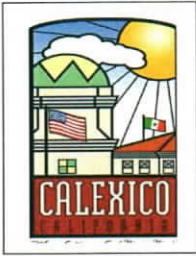


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CITY OF CALEXICO

AGENDA STAFF REPORT

DATE: March 15, 2023

TO: Mayor and City Council

APPROVED BY: Esperanza Colio Warren, City Manager

PREPARED BY: Gabriela T. Garcia, City Clerk
Lilliana Falomir, Public Works Manager
Norma Gerardo, Recreation Manager
Best Best & Krieger LLP, City Attorney

SUBJECT: Second Reading and Adoption of Ordinance No. 2023-1229 – An Ordinance Amending Terms of Office for Commissions, Boards, and Committees and Merging the City's Arts and Historical Commission and Parks, Recreation, Beautification, and Senior Services Commission to Establish a Community Services Commission

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Recommendation:

It is recommended that the City Council conduct second reading and adopt Ordinance No. 2023-1229 – An Ordinance amending terms of office for commissions, boards, and committees and merging the City's Arts and Historical Commission and Parks, Recreation, Beautification, and Senior Services Commission to Establish a Community Services Commission.

Background/Analysis:

The Public Works Department, Recreation Department, and City Clerk's office have considered consolidating the Arts and Historical and Parks, Recreation, Beautification, and Senior Services Commission and have determined that consolidation is both feasible and would better align the commission's functions with the current needs of the City.

Consolidation of these commissions would reduce the amount of meetings held, cost of materials and supplies and staff time for preparation of pre- and post-meeting documentation, which include the

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preparation of agendas, notices, and minutes.

The proposed Ordinance would merge the Arts and Historical Commission and Parks, Recreation, Beautification, and Senior Services Commission to establish a Community Services Commission. The Community Services Commission would be an advisory body to the City Council that would:

- Support the Recreation and Public Works Departments and their divisions.
- Encourage citizens to take advantage of programs and services offered by the Recreation Department and its divisions.
- Assist with the arts in public places program and make recommendations regarding public arts programs.
- Encourage the use of traditional and innovative cultural and recreational services.
- Make recommendations to the city council regarding Recreation Department programs.
- Promote school and community cooperation to enhance programs and services.
- Promote cooperative agreements between the city and other agencies (local, state, and federal) to augment current programs and services.
- Assist with public exhibitions for cultural and arts events/installations.
- Provide advice and recommend plans to identify and preserve historical structures and landmarks.
- Advise staff and city council on policies, procedures, rules and regulations relating to the operation of the recreation center, public parks, trails and facilities, open spaces, programs and services, including rates or fees to be charged.
- Review, evaluate, and make recommendations to the city council regarding development, maintenance, and operation methods that are sustainable and energy efficient.
- Advise and guide civic groups, youth organizations, senior organizations, and interested individuals who wish to plan community events or engage in community service projects for the benefit of the City and the community.
- Study, develop, and recommend plans subject to the approval of the city council, for improving the health, sanitation, safety and cleanliness of the city.

The proposed Ordinance also updates the Arts in Public Places program (Calexico Municipal Code Chapter 17.19) to include the new commission name and to clarify that

the Community Services Commission is an advisory body to the City Council.

Lastly, the proposed Ordinance amends the terms of office for commissions, boards, and committees, stating that a person is ineligible for appointment to a commission for a period of two years if that person has immediately completed a four-year term.

On March 1, 2023 the City Council approved the first reading of the Ordinance.

Attachment(s):

1. Ordinance No. 2023-1229 - An Ordinance Amending Terms of Office for Commissions, Boards, and Committees and Merging the City's Arts and Historical Commission and Parks, Recreation, Beautification, and Senior Services Commission to Establish a Community Services Commission.

ORDINANCE NO. 2023-1229

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TERMS OF OFFICE FOR COMMISSIONS, BOARDS, AND COMMITTEES AND MERGING THE CITY'S ARTS AND HISTORICAL COMMISSION, AND PARKS, RECREATION, BEAUTIFICATION, AND SENIOR SERVICES COMMISSION TO ESTABLISH A COMMUNITY SERVICES COMMISSION.

The City Council of the City of Calexico, California, does hereby ordain as follows:

SECTION 1. Amendment to Municipal Code. Calexico Municipal Code Chapter 2.19 *Eligibility and Procedures for Commissions, Boards and Committees*, Section 2.19.050 *Terms of office* is hereby amended as follows:

"2.19.050 - Terms of office.

A. The term of office of any commission, board, or committee member appointed under this chapter shall commence upon his/her appointment to said office and shall continue for the duration of the term of office of the appointing councilperson, automatically terminating at the day and hour that the city clerk shall certify the results of the election for the office to which the appointing councilperson was previously elected. If a councilperson is elected to serve another term of office, that councilperson shall make all new appointments to city commissions, boards, and committees. If the appointing councilperson shall die while holding office or be sooner removed from office by recall or resignation, the term of said councilperson's appointee shall terminate upon the appointment or election of a new city council member assuming the office of the said deceased or removed city council member.

In the event the nominating councilperson is not serving a full term, then his or her newly appointed commissioner, board member or committee member shall serve only for the unexpired portion of the council member's term.

B. All commission, board or committee members shall serve for a term of up to four consecutive years. Any member who has served a four-year term shall not be eligible for reappointment to any commission, board or committee for a period of two years. If a member serves for a portion of a term (less than four years), then he or she is eligible to be appointed for one consecutive four year term prior to the required two-year break.

C. The term of office of any commission, board or committee member appointed by the city manager or department director on a seven-member commission, board or committee, shall be for a maximum of four years or as long as the city manager or department director maintains that particular position of employment with the city if less than four years. When a new city manager or department director is hired, the newly hired

individual may remove or retain the current member appointed by the previous city manager or department director.

D. The term of office of a commissioner, board member, or committee member can also be terminated pursuant to Section 2.19.020.”

SECTION 2. Amendment to Municipal Code. Calxico Municipal Code Chapter 2.27 *Arts and Historical Commission* is hereby repealed and replaced as follows:

“Chapter 2.27 Community Services Commission

- 2.27.010 Established.
- 2.27.020 Purpose.
- 2.27.030 Organization.
- 2.27.040 Meetings.
- 2.27.050 Powers and duties.

2.27.010 Established.

A commission to be known and designated as the community services commission of the city is created and established. The rules and regulations set forth in Chapter 2.19 shall apply to this commission, except as otherwise required by state law. If there is any conflict or inconsistency between the provisions of this chapter and Chapter 2.19, the provisions of this chapter will control.

2.27.020 Purpose.

The purpose of the community services commission is to advise the city council regarding park, recreational, cultural, art, historical, beautification, and senior-related programs and services that would be of interest and benefit to City residents.

2.27.030 Organization.

The community services commission shall consist of seven members.

2.27.040 Powers and duties.

The community services commission shall have such specific powers and duties as the city council shall from time to time invest in it, including the following:

- A. Support the Recreation and Public Works Departments and their divisions.

B. Encourage citizens to take advantage of programs and services offered by the Recreation Department and its divisions.

C. Assist with the arts in public places program (see Chapter 17.19) and make recommendations regarding public arts programs.

D. Encourage the use of traditional and innovative cultural and recreational services.

E. Make recommendations to the city council regarding Recreation Department programs.

F. Promote school and community cooperation to enhance programs and services.

G. Promote cooperative agreements between the city and other agencies (local, state, and federal) to augment current programs and services.

H. Assist with public exhibitions for cultural and arts events/installations.

I. Provide advice and recommend plans to identify and preserve historical structures and landmarks.

J. Advise staff and city council on policies, procedures, rules and regulations relating to the operation of the recreation center, public parks, trails and facilities, open spaces, programs and services, including rates or fees to be charged.

K. Review, evaluate, and make recommendations to the city council regarding development, maintenance, and operation methods that are sustainable and energy efficient.

L. Advise and guide civic groups, youth organizations, senior organizations, and interested individuals who wish to plan community events or engage in community service projects for the benefit of the City and the community.

M. Study, develop, and recommend plans subject to the approval of the city council, for improving the health, sanitation, safety and cleanliness of the city."

SECTION 3. Amendment to Municipal Code. Calexico Municipal Code Chapter 17.19 *Arts in Public Places*, Section 17.19.040 *Approval required of public arts amenities* is hereby amended as follows:

"17.19.040 - Approval required of public arts amenities.

A. After final completion of architectural review of a structure under this code, an application shall be filed with the city for community services commission review and recommendation to city council of the public arts amenities proposed for such structure.

The application shall be on the form designated by the city, containing the following information:

1. Preliminary sketches, photographs, a model or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public arts amenities;
2. A curriculum vita of the artist, architect, and/or designer;
3. An appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the commission of the value of the proposed public arts amenity including, but not limited to, bona fide invoices, purchase orders or agreements, and auction records;
4. The site plans and elevations;
5. An estimate of the construction cost of the proposed building;
6. Sketches, photographs, or other documentation sufficient to show the relationship of the proposed fine art to the proposed commercial structure;
7. Such other information as may be required by the community services commission in considering the application under the standards established by subsection C of this section.

B. Upon receiving a complete application, the community services commission shall schedule a meeting to consider the application. Fourteen days prior written notice shall be provided to the applicant of the time and place of the meeting at which the application will be heard.

C. The community services commission shall recommend approval of the application to city council if the proposed public arts amenities satisfy all of the following standards:

1. The public arts amenities have the minimum value required by Section 17.19.020 of this chapter. Such value shall be established by an appraisal performed by an independent, qualified fine art appraiser or other evidence satisfactory to the commission, including, but not limited to, bona fide invoices, purchase orders or agreements, and auction records. Utility and maintenance costs incurred to operate and maintain the public arts amenity over time shall not be considered in determining the value of the proposed public arts amenity.
2. If an amenity is public art, it has intrinsic quality and enduring value beyond any decorative characteristics.
3. The public arts amenities are truly public art or amenities and are compatible with and enhance the aesthetic quality of the building site. The relationship of the fine art to the site in terms of physical size, shape and colors shall be considered as well as the social and cultural interaction of the fine art with the space it ornaments.

D. The community services commission may recommend proposed fine art subject to such conditions that the commission deems reasonably necessary for such fine art to satisfy the standards set forth in subsection C of this section. Upon the written request of the property owner, the commission may later reconsider a decision recommending denial of an application if the applicant installs such fine art on the subject site and is able to demonstrate to the satisfaction of the commission that the fine art as installed meets the standards set forth in subsection C of this section. Such request for reconsideration also may be made by the property owner and considered by the commission if changes are made either to the subject building or the proposed fine art such that there are new facts upon which the commission may reconsider its earlier recommendation for denial.”

SECTION 4. Amendment to Municipal Code. Calexico Municipal Code Chapter 17.19 *Arts in Public Places*, Section 17.19.050 *Location of public arts amenities* is hereby amended as follows:

“17.19.050 - Location of public arts amenities.

A. The public arts amenities required by this chapter shall be located in a public place.

B. “Public place” means any area on public or private property which is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

C. When requested by the applicant for the certificate of occupancy, the community services commission may recommend a site on city owned property; subject to final approval by the city council.”

SECTION 5. Amendment to Municipal Code. Calexico Municipal Code Chapter 17.19 *Arts in Public Places*, Section 17.19.060 *Timing of installation or payment* is hereby amended as follows:

“17.19.060 - Timing of installation or payment.

A. Prior to final inspection of construction or reconstruction that triggers the requirements of this chapter, all public arts amenities required by this chapter shall be installed as recommended by the community services commission and approved by the city council.

B. Prior to the issuance of a building permit that triggers the requirements of this chapter, the applicant shall make either the in lieu payment authorized by this chapter or the applicant shall deposit with the city cash, a letter of credit, or other security satisfactory to the director of building and safety, in an amount equal to the value of the fine art required by Section 17.19.020(A) of this chapter. The security shall guarantee installation of fine arts amenities as required by this chapter. If the fine arts amenities

required by this chapter are not installed within three months after final inspection of the construction or reconstruction that triggers the requirements of this chapter, then the applicant shall forfeit the security posted with the city. The city shall be empowered to use the security to purchase and install alternate fine art in a public place within the city. In addition, the city may utilize any other means available to remedy a violation of this chapter.”

SECTION 6. Amendment to Municipal Code. Calexico Municipal Code Chapter 17.19 *Arts in Public Places*, Section 17.19.070 *Ownership, maintenance, operation and insurance* is hereby amended as follows:

“17.19.070 - Ownership, maintenance, operation and insurance.

The holder of the certificate of occupancy of the structure for which public arts amenities subject to the provisions of this chapter is designated shall:

A. Own such public arts amenities, and if the building is sold, shall transfer ownership of the amenities as an integral part of the sale of the building;

B. Maintain such amenities at the on site location as approved by the city council unless a different on site location is authorized in writing by the city council; or reimburse the city for the cost of maintenance where the amenity is located on city property pursuant to Section 17.19.050(C);

C. If a public arts amenity is not public art, at all times contract for the operation of such amenity in the interest for the public by a government entity or a nonprofit entity certified by the Internal Revenue Service as exempt from income tax pursuant to Section 501(c)(3) of the Internal Revenue Code; and

D. Maintain in full force and effect, at all times, insurance coverage in the amount of the purchase price and would insure such public arts amenities against any loss or damage, including vandalism.”

SECTION 7. Amendment to Municipal Code. Calexico Municipal Code Chapter 17.19 *Arts in Public Places*, Section 17.19.090 *Appeal to council* is hereby renamed “Final action by city council,” and amended as follows:

“17.19.090 – Final action by city council.

Community services commission recommendations will be submitted to the city council for final action.”

SECTION 8. Repeal of Municipal Code Chapter. Calexico Municipal Code Chapter 2.32 Parks, Recreation, Beautification, and Senior Services Commission is hereby repealed.

SECTION 9. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 10. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

SECTION 11. Certification and Publication. The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

SECTION 12. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Calexico, California on the 15th day of March, 2023, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Raul Urefia, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

State of California)
County of Imperial) s.s.
City of Calexico)

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 2023-1229, introduced at a regular meeting held on the 1st day of March 2023, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the 15th day of March 2023.

AYES:
NOES:
ABSTAIN:
ABSENT:

Gabriela T. Garcia, City Clerk