ROLL CALL

APPROVAL OF MINUTES

- Meeting Minutes of May 13, 2019; Tabler, Whitaker, Slonaker, Gooyer

PUBLIC COMMENT PERIOD

*The Public may present testimony on matters not listed on the agenda.*

NEW BUSINESS

1. Downtown Art @ 345 South B Street
   *Informational: Property is not obligated for art. This is a courtesy informational presentation of plans for a mural reflecting building history.*

2. 2020 Civic Arts Committee Meeting Schedule
   *Action: Approve proposed 2020 Civic Arts Committee Meeting Schedule*

OLD BUSINESS

3. Projects Review
   *Discussion: Review list of current and pipeline projects and funding.*

4. Review of Art in Public Places Ordinance
   *Discussion: Continue review of current ordinance as part of AiPP policy review.*

COMMUNICATIONS AND ANNOUNCEMENTS

- Gateway “Reflections” Installed
  - Celebration on 6/21/19. Signage install delayed due to equipment shipping error. Public Works will assist with signs install and then assume maintenance.

- New Meeting Agenda Technology
  - New public meeting technology & process has been implemented for all City Board & Commission activity in one location with consistent formats, already in use for Council & other commissions. CAC will transition for November meeting.

ADJOURNMENT – Next regular meeting scheduled for TUESDAY, November 12, 2019, adjusted for Veteran’s Day holiday.

In compliance with the Americans with Disabilities Act, those with disabilities requiring special accommodations to participate in this meeting may contact the City Clerk’s Office at (650) 522-7040 or polds@cityofsanmateo.org. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.
The meeting convened at 4:00 p.m. in Conference Room C at San Mateo City Hall and was called to order by Chair Tabler.

Roll Call
Those present were Committee Members Stephen Tabler, Dianne Whitaker, Robert Gooyer, Ginger Slonaker (arr. 4:12pm). Staff, Senior Management Analyst Heather Stewart. Ramiro Maldonado, absent. Councilmember Eric Rodriguez did not attend.

Approval of Minutes
- Approval of minutes of September 10, 2018. (Whitaker/Tabler, Gooyer abstain; 2-0-1).
- Approval of Meeting Minutes of March 11, 2019 were approved. (Whitaker/Tabler; 3-0)

Public Comment Period
None

New Business
1. 303 Baldwin Avenue (formerly Trag’s)
   Jonathan Stone from Prometheus presented the preferred concept for this development. Summary description is a 3D relief mural with specially designed & fabricated to reflect some San Mateo history. Key points summary of feedback provided:
   - GS: likes the history concept, subtle design & “quietness” of it, using lights & shadows & natural elements lead eye & focus, offers relaxing envitornment.
   - RS: Due to location & muted colors, concern that it won’t be noticed organically rather than having to look for it, knowing the composition of the images...“seeing” the design will be helpful to “see the art”.
   - DW: Like it for several reason; unique proposal, it’s integrated into the building & not free-standing. Concern about lighting and maintenance with a light colored tile.
   - ST: Loves the idea & difference, but concern about visibility both due to location & lack of color. Is it art or a decorative wall?
   - ALL: Concur that everyone generally like the concept, concern for visability. Ideas about something in the “parklet” space that could ‘point’ to or bring awareness of the art beyond just entering the building. Artist is international, would prefer local fabrication.
   - JON: Really like to include Ohlone history, open to suggestions for other story elements that reflect San Mateo.

Old Business
2. Review of Art in Public Places Ordinance
   CAC continued review and comment on possible ordinance change recommendations.

Communications & Announcements
- Gateway art installation tentatively scheduled for late June 2019.
Adjournment: Motion to adjourn at 5:40 p.m. (Slonaker/Whitaker, 4-0)

Next regular meeting is scheduled for July 8, 2019 at 4:00pm.
09.6.2018

Civic Arts Committee – Staff Memo

Recommendation:

Review and approve dates and times for the Civic Arts Committee meetings.

Background:

Per current By Laws for the Civic Arts Committee, the CAC is to have at least one meeting per quarter and other meetings as may be determined by the Committee. To provide a consistent and sufficient meeting schedule for both CAC members and applicants, the Committee agreed to regular, bi-monthly meeting dates & times.

This is currently scheduled as the second Monday of every other month from 4-5:30 pm in Conference Room C.

Current Committee:

2020 Schedule:

- January 13, 2020
- March 8, 2020
- May 11, 2020
- July 13, 2020
- September 14, 2020
- November 9, 2020
ARTS IN PUBLIC PLACES
PROJECT FEES

<table>
<thead>
<tr>
<th>CIP Project Number</th>
<th>Private Developer Obligations To Date</th>
<th>Bay Meadows Art</th>
</tr>
</thead>
<tbody>
<tr>
<td>310330</td>
<td>$3,955,935.50</td>
<td>$176,000</td>
</tr>
</tbody>
</table>

Current balance in project account. One-in-lieu payment expected within the

<table>
<thead>
<tr>
<th>GL Account</th>
<th>Project String for Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>59-3100-366301</td>
<td>202020-005-0192</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City Council Resolution</th>
<th>TOTAL PUBLIC ART VALUATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-13</td>
<td>$4,955,935.50</td>
</tr>
</tbody>
</table>

in lieu fees paid to date $162,498.82 included in above obligation total

<table>
<thead>
<tr>
<th>Location / Project Name</th>
<th>Superstructure</th>
<th>Foundation / Garages</th>
<th>Demo</th>
<th>Total Valuation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Station Park Green 1700-1790 S. Delaware</td>
<td>$145,010,150.00</td>
<td>$725,050.75</td>
<td>$145,010,150.00</td>
<td></td>
</tr>
<tr>
<td>Hillside North 60 31st Ave.</td>
<td>$98,000,000.00</td>
<td>$490,000.00</td>
<td>$98,000,000.00</td>
<td></td>
</tr>
<tr>
<td>Cal Water 341 N. Delaware St.</td>
<td>$5,962,000.00</td>
<td>$29,810.00</td>
<td>$5,991,810.00</td>
<td></td>
</tr>
<tr>
<td>Franklin - Bldg 1 of 2</td>
<td>$27,534,528.50</td>
<td>$137,672.64</td>
<td>$27,552,201.14</td>
<td></td>
</tr>
<tr>
<td>Franklin - Bldg 2 of 2</td>
<td>$27,534,528.00</td>
<td>$137,672.64</td>
<td>$27,552,190.64</td>
<td></td>
</tr>
<tr>
<td>Windy Hill 405 E 4th Ave.</td>
<td>$10,062,768.60</td>
<td>$50,313.84</td>
<td>$10,062,768.60</td>
<td></td>
</tr>
<tr>
<td>Westlake 520 S. El Camino Real</td>
<td>$33,567,200.00</td>
<td>$167,836.00</td>
<td>$33,585,036.00</td>
<td></td>
</tr>
<tr>
<td>Central Park South 31 9th Ave.</td>
<td>$10,520,875.15</td>
<td>$73,545.62</td>
<td>$10,594,420.77</td>
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</tr>
<tr>
<td>Hampton Inn 2940 S. Norfolk</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>210 S. Fremont Catanzaro</td>
<td>$5,001,671.42</td>
<td>$25,008.36</td>
<td>$5,026,679.78</td>
<td></td>
</tr>
<tr>
<td>AAA Building 1650 S. Delaware St.</td>
<td>$13,351,662.00</td>
<td>$67,860.81</td>
<td>$13,351,662.00</td>
<td></td>
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<tr>
<td>Trag's $303 Baldwin</td>
<td></td>
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</tr>
<tr>
<td>Windy Hill 406 E 3rd @ Claremont</td>
<td>$43,250,000.00</td>
<td>$216,250.00</td>
<td>$43,250,250.00</td>
<td></td>
</tr>
<tr>
<td>Hillside Terraces 2700 S. El Camino Real</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>City Owned - Mid-Pen 4th/5th Downtown</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Location / Project Name | Foundation / Garages |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bay Meadows Art</td>
<td>$1,000,000.00</td>
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</table>

Current balance in project account. One-in-lieu payment expected within the

<table>
<thead>
<tr>
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</tr>
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<tbody>
<tr>
<td>See detail on SFG Worksheet - this is an aggregate total of applicable permits. This date reflects the earliest permit issuance for total project. Not noticed prior to project approvals for $900,000 in March &amp; May 2017.</td>
</tr>
<tr>
<td>BO-2016-267696 issued 3/8/17 - Hillside Mall North Block Package 2- Superstructure of Buildings J, L &amp; N and foundation and superstructure of Building K Didn't send Notice of Applicability before they came to CAC and got approval on 3/13/2017. See special worksheet for Hillside. They're going way above required. Fountain is complete and active, space not yet open to public but you can see from food court.</td>
</tr>
<tr>
<td>BO-2016-258502 = New Office Building for Cal-Water Project approved 7/10/17. Project installed. Awaiting recorded maintenance agreement.</td>
</tr>
<tr>
<td>BD-2016-261852 issued 9/25/17</td>
</tr>
<tr>
<td>BD-2016-262852 issued 9/25/18</td>
</tr>
<tr>
<td>BD-2016-264410 issued 10/20/17 - Foundation &amp; Garage - BD-2016-260410 application awaiting approval &amp; issuance - Superstructure : original $10,460,875.15 Signed Notice of App. received 3/7/19. Project approved on 3/11/2019</td>
</tr>
<tr>
<td>BD-2018-267252 issued 10/3/18 facade &amp; remodel Project approved by CAC on 11/13/2018</td>
</tr>
<tr>
<td>BD-2017-263726 issued 4/24/17 NEW 4-STORY Office &amp; Residential building w/Underground garage Project approved by CAC on 9/10/2018</td>
</tr>
<tr>
<td>BD-2017-261852 issued 9/25/2017</td>
</tr>
<tr>
<td>BD-2016-260410 application awaiting approval &amp; issuance - Superstructure : original $10,460,875.15 Signed Notice of App. received 3/7/19. Project approved on 3/11/2019</td>
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No Building Permit application yet. Planning for art, but site very restricted in viable outdoor location. Meeting with CAC on 3/11/2019 to consider alternative options.

| BO-2019-271576 for foundation & underground garage work only. Application on 5/20/19. |
| Permit application submitted 4/26/2019, not yet issued. Encroachment permit issued 8/21/19. BP2019-271279 - demo = $220,500.00; BP2019-271279 - COMBO Grading, foundation, garage and Superstructure = $13,351,662.00 |
| Conversation with project manager discussing process mid-August, no defined timeline as of yet. |
| No Building Permit application yet. Planning for art, but site very restricted in viable outdoor location. Meeting with CAC on 3/11/2019 to consider alternative options. |
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City Owned - Mid-Pen 4th/5th Downtown

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<tr>
<td>PA 19-002 the old Aaron Bros. Discussed with planner. Possible mural on the wall facing the central parking lot? PA19-033 includes affordable housing &amp; parking structure. Mid-Pen is flushing out a variety of possible art concepts for different locations on the sites. Intend to winnow preferred concepts and will do study session with CAC.</td>
</tr>
</tbody>
</table>
23.60.010 PURPOSE.

The City Council finds and declares as follows:

(a) Cultural and artistic resources enhance the quality of life for individuals living in, working in and visiting the City.

(b) Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values.

(c) As development and revitalization of the real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished.

(d) As this development and revitalization continues as a result of market forces, "urbanization of the community results.

(e) Language feels pejorative and art is combating these things: "urbanization of the community", "result of market forces" is this the intent?

(f) Establishment of this Art in Public Places Program will promote the general welfare through balancing the community’s physical growth and revitalization and its cultural and artistic resources.

(g) It is the purpose of this chapter to establish an Art in Public Places Program to achieve the objectives stated in this section. (Ord. 2005-13, § 1, 2005).

23.60.020 PROGRAM EXECUTION.

The City of San Mateo Civic Arts Committee and the community development department shall carry out the duties established by this chapter. The Civic Arts Committee shall be comprised of one ex officio member of the City Council selected by the people. Except as may otherwise be provided by this Charter, or ordinance of the council or ordinance approved by the people, all such other boards and commissions now or hereafter established shall be for advisory purposes only to the council or ordinance approved by the people. A board or commission shall be considered to be advisory even if it is authorized to take final action subject to appeal to the city council.

1. The representative organizations are specific and restrictive. Is this still appropriate mix? City Arts of San Mateo has, in essence, 2 representatives - the organization and they are required to recommend the artist. Could be an open application process for San Mateo artists.

2. Special committee has 2 year life. Requires Council action every 2 years to assess need and renew committee & its members. By-Laws of CAC changed terms to align with code, but no term limits, should there be? This program extremely unlikely to go away any time soon, is committee still an appropriate function? Why is it not a Commission, particularly if there's any future interest to encompass greater art engagement?

3. Need to correct the title of City Arts to "City Arts of San Mateo, Inc.”

23.60.030 ART IN PUBLIC PLACES FUND.

There is a fund known as the “Art in Public Places Fund” into which shall be deposited all fees paid pursuant to this chapter. This fund shall be maintained by the City treasurer, and shall be used for the acquisition, installation, improvement, and maintenance of artwork to be displayed in the City, and the administration of the Art in Public Places Program. (Ord. 2005-13, § 1, 2005).
Chapter 23.60 ART IN PUBLIC PLACES

23.60.040 APPLICABILITY.

All commercial development projects and multi-family projects with a building permit valuation of three million dollars or more shall be subject to the provisions of this chapter, except when the work authorized by the project approval involves less than a substantial reconstruction of an existing building. “Substantial reconstruction” for the purposes of this section means work the estimated building permit valuation of which exceeds 50% of the replacement value of the existing building based upon construction costs at the time of project approval. (Ord. 2005-13, § 1, 2005).

1. All commercial dev & multi-family...good.
2. BP valuation of $3mil. More specificity of permit types to be included in valuation would be helpful to clarify. Staff followed what appeared to be precedent on assignment of obligation. Have not included site prep: demo, grading, etc. Has been applied to focus on Garage/Foundation/Carport and Superstructure...the building up, not tearing down. That does reduce the obligation amounts somewhat significantly depending on size of project. Also some challenge to determine when there are so many different permits issued at multiple times, some after initial BP issuance that increases the value after Notifications have been sent to project of their obligation amount. Which are inclusive of what at what point of the project?
3. Related to #2: Significant admin issues around this: WHEN determined and made specific for the obligation amount. Currently have to wait for permit issuance for confirmed valuation...but that's really way too late in the process for best plans. Permit valuation can also change during construction, does obligation change accordingly? Currently a burden for staff to have to track all projects: a) are permits issued yet? b) which permits? b) how much? d) large phased projects are challenge to track final permit valuation.
4. Permit valuation is a definitive number to measure against, but really, this should start being part of the discussion in the pre-approval phase of the planning application, include as DRB topic. Projects need to determine and include art in the early stages to help elicit more diversity in art rather than simply identifying "spot and plop". Improving with outreach, but still not considered early enough by some projects.

2. Mr. Bonilla also concurs that obligated projects should work to identify the size & scope of site for art be determined early in the project development, and that any fees to be paid should be paid early.

1. Councilmember Bonilla indicated his interest to keep the threshold at $3,000,000.

2. Change to "Total construction costs"

RM: changing precedence

23.60.050 CERTIFICATES OF OCCUPANCY.

The following requirements must be met prior to the City’s issuance of occupancy permits for projects subject to this chapter.

(a) Full compliance with one or more of the following:

(i) The approved artwork has been placed in a manner satisfactory to the community development director.

(ii) In-lieu art fees have been paid.

(iii) Financial security in an amount equal to the acquisition and installation costs of an approved artwork, in a form approved by the City Attorney, has been posted.

ADMIR: develop consistent budget format for submittal. Template prepared.

(b) Execution and recordation with the San Mateo County recorder by the applicant of covenants, conditions, and restrictions (CC&Rs), in a form approved by the City Attorney, which require the property owner, successor in interest, and assigns to maintain the public art in good condition.

ADMIR: make sure they have template early. Include sample in Guidelines for early notice?

(c) Satisfaction of the entire program allocation required by Section 23.60.060 for the project. (Ord. 2005-13, § 1, 2005).

This process okay.

ADMIR: develop consistent budget format for submittal. Template prepared.
### Title 23 BUILDINGS AND CONSTRUCTION

#### Chapter 23.60 ART IN PUBLIC PLACES

<table>
<thead>
<tr>
<th>23.60.060 PROGRAM ALLOCATIONS—IN LIEU FEE PAYMENTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The program allocation, as used in this chapter, is the percentage of the building cost which is set aside for the City’s Art in Public Places Program. The program allocation shall be an amount equal to one-half of one percent of the total building valuation, excluding land acquisition and off-site improvement costs. The total building valuation shall be computed using the latest building valuation data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the Building Official, a different valuation measure should be used.</td>
</tr>
<tr>
<td>(b) In lieu of placement of an approved artwork, the applicant may pay to the Art in Public Places Fund an amount equal to the program allocation set forth in subsection (a) of this section.</td>
</tr>
<tr>
<td>(c) Nothing in this section shall prohibit the applicant from placing an approved artwork with acquisition and installation costs in an amount less than the program allocations; provided that the applicant shall also pay to the Art in Public Places Fund an amount equal to the difference between the program allocation and the costs of acquisition and installation of such artwork. (Ord. 2005-13, § 1, 2005).</td>
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<tr>
<th>23.60.070 APPLICATION PROCEDURES FOR PLACEMENT OF ARTWORK ON PRIVATE PROPERTY.</th>
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<tbody>
<tr>
<td>An application for placement of artwork on private property shall be submitted to the community development department and shall include:</td>
</tr>
<tr>
<td>(a) Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;</td>
</tr>
<tr>
<td>(b) An appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs;</td>
</tr>
<tr>
<td>(c) Preliminary plans containing such detailed information as may be required by the community development department to adequately evaluate the location of the artwork in relation to the proposed development, and its compatibility with the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and</td>
</tr>
<tr>
<td>(d) A narrative statement to be submitted to the community development department to demonstrate that the artwork will be displayed in an area open and freely available to the general public, or otherwise provide public accessibility in an equivalent manner based on the characteristics of the artwork or its placement on the site. (Ord. 2005-13, § 1, 2005).</td>
</tr>
</tbody>
</table>

#### Staff Comments

1. "Off-site improvement costs"... is this soft cost? This is the same basic questions as Applicability, what permits, what work are included?
2. Language about costs should be consistent between the two sections.

#### CAC Comments & Some Initial Council Feedback with Plan approval

1. Sewer lateral, sidewalk (these are off site costs)
2. Okay, but needs to be a bit more specific about "project budget"...need more detail than just the acquisition & installation costs.
3. Councilmember Bonilla concurred that Maintenance expenses are not acceptable for the project budget, that is the owner's responsibility.
23.60.080 APPROVAL FOR PLACEMENT OF ARTWORK ON PRIVATE PROPERTY.

(a) Completed applications shall be submitted to the community development department for review of the artwork.

(b) The community development department shall present the completed application to the Civic Arts Committee. The Civic Arts Committee shall review the application for installation of the artwork considering its proposed location, the aesthetic quality and harmony with the proposed project, and the public accessibility to the artwork, including any recommended conditions of approval.

(c) The Civic Arts Committee shall approve a request to install artwork on private property, if it finds:
   1. The aesthetic quality of the artwork merits approval;
   2. The location of the proposed artwork is compatible and in harmony with the proposed development project and with the character of adjacent developed parcels; and
   3. There is sufficient public accessibility to the artwork.

(d) The decision of the Civic Arts Committee is subject to a fifteen-day review period by the City Council, and then becomes final. During this fifteen-day review period any person may appeal a Civic Arts Committee decision to the City Council, who shall conduct a hearing thereon. The decision of the City Council shall be final.

(Ord. 2005-13, § 1, 2005).

23.60.090 OWNERSHIP OF ARTWORK.

(a) All artwork placed on the site of an applicant's project shall remain the property of the owner of the site; the obligation to provide all maintenance necessary to preserve the artwork in good condition shall remain with the owner of the site. If the artwork is not maintained in good condition, the occupancy permit for the project may be revoked by the City Council upon due notice and an opportunity to be heard.

(b) Maintenance of artwork, as used in this chapter, shall include without limitation, preservation of the artwork in good condition to the satisfaction of the City, protection of the artwork against physical defacement, mutilation or alteration, and securing and maintaining first and extended coverage insurance and vandalism coverage in an amount to be determined by the City Attorney. Prior to placement of an approved artwork, applicant and owner of the site shall execute and record a covenant in a form approved by the City for maintenance of the artwork. Failure to maintain the artwork as provided in this chapter is declared to be a public nuisance.

(c) In addition to all other remedies provided by law, in the event the owner fails to maintain the artwork, upon reasonable notice, the City may perform all necessary repairs, maintenance or secure insurance, and the costs therefore shall become a lien against the real property. (Ord. 2005-13, § 1, 2005).
### 23.60.100 ARTWORK ON PUBLIC PROPERTY.

(a) Each year the Civic Arts Committee shall prepare and submit to the City Council an annual plan for the Art in Public Places Program. The annual plan shall include a discussion of the amount of money in the Art in Public Places Fund (“the Fund”), plans for the expenditure of money from the Fund during the year, a description of efforts to raise funds from other sources to be deposited into the Fund, and any other matters the Civic Arts Committee deems appropriate to include in the plan.

1. Annual reports have not been consistent...need to improve. Content? 1) notification sent, 2) projects approved, 3) projects completed, 4) balance of fund, 5) public art related, i.e. GW install

2. Revenue to fund is easy, expenditures may be none for multiple years...zero is a valid number.

3. **KEY QUESTION**: Goes back to committee versus commission, based on description of committee, finding additional funding does not seem to be a proper activity of the CAC nor the staff to the AiPP program. This language doesn't indicate that it is funding for specific projects as needed, it's described as "efforts to raise funds from other sources"...that's not appropriate to the program as a whole. If the CAC were to become an art commission, there may be a very different and appropriate charge for grants, etc. What is the real expectation with this language?

(b) Before money from the Fund is expended to purchase and install artwork on public property, the Civic Arts Committee shall consider the proposed expenditure and make a recommendation on the proposal to the City Council. In addition, at any time the Civic Arts Committee may make a recommendation to the City Council to purchase a particular artwork to be displayed on public property. Any recommendations made under this provision shall include the type of artwork considered, an analysis of the constraints applicable to placement of the artwork on a site, the need for and practicability of the maintenance of the artwork, and the costs of acquisition and installation of the artwork. (Ord. 2005-13, § 1, 2005)

1. Awkward:
   - before...expended...shall consider & make recommend to Council.
   - "in addition"...CAC can make a recommendation of a particular artwork. Aren't these pretty much the same thing? Doesn't make sense, seems redundant.

2. The recommendation considerations are good.

### 23.60.110 REMOVAL OR ALTERATION OF ARTWORK.

(a) Public art installed on or integrated into a construction project pursuant to the provisions of this chapter shall not be removed or altered without the approval of the City Council. If such public art is knowingly removed or altered without prior approval from the public art department, the occupancy permit for the project may be revoked by the City Council upon due notice and an opportunity to be heard. The City may in addition pursue any other available civil or criminal remedies or penalties.

1. This should basically be the same as lack of maintenance, language should be similar to this...including "civil or criminal remedies or penalties."

(b) If any artwork provided on a development project pursuant to the provisions of this chapter is knowingly removed by the property owner without the approval of the community development department, the property owner shall contribute funds equal to the development project’s original public art requirement to the City’s Art in Public Places Fund, or replace the removed artwork with one which is of comparable value and approved of by the Civic Arts Committee. If this requirement is not met, the occupancy permit for the project may be revoked. (Ord. 2005-13, § 1, 2005)

1. Responsibility is property owner, lessees are not authorized to change art, must be implemented by owner only. (Hines-Medalia-Snowflake)

2. Again...inconsistent consequences.
### 23.60.120 RETURN OF FEES.

(a) Fees paid to the Art in Public Places Fund which are not committed within ten years from the date of payment may be returned to the then current owner of the development project, with all interest actually earned thereon, if a written request for return is filed with the City Clerk during the tenth year after payment, and refund of fees is approved by the City Council. The request for return shall be verified, and include the date of payment, the amount paid and method of payment, the location of the development for which the fee was paid, and a statement that the applicant is the payor of the fees or the current owner of the development project.

1. 10 years is a long time, if there are substantial funds not being spent, but is there a legal requisite? State law? It's in-lieu, not impact, so AB1600 not applicable. Other?
2. Clarifying that "committed" does not mean expended? So, committed could mean that the City is gathering funds to go to a large project?
3. Somewhat cumbersome to request funds, developer needs to track the expenditures of the program...all highly unlikely.

(b) The City Council shall determine if return of the then uncommitted portion of the fees and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the City Council determines any one of the following applies:

1. Lots of leeway in decision findings. Highly unlikely.
2. Moneys were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date;
3. Administrative costs of refunding uncommitted fees pursuant to this chapter exceeds the amount to be refunded; provided, notice of public hearing on this issue has been published and posted on the site of the development project in not less than three places. (Ord. 2005-13, § 1, 2005).

### 23.60.130 ANNUAL REVIEW.

Each year upon receipt of the annual plan referenced in section 23.60.100(a), the City Council will conduct an annual review of the Art in Public Places Program. (Ord. 2005-13, § 1, 2005).

1. As noted, there’s the annual plan. This refers to an annual review. The annual plan already is defined as reporting out activities done as well as planned...what is this separate review needed for? This program is...so far...not really significant enough to have to do both.
2. the plan is given, the council looks at it...do we really need two different sections for this?

### 23.60.140 SEVERABILITY.

Each section and provision of this chapter shall be considered severable and the invalidity of any section or provision of this chapter shall not affect the validity or enforceability of any other section or provision. (Ord. 2005-13, § 1, 2005).

standard language