arts Manager

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 11323 C.M.S. AND ORDINANCE NO. 11778 C.M.S. TO CHANGE THE NAME OF THE CULTURAL AFFAIRS COMMISSION TO THE OAKLAND ARTS & CULTURE COMMISSION, TO EXPAND THE DUTIES OF THE COMMISSION, AND TO MODIFY THE COMMISSION'S MEMBERSHIP AND QUORUM REQUIREMENT AND MEMBERSHIP RECOMMENDATION PROCESS

WHEREAS, the Cultural Affairs Commission (the "Commission") was established by the Oakland City Council effective May 1, 1991 by Ordinance No. 11323 C.M.S. for the purpose of advising the Mayor, City Council and City Manager on all 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, to reflect the importance of the arts and cultural expression in Oakland, and our city's size, stature and diversity, the City of Oakland merits a robust, active, and relevant arts commission; and

WHEREAS, Cultural Arts staff and the City Attorney advise modifications to the establishing and amending ordinances to enhance the effectiveness of the arts commission; and

WHEREAS, to remedy ongoing confusion as to the purpose and responsibilities of the Commission, it is desirable to include the word "arts" in the name of the body; and

WHEREAS, to clarify its jurisdiction and sphere of influence within Oakland government, staff and Commission members proposed re-titling the Cultural Affairs Commission the Oakland Arts & Culture 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 Cultural Funding Program; 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 a majority of meetings were cancelled due to the lack of a quorum; 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 other Bay Area cities, including San Jose, Sacramento, Berkeley, and Richmond, have 11-seat art commissions; and

WHEREAS, the Public Art Advisory Committee (PAAC) is a body with subject matter jurisdiction over public art in Oakland and makes recommendations to the Cultural Affairs Commission, City Administrator, City Council and the Mayor on the expenditure of public art funds and other related matters; and

WHEREAS, in order that the PAAC and the Commission can function harmoniously, it is recommended and an observed best practice nationally that the bodies have members in common so that the members of each body understand and respect the decision-making process of the other; and

WHEREAS, allowing seated Commission members to select several new Commission members, 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 Cultural Affairs Commission is hereby renamed the Oakland Arts & Culture Commission (the "Commission").

SECTION 3. 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 as follows (additions are noted as underlined text; deletions are noted as ~~strikeout~~ text):

Duties and Functions. It shall be the function and duty of the ~~Cultural Affairs~~ Oakland Arts & Culture Commission to:

- a. Advise the Mayor, City Council and City Administrator on all matters affecting cultural development in the community.
- b. Review and comment on all community policies, programs and actions which affect arts and cultural development in the community.

- c. Actively participate in the community cultural planning process and advise the City Council on recommendations arising out of said process 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.
- ~~e. Invite the Library Commission, Park 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 organizations within Oakland.
- f. Make cultural planning reports and recommendations to the Mayor and City Council 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. Advise the City on 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 Oakland, through the review and approval of recommendations for public art projects, artists, proposals, master plans, and funding forwarded from the Public Art Advisory Committee.
- h. Advise the City on funding for arts and culture in Oakland through the review and approval of recommendations for grant awards and other matters related to Cultural Funding Programs.
- i. Recommend to the Mayor appointments of persons to serve on committees and task forces as deemed necessary to fulfill the duties of the Commission.
- j. Take such other action as may be necessary or desirable to promote public awareness of, and participation in artistic, cultural and humanities activities in Oakland.
- k. Perform such other functions and duties as may be directed by the Mayor, the City Council or the City Administrator.
- l. In addition to the reporting requirements in subsection (g) above, submit regular status reports 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 committee to which the Commission reports. Status reports 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.
- m. Annually review the goals and objectives of the 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.
- n. 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 associated with staffing the standing committee, and 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 Oakland Arts and Culture 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 Oakland Arts and Culture Commission will render assistance and advice to such board, commission or department as may be requested.

Membership.

- a. The Commission shall consist of ~~fifteen (15)~~ eleven (11) members, with appointments made pursuant to Section 601 of the Charter, who shall serve without compensation. The Mayor shall appoint, subject to confirmation by the City Council, the ~~15~~11 representatives.
- ~~b. Eight (8) 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 in accordance with the City's affirmative action policies.~~
- b. The sitting Commission members shall recommend to the Mayor at least three (3) new members. If no recommendation is made the Mayor will appoint members consistent with section a.
- c. Two (2) members of the Public Art Advisory Committee (PAAC) shall be appointed to the Commission, provided that PAAC members agree to accept these appointments to the Commission. If PAAC members do not accept one (1) or two (2) of these appointments, the Mayor may appoint Commission members consistent with section a.
- d. To the extent practicable, appointments to the Oakland Arts & Culture Commission shall reflect the geographical diversity of the City.
- e. ~~In making appointments to the Cultural Affairs Commission, the Mayor shall accept for consideration 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.~~

Term of Office

- a. Staggered Terms. 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.~~ For the initial appointment only, four members shall be appointed for three-year terms, four

members shall be appointed for two-year terms, and three members shall be appointed for one-year terms. After the initial appointment of all members, appointments shall be for a period of three years.

- b. Length of Terms. Excluding the initial appointments made pursuant to section a., appointments shall be for a period of three (3) years.
- c. Limit on Consecutive Terms. Commencing with the effective date of this Ordinance, no person shall be appointed to serve more than two (2) consecutive terms as a member of the Cultural Affairs Oakland Arts & Culture Commission. ~~Members of the Cultural Affairs Commission sitting on the effective date of this ordinance shall not be appointed to serve more than one (1) additional consecutive term as a member of the Cultural Affairs Commission.~~

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 Commission member to serve the remainder of said following term.

- d. 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 constitute cause for removal.

Vacancies

A vacancy on the Cultural Affairs Oakland Arts & Culture 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.

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 Commission shall meet each third Monday of the month. The Commission shall establish a regular meeting time and location. ~~at 475—14th Street, 9th Floor, or at any other a location as 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 Administrator 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 in accordance with the Oakland Municipal Code. Six (6) members shall constitute a quorum.

Rules and reports

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 Administrator for review and approval. Voting shall be required for the adoption of any motion or resolution. A majority of those members present and voting is required for the adoption of any motion or resolution. The Cultural Affairs Oakland Arts and Culture Commission shall make reports, findings, and recommendations either to the Mayor, the City Council or City Administrator as appropriate. An annual report will be presented in writing to the City Council. Recommendations from the Cultural Affairs Oakland Arts & Culture Commission shall be carefully and fully considered by the City Administrator. If rejected by the City Administrator, the Commission may submit recommendations to the Council for consideration, as appropriate.

Staff

The City Administrator, or his or her designee, shall provide the Commission with staff assistance.

SECTION 4. 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 Ordinance. 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 5. 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,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF AND PRESIDENT
KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

NOTICE AND DIGEST

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 11323 C.M.S. AND ORDINANCE NO. 11778 C.M.S. TO CHANGE THE NAME OF THE CULTURAL AFFAIRS COMMISSION TO THE OAKLAND ARTS & CULTURE COMMISSION, EXPAND THE DUTIES OF THE COMMISSION, AND TO MODIFY THE COMMISSION'S MEMBERSHIP AND QUORUM REQUIREMENT AND MEMBERSHIP RECOMMENDATION PROCESS

This Ordinance would change the name of the Cultural Affairs Commission to the Oakland Arts & Culture Commission. This Ordinance would expand the duties and functions of the Commission to include advising the City on funding for arts and culture in Oakland through the review and approval of recommendations for grant awards and other matters related to Cultural Funding Programs. This Ordinance would 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 also modify the membership recommendation process to eliminate the requirement that the Mayor consider recommendations for appointments from each Councilmember, and instead require that the Mayor consider at least three membership recommendations from the sitting Commission members.