



City Council Chambers
3300 Capitol Avenue
Fremont, CA

Agenda

Fremont Public Financing Authority Meeting

April 4, 2017

7:00 PM

1. CALL TO ORDER

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the Public Financing Authority and will be enacted by one motion and one vote. There will be no separate discussion of these items unless an Authority Member or citizen so requests, in which event the item will be removed from the Consent Calendar and considered in its normal sequence on the agenda. Additionally, other items without a "Request to Address the Public Financing Authority" card in opposition may be added to the consent calendar. (In the report section of the agenda, consent items are indicated by an asterisk.)

A. Approval of Minutes - None.

B. AMENDED AND RESTATED PUBLIC FINANCING AUTHORITY BYLAWS – Adopting a Resolution Fixing Time and Place for Regular Meetings, Providing the Manner in Which Special Meetings of the Authority May Be Called and Approving Amended and Restated Bylaws

Contact Persons:

Name:	David Persselin
Title:	Finance Director
Dept:	Finance Department
Phone:	510-494-4631
E-Mail:	dpersselin@fremont.gov

RECOMMENDATION: *Adopt a Resolution Fixing Time and Place for Regular Meetings, Providing the Manner in Which Special Meetings of the Authority May Be Called and Approving Amended and Restated Bylaws.*

3. PUBLIC COMMUNICATIONS

A. Oral and Written Communications

4. SCHEDULED ITEMS - None.

5. OTHER BUSINESS - None.

6. ADJOURNMENT



Fremont Public Financing Authority

Meeting: 04/04/17 07:00 PM
Div/Dept: Finance Department
Category: Plans, Policies and Studies

SCHEDULED

STAFF REPORT (ID # 3013)

Sponsors:
DOC ID: 3013

AMENDED AND RESTATED PUBLIC FINANCING AUTHORITY BYLAWS – Adopting a Resolution Fixing Time and Place for Regular Meetings, Providing the Manner in Which Special Meetings of the Authority May Be Called and Approving Amended and Restated Bylaws

Contact Persons:

Name: David Persselin
Title: Finance Director
Div/Dept: Finance Department
Phone: 510-494-4631
E-Mail: dpersselin@fremont.gov

Executive Summary: The Bylaws of the Fremont Public Financing Authority (PFA) were adopted in October 1991 (the "1991 Bylaws") and now contain outdated references and a cumbersome process for setting meeting dates. To address these shortcomings, staff recommends the PFA Board adopt a Resolution Fixing Time and Place for Regular Meetings, Providing the Manner in Which Special Meetings of the Authority May Be Called and Approving Amended and Restated Bylaws.

BACKGROUND: The PFA was created as a joint exercise of powers authority by the City and the Redevelopment Agency of the City of Fremont (the "RDA") pursuant to a Joint Exercise of Powers Agreement dated September 24, 1991. Pursuant to amendments to the Community Redevelopment Law, the RDA was dissolved in 2012 and was succeeded by the Successor Agency, but the Successor Agency has also dissolved, leaving the PFA with only one member.

To provide assistance with financings for the City, the PFA must have at least two members. The City has identified a potential permanent second member of the PFA, but the actions needed to include that permanent second member cannot be completed in time for the proposed restructuring of the City's outstanding variable rate certificates of participation in mid-April.

Consequently, staff has recommend to the City Council that it amend and restate the joint exercise of powers agreement to reflect the addition of the California Municipal Finance Authority (CMFA) as a temporary second member of the PFA until the City can add a permanent second member. That action is being considered in a separate agenda item on tonight's agenda. The proposed amendment and restatement of the Joint Exercise of Powers Agreement establishes a process by which a new member can be added to replace CMFA.

The 1991 Bylaws make reference to the RDA and to the PFA location at its former address on Civic Center Drive. The 1991 Bylaws also require a resolution of the PFA Board to set each meeting date, and include gendered terminology no longer in use.

DISCUSSION/ANALYSIS: To eliminate the reference to the RDA, reflect the addition of the CMFA as a party to the PFA and the PFA current location on Capitol Avenue, as well as to provide for regular PFA meeting dates and update the gendered terminology, staff has

worked with the City's bond counsel to prepare an Amended and Restated Bylaws of the Fremont Public Financing Authority (the "Amended and Restated Bylaws").

In contrast to the 1991 Bylaws, which required Board action to set each regular meeting date, the Amended and Restated Bylaws establish that regular meetings of the Board shall be held on the same date and time as regular meetings of the City Council of the City. If the Secretary does not post an agenda for a regular meeting, then that lack of an agenda will be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting should be cancelled.

The establishment of ongoing regular meetings will facilitate Board actions needed to advance PFA financing projects, but does not preclude the Board holding special meetings whenever called by the Chair or by a majority of the Board.

FISCAL IMPACT: None.

ENVIRONMENTAL REVIEW: None Required.

ATTACHMENTS:

- Draft Resolution- Approving Amended and Restated Bylaws
- Amended and Restated Bylaws

RECOMMENDATION: Adopt a Resolution Fixing Time and Place for Regular Meetings, Providing the Manner in Which Special Meetings of the Authority May Be Called and Approving Amended and Restated Bylaws.

DRAFT

FREMONT PUBLIC FINANCING AUTHORITY**RESOLUTION NO. 17-X****A RESOLUTION OF THE FREMONT PUBLIC FINANCING AUTHORITY FIXING TIME AND PLACE FOR REGULAR MEETINGS, PROVIDING THE MANNER IN WHICH SPECIAL MEETINGS OF THE AUTHORITY MAY BE CALLED AND APPROVING AMENDED AND RESTATED BYLAWS**

RESOLVED by the Board of Directors of the Fremont Public Financing Authority (the "Board"), as follows:

SECTION 1. REGULAR MEETINGS. Regular meetings shall be held on the same date and time as regular meetings of the City Council of the City of Fremont. If the Secretary does not post an agenda for a regular meeting pursuant to Government Code Section 54954.2, then such failure to post shall be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting should be cancelled, except as otherwise provided in Government Code Section 54954.2.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Board shall be held upon call of the Chair of the Board, or by a majority of the members thereof, by delivering personally or by mailed written notice to each member, and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice shall be delivered personally or by mail and shall be received at least twenty-four (24) hours before the time of such meeting as specified in the notice. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Secretary of the Authority a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Such call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting.

SECTION 3. MEETING PLACE. All meetings of the Board shall be held at the regular meeting place of the Authority, unless the Board shall adjourn to or fix another place of meeting in a notice to be given thereof, or unless prevented by flood, fire or other disaster. Said regular meeting place is hereby fixed and established as the Fremont City Council Chambers, 3300 Capitol Avenue, Building A, Fremont, CA 94538.

SECTION 4. BY LAWS. The Amended and Restated Bylaws of the Fremont Public Financing Authority in the form on file with the Authority Secretary are hereby approved as the Bylaws of the Authority.

ADOPTED, _____, 2017, by the Board of Directors of the Fremont Public Financing Authority by the following vote:

AYES:

NOES:

ABSENT:

By: _____
Chair

ATTEST:

APPROVED AS TO FORM:

Secretary

Authority Counsel

**AMENDED AND RESTATED
BYLAWS OF THE
FREMONT PUBLIC FINANCING AUTHORITY**

ARTICLE I

DEFINITIONS; OFFICES AND SEAL

Section 1. Definitions. All capitalized terms used herein shall have the respective meanings given such terms in the Amended and Restated Joint Exercise of Powers Agreement, dated _____, 2017, by and between the City of Fremont and the California Municipal Finance Authority (the "Agreement").

Section 2. Offices. The principal office of the Authority for the transaction of business shall be 3300 Capitol Avenue, Fremont, CA 94538. The Board may, however, fix and change from time to time the principal office from one location to another within the City of Fremont by noting the change of address in the minutes of the meeting of the Board at which the address was fixed or changed. The fixing or changing of such address shall not be deemed an amendment to these Bylaws.

Section 3. Seal. The Authority shall have a seal, consisting of two (2) concentric circles with the words "Fremont Public Financing Authority" and with the date of establishment of the Authority.

ARTICLE II

BOARD

Section 1. Powers. Subject to the limitations of the Agreement, the terms of these Bylaws, and the laws of the State of California, the powers of this Authority shall be vested in and exercised by and its property controlled and its affairs conducted by the Board of the Authority.

Section 2. Number. The Board shall have five (5) Directors, who shall be the members of the City Council of the City of Fremont. Each Director shall hold office for a term which coincides with such Director's term of office as member of the City Council.

Section 3. Compensation. Directors shall serve without compensation, but each Director may be reimbursed his or her necessary and actual expenses, including travel incident to his services as Director, pursuant to resolution of the Board. Any Director may elect, however, to decline said reimbursement.

Section 4. Regular Meetings. The Board shall conduct a regular meeting on April 4, 2017, at the hour of 7:00 p.m. in the City Council chambers. Thereafter, the Board shall provide for its regular meetings. The date, hour and place of the holding of regular meetings shall be fixed by resolution of the Board and a copy of such resolution shall be filed with each of the

Members. Unless otherwise provided, regular meetings shall be held on the same date and time as regular meetings of the City Council of the City. If the Secretary does not post an agenda for a regular meeting pursuant to Government Code Section 54954.21, then such failure to post shall be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting should be cancelled, except as otherwise provided in Section 54954.2.

Section 5. Special Meetings. Special meetings of the Board shall be held whenever called by the Chair or by a majority of the Board.

Section 6. Public Meetings; Notice of Meetings. All proceedings of the Board shall be subject to the provisions of the Ralph M. Brown Act, constituting Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code, and notice of the meetings of the Authority shall be given in accordance with such Act.

Section 7. Consent to Meetings. The transactions of the Board at any meeting however called and noticed or wherever held, shall be as valid as though done at a meeting duly held after call and notice if a quorum is present and if either before or after the meeting each Director not present signs a written waiver of notice or a consent to the holding of such meeting or approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

Section 8. Quorum. A quorum shall consist of a majority of the members of the Board unless a greater number is expressly required by statute, by the Agreement, or by these Bylaws. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present, shall be the act of the Board.

Section 9. Order of Business. The order of business at the regular meeting of the Board and, so far as possible, at all other meetings of the Board, shall be essentially as follows, except as otherwise determined by the Directors at such meeting:

- (a) Report on the number of Directors present in person or by proxy in order to determine the existence of a quorum.
- (b) Reading of the notice of the meeting and proof of the delivery or mailing thereof, or the waiver or waivers of notice of the meeting then filed, as the case may be.
- (c) Reading of unapproved minutes of previous meetings of the Board and the taking of action with respect to approval thereof.
- (d) Presentation and consideration of reports of officers and committees.
- (e) Unfinished business.
- (f) New business.
- (g) Adjournment.

Section 10. Nonliability for Debts. The private property of the Directors shall be exempt from execution or other liability for any debts, liabilities or obligations of the Authority and no Director shall be liable or responsible for any debts, liabilities or obligations of the Authority.

Section 11. Indemnity by Authority for Litigation Expenses of Officer, Director or Employee. Should any Director, officer or employee of the Authority be sued, either alone or with others, because he or she is or was a director, officer or employee of the Authority, in any proceeding arising out of his or her alleged misfeasance or nonfeasance in the performance of his or her duties or out of any alleged wrongful act against the Authority or by the Authority, indemnity for his or her reasonable expenses, including attorneys' fees incurred in the defense of the proceedings, may be assessed against the Authority or its receiver by the court in the same or a separate proceeding if the person sued acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The amount of such indemnity shall equal the amount of the expenses, including attorneys' fees, incurred in the defense of the proceeding.

ARTICLE III

OBJECTS AND PURPOSES

Section 1. Nature of Objects and Purposes. The business of this Authority is to be operated and conducted in the promotion of its objects and purposes as set forth in the Agreement.

Section 2. Distribution of Assets During Continuance of Authority. During the continuance of the Authority, it may distribute any of its assets to the Members of the Authority. If for any reason the Members are unable or unwilling to accept the assets of the Authority, said assets shall be distributed to the Federal Government, or to a state or local government for public purposes, or to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes.

Section 3. Dissolution. The Authority may, with the approval of all of the Members, be dissolved by majority vote of the Directors if at the time of such dissolution the Authority has no outstanding indebtedness and is not a party to any outstanding material contracts. Upon the dissolution or termination of this Authority, and after payment or provision for payment, all debts and liabilities, the assets of this Authority shall be distributed to the Members of the Authority. If for any reason the Members are unable or unwilling to accept the assets of the Authority, said assets will be distributed to the Federal Government or to a state or local government for public purposes; or to a nonprofit fund, foundation, or corporation which is organized and operated for charitable purposes.

ARTICLE IV

GENERAL PROVISIONS

Section 1. Payment of Money, Signatures. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Authority and any and all securities owned by or held by the Authority requiring signature for transfer shall be signed or endorsed by the Treasurer.

Section 2. Execution of Contracts. The Board, except as in the Agreement or in the Bylaws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any contract or execute any instrument in the name of and on behalf of the Authority and such authority may be general or confined to specific instances and unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Authority by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

Section 3. Fiscal Year. The fiscal year of the Authority shall commence on the 1st day of July of each year and shall end on the 30th day of June of the next succeeding year.

Section 4. Amendment of Bylaws. These Bylaws may be amended at any time and from time to time by majority vote of the Board.

Passed, approved and adopted this ___ day of _____, 2017.

Chair

ATTEST:

Secretary

Attachment: Amended and Restated Bylaws (3013 : AMENDED AND RESTATED PUBLIC FINANCING AUTHORITY BYLAWS)