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City Manager's Report
April 25, 2023, City Council Meeting
Prepared by: Cleve Morris, City Manager
Item #: 12.1

Subject: Receive Public input on Downtown Farmers Market and provide direction to staff on 2023 and 2024 Farmers Market and Possible Action.

Recommendation: Allow staff to provide its report, open public comment, and provide direction to staff and possible action on the 2023 and 2024 farmer's market.

Purpose: To provide an opportunity for discussion and public input on the status of a farmers' market on City property in 2023, 2024 and provide direction to City staff on how to proceed and possible action.

Strategic Plan Strategy: Economic Development Strategy - Enhance and Diversify Cultural and other Tourism Attractions

Background:

In 2014, the City entered into an agreement with El Dorado County Farm Trails (Farm Trails) for the purpose of providing an annual farmers market within the City. The agreement was allowed to be automatically renewed, provided, however, that Farm Trails submitted a special event application to the City at least 120 days prior to that year's commencement of the leased term. If any party wished to terminate the lease, written notice of termination was required to be provided by February 1 and personally delivered or provided by U.S. mail. The location of the farmer's market was designated at the Bell Tower, and the agreement included additional other terms.

In recent years, the City started receiving complaints from members of the public and downtown merchants about the farmer's market. For example concerns were raised that the Farmers Market blocked the front of certain businesses, decreasing visibility and therefore potential customers. It was also noted that Farmers Market Vendors used prime customer parking spaces on the first floor of the garage. Finally, closing the alley affected business who had entrances off the alley.

For these reasons, the farmer's market had been the subject of much discussion at several council meetings. The City Council had expressed its desire to continue the farmer's market, but modify the location to reduce the impacts. Consequently, staff provided notice of termination to Farm Trails prior to February 1. Then, the City Council held a meeting on February 14, and again on February 28, 2023 and decided to allow Farm Trails to relocate the farmer's market to the City's Mooney Lot. Notwithstanding this allowance, there has been criticism by Farm Trails in the newspaper of the City's decision and the lack of clear background facts for the public. A portion of this staff report clarifies the record.

Following are highlights regarding the background to the Farmers Market:

September 9, 2022

- Terry Zeller, Director of Community Services, sent Farm Trails a written email terminating the agreement.
- Seana Hartsell, Farm Trails Market Manager acknowledged the termination on September 22, 2022 at 7:00am
- Agreement requires written termination prior to February 1, 2022
- At a minimum, Farm Trails had actual knowledge of the City's intention to terminate the agreement.

Even if the City's Termination Was Not Valid, Farm Trails Did Not Timely Submit its Special Event Application. Thus, the Agreement Terminated On its Owns Terms.

- Section 1 of the Agreement explains that renewal of the agreement is contingent upon Farm Trails submitting a special event application 120 days prior to that year's commencement of the leased term. The leased term starts on the first Wednesday in June. So, the application must be submitted 120 days prior to the first Wednesday in June.
- First Wednesday in June is June 7, 2023
- 120 days before June 7 is February 7, 2023 (last day for application to be submitted)
- Farm Trails submitted application on February 16, 2023, *after the deadline*
- The Agreement terminated on February 8, 2023. As of this date, Farm Trails has <u>no</u> right to hold a farmer's market at the Bell Tower.

February 14, 2023

- Staff brought a report to Council, asking Council to Provide direction to staff for the Farmer's Market by El Dorado County Farm Trails.
- No final decision was made, but Council directed staff to "meet with El Dorado County Farm Trails Association to craft a transition plan to move the market to another suitable location on public property within the City.

February 23, 2023

- Staff and Farm Trails continued to meet to discuss alternative arrangements.
- The nature of these meetings contemplated working within the confines of the agreement, but this was not required. The City was hopeful it could work on a mutually agreeable arrangement.
- Staff and Farm Trails discussed options including staying at the Bell Tower for an additional year and then moving to a new site. Sites discussed included Fox Lot, Tetrualt Lot, Ivy House Lot and the trail across the Creek from the Ivy House Lot and finally the Mosquito Bus Station Lot.

February 28, 2022

- Staff brought back a transition plan recommending one more year at the bell tower with a move to the Fox Lot in future years.
- Council did not agree with any of staff's recommendations to allow one more year at the Bell Tower and then move to the Fox Lot.

- Council directed staff to process an application instead to allow Farm Trails to operate at the Mooney Lot for 2023; motion was later amended to include the option to move the market to the mosquito lot if Farm Trails preferred, and amend the existing agreement based on the parameters set forth by the Council.

Following the meeting on February 28, the Council received a letter and an email claiming a Brown Act violation from the action taken on February 28, 2023. On April 11, 2023, the Council met in closed session to discuss this issue. Following closed session, the City Attorney reported that the Council had reviewed the issue and determined that no Brown Act Violation occurred, but the Council agreed to schedule the issue for public input at a future meeting **(See response letter Attachment B).**

Discussion: The purpose of this agenda item is to receive additional public input on the continuation of the Downtown Farmers Market and to provide direction to staff. If Council decides to allow the Market at the Mooney Lot, conditions for the new market agreement should be specified. Staff recommends the following:

- One Year agreement with future year option based on required action by both parties. Absent that action the agreement automatically expires.
- Electricity will be available at the site.
- Restrooms will be made available at Town Hall and will be monitored by Farm Trails.
- Garbage Cans adjacent to the Market will be emptied daily by the City. Market will be responsible for their own garbage and for cleaning the lot after the end of the Market.
- Market will be allowed to post signage at the Bell Tower on Market day advertising the new location of the Market.
- Market will be allowed to post signage at the Market site to inform those parking in that area of the Market and to assist in clearing the area of cars. City will assist with removing parked cars from the area.
- Market will be allowed to operate in accordance with the California Department of Food and Agriculture guidelines for Certified Farmers' Markets. Food and Agriculture Code 47000-470062.
- Non Agricultural Products will be limited to products that do not compete with City of Placerville businesses.
- Market shall submit a list of vendors and products weekly outlining what will be sold. City reserves the right to deny any product or vendor.
- Food Vendors if any shall not compete with adjacent restaurants.
- Monthly cost for the market shall be $100/mo.
- Other provisions as determined appropriate by the City Manager and City Attorney.

Environmental: This project is categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15304 (Minor Alterations to Land).

Options:

1. Reaffirm the action taken on February 28, 2023 and delegate the City Manager to enter into a new agreement with Farm Trails for a Farmers Market at the Mooney Parking Lot for the 2023 year in a form acceptable to the City Attorney
2. Consider an agreement with Farm Trails for a Farmers Market at an alternative location and delegate the City Manager and City Attorney to draft and execute.
3. Direct Staff to prepare a Request for Proposals to solicit proposals to operate a farmers market at a designated location (2023? 2024?)
4. Discontinue the downtown farmers market altogether.
5. Take other Action.

Cost: Cost to allow a Farmers Market in parking areas vary by the different locations. The primary costs are as follows:

1. Signage for the Bell Tower site was provided and setup by the Farm Trails, so no cost to the City.
2. Barricade setup/removal at the Bell Tower was approximately $332 per week.
3. Cost of lost parking around the Bell Tower is difficult to determine as all of the parking is two hour parking and is free. However it is reasonable to expect that due to the loss of parking, more visitors to downtown had to move to the garage. The Farmers Market took 4 parking spaces on Main Street.
4. Parking Lots such as the Mooney Lot or the Fox Lot also have 2 hour free parking but allows for extended parking at $2 per hour through 6:00 p.m. every day. In addition, these parking lots lease parking on a monthly basis for $50 per month. The Mooney Lot leases 17 spaces. This revenue for leased spaces would still be realized and those leasing the spaces would be asked to park in an adjacent lot during market hours. The Farmers Market uses the area from 2:00 – 9:00. The parking program charges for daily parking up until 6:00. The Market would affect the area for daily parking from 2:00 – 6:00 or four hours. Subtracting 2 hours for free parking equates to 2 hours of potential lost revenue. 2 hours times 17 spaces times $2 per hour equals $68 of potential lost revenue for the Money lot for each day of the market.

Budget Impact: If approved, staff does not anticipate any major budget impact. The potential lost revenue is $68 per day, however actual revenue records show less than that due to not all spaces being used for the entire time.

M. Cleve Morris

M. Cleve Morris, City Manager

Attachments

A: Resolution
B: Brown Act Response Letter
C: 2014 Agreement
D: State Code for Certified Markets
E: Davis Farmers Market Rules