

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Meeting Date: 12/11/2012		Item Number: <u>A-1</u>	
AGENDA ITEM: Consideration of a Recommendation to the City Council to Approve an Ordinance Repealing and Replacing Municipal Code Section 15.06.100 et seq. Relating to the Art in Public Places Program			
Contact Person/Dept.: B. Christine Byers / Cultural Affairs		Phone Number: (310) 253-5776	
Fiscal Impact: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		General Fund: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Public Hearing: <input type="checkbox"/>		Action Item: <input checked="" type="checkbox"/>	Attachments: <input checked="" type="checkbox"/>
Public Notification: Cultural Affairs Master E-Mail Notification List (11/27/12)			
Department Approval: Sol Blumenfeld (12/06/12); Daniel Hernandez (12/07/12)		City Attorney Approval: Carol Schwab (12/07/12)	
Chief Financial Officer Approval: N/A		City Manager Approval: N/A	

RECOMMENDATION:

Staff recommends that the Cultural Affairs Commission (CAC) review the proposed changes to Culver City Municipal Code Section 15.06.100 et seq., relating to the Art in Public Places Program (APPP), and make a recommendation to the City Council.

BACKGROUND:

Culver City's Art in Public Places Program was established by Ordinance in 1988 and is incorporated in Culver City's Municipal Code (CCMC) under Chapter 15.06, which in turn is included in the section of the CCMC pertaining to land use. Since 1988, this section of the CCMC has been amended periodically to reflect programming changes (e.g., establishing a Performing Arts Grant Program and the "Architecture as Art" designation), and administrative changes within the City (e.g., creation of the CAC in 2001, and relocation of the APPP and Cultural Affairs staff to various City departments). The last update to the APPP was in 2004 and is attached hereto as Attachment 3 (Ordinance No. 2004 – 004).

The changes proposed to the APPP (Attachments 1 and 2), are informed by extensive review of ordinances and policies of other percent for art programs, documented best practices in the field of public art, conversations with public art administrators throughout California, and experience with implementing the

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

APPP in Culver City. These changes reflect input from the CAC's Ad Hoc Art in Public Places Ordinance Update Subcommittee (Chair Smashey and Vice Chair Koosed), together with the City Attorney's Office and Community Development Department staff.

DISCUSSION:

While a wide variety of ordinances and policies from other public art programs were reviewed, many of the amendments to Ordinance No. 2004 – 004 were specifically informed by language from programs considered the best examples in the field: City of San Jose, the former CRA/LA (which had the second oldest program in the US), City of San Francisco, City of Portland, City of Seattle and City of Santa Monica. These examples, combined with lessons learned from de-accessioning certain artworks in Culver City, maintenance challenges, efforts to foster diversity in the collection, as well as issues relating to the current economic climate and the elimination of redevelopment as a funding source, further informed the proposed changes to the APPP language as included in the CCMC.

Below is a brief summary of these changes. All page references included herein refer to draft Ordinance 2012 – ____ (Attachment 1).

General:

Pages 1-3 provide a historical overview of the changes affecting the APPP since its inception in 1988. This section also includes a reference to the annual *Otis Report on the Creative Economy*, which demonstrates that the arts have a significant positive economic impact as the 4th largest employment cluster in Los Angeles County.

Some of the sections included in Ordinance 2004 - 004 have been relocated so that they flow logically together; all sections will be renumbered accordingly.

Purpose (p. 5):

The language in this section has been consolidated but still focuses on cultural and artistic resources and the APPP as a land use tool.

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Definitions (pp. 5 – 7):

The number of definitions has been expanded to seventeen and includes, among others, new definitions for Administrative Fees, Conservation, De-Accession, Design Fees, New Genres, Permanent and Temporary Installations, and Qualified Artist. Changes to some of the existing definitions, such as Artwork and Freely Accessible, are also included.

Cultural Trust Fund Created (pp. 8 - 9):

The term “Art Fund” is changed to “Cultural Trust Fund” (the Fund) to reflect the wider impact this fund has on cultural arts in Culver City; the Cities of Santa Monica and Pasadena use similar names for their public art program funds, as did the former CRA/LA.

Money from this fund is restricted primarily to capital improvements, but amendments have been made to the CCMC to allow for adequate funding for preventative maintenance and restoration of artwork that reflects current needs. As included in Paragraph 2 on p. 8, the allocation for preventative maintenance and utility charges related to artwork has been increased from a maximum of 5% to a maximum of 15% of the payments made to the Fund in the prior fiscal year. Based on the current three-year average for total payments made to the Art Fund (\$152,042), this would allow approximately \$22,806 to be allocated each year for maintenance (cleaning, waxing), compared to an outside amount of \$20,000 currently required annually for maintenance. Maintenance costs do not include periodic larger restoration costs such as those associated with the replacement of the supporting steel structure for Ed Carpenter’s *Hanging Garden* which was completed a few years ago.

Developments Subject to Provisions of Subchapter (p. 9):

The current thresholds for development projects and the types of development projects exempted from the APPP remain unchanged. The language for covenanted low- and moderate-income and senior citizen housing has been expanded to reflect the current common development model of incorporating these units into larger projects and outlines a method of calculating the exempted portion from the larger project for purposes of calculating the APPP allocation.

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Program Allocations (pp. 10 – 12):

Public art programs throughout the US typically have program allocations ranging from .5% - 2%. In light of the current economic climate, the existing 1% allocation has remained unchanged but a threshold of \$75,000 has been added, over which developers (applicants) have a choice as to how they wish to invest their APPP allocation.

This \$75,000 threshold is based on the average cost for commissioning artwork for a private development project in Culver City as well as current City resources and staffing levels. For 31 separate artwork commissions, developers in Culver City have paid on average \$99,839 per artwork commission since the APPP was created in 1988. Since 2009, the average cost for commissions of artwork for private development projects (excluding the cost for *Rainbow* at Sony Pictures Entertainment) is \$198,537.

If an applicant's APPP allocation is under this \$75,000 threshold, the amount may be increased should the applicant wish to pursue one of the other options available.

For new on-site art commissions, additional criteria for the artist selection process are included for projects with APPP allocations exceeding \$100,000. These criteria (using a Request for Proposal process and hiring an art consultant) are based on best practices. Many larger private art commissions, such as those at Westfield Culver City and Sony Pictures Entertainment, have already relied on art consultants and a RFP process in past years.

Paragraph I (p.12) allows for the incorporation of a Cultural Facility within a larger development project for APPP allocations exceeding \$75,000. Based on input from other programs having a similar option, this provides more alternatives for developers in terms of how to fulfill their APPP requirement.

Applicant and Approval Procedures for Placing Artwork or Incorporating a Cultural Facility on Private Property (pp. 12 - 15):

This section has been modified to reference involvement of certain CAC subcommittees in the review process and to emphasize the necessity for preliminary design development as early as possible to

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

ensure artworks are integrated within the larger development project. Specific criteria involved in the assessment of proposals for artwork, as well as disqualifying characteristics for art commissions, have been included.

Approval of Procedures of Commission of Artwork in Conjunction with Public Development Projects (pp. 15 - 16):

This section is new and outlines the parameters that should be considered for City-funded art commissions, including using community advisory committees and artist selection panels so that these projects remain competitive but are transparent with regard to process.

Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement (pp. 16 – 17):

Language has been added to this section with regard to art appraisers and the use of conservators.

Ownership and Maintenance of Artwork (pp. 17 – 19):

The language in this section has been greatly expanded to make it clear to applicants that future maintenance of artwork is a long-term commitment and needs to be accounted for in the planning process.

Final City Approval (pp.19 - 20):

Language regarding posting money to the Cultural Trust Fund temporarily in cases where the applicant has not decided how they wish to fulfill the APPP requirement has been removed. This option was rarely used by developers, causes unnecessary delays, and poses an added burden on limited City staffing levels.

Final City approval will require the submission of maintenance guidelines to the City, installation of a plaque, and proof of payment to the artist (and/or design team). Language reflecting this has been added to this section.

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Artwork on Public Property, Performing Arts and Purchase of Real Property for Public Art (pp. 20 – 21):

The amount available from the Cultural Trust Fund has been modified to ensure a minimum of \$25,000 funding per year for the performing arts but no more than 25% of the total number of payments made to the Fund in the prior fiscal year, provided that that amount is at least \$25,000. Historically, these monies have been allocated to the Culver City Performing Arts Grant Program. Language has been incorporated to allow for some of this money to be spent on City-produced performing arts events.

Paragraph F allows for up to \$10,000 to be allocated per year for capital improvements to enhance the performance area in City-owned and City-operated facilities to help attract more cultural users.

Criteria for Approving Architecture as Art and Procedure for Approving Architecture as Art (pp. 21 – 22):

These two sections have been amended to include a requirement for applicants to demonstrate how the APPP allocation enhances the design of their project. The incorporation of a peer panel in the review process, and the involvement of the CAC Public Art Subcommittee are referenced in the amended language.

De-Accessioning of Artwork (pp. 23 – 24):

This is a new section that reflects the need for specific guidelines based on past experience.

Pending the CAC's approval of these proposed changes, this draft Ordinance would be placed on the City Council agenda for consideration, and becomes effective 30 days from the date of its adoption.

FISCAL ANALYSIS:

The current Art Fund balance is approximately \$587,663. It is anticipated that with a threshold of \$75,000, under which developers pay the in-lieu fee to the Cultural Trust Fund, the total annual payments to the Fund will, at minimum, remain consistent with the current average of \$152,042. With the exception of an

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

increase in the amount allowed for costs associated with the maintenance of City-owned artworks, the proportionate annual allocations for capital improvements (new artworks, enhancements to performance areas of City-owned and City-operated facilities, art restoration projects) versus allocations for soft costs (Performing Arts Grant Program and Fund Administration), will remain relatively consistent. There will also be an indirect positive impact on staff time (and costs) associated with implementing the Art in Public Places Program given the higher APPP allocation threshold over which developers may choose an alternative for fulfilling the program requirements other than paying the in-lieu fee.

ATTACHMENTS:

1. Draft Ordinance No. 2012- ____ (with all additions/deletions to Ordinance No. 2004-004 accepted); and,
2. Draft ordinance No. 2012 – ____ (showing all additions/deletions to Ordinance No. 2004-004)
3. Adopted Ordinance No. 2004 – 004 (excluding Exhibit A – Revisions to Historic Preservation Program)

MOTION:

That the Cultural Affairs Commission:

Recommend to the City Council approval of Draft Ordinance No. 2012-____,
Repealing and Replacing Culver City Municipal Code Section 15.06.100 et seq.
Relating to the Art in Public Places Program.