

AGENDA

REGULAR MEETING – WEDNESDAY, MAY 11, 2022
VIRTUAL MEETING WITH NO PHYSICAL MEETING LOCATION
6:00 P.M.

During this declared State of Emergency, this meeting will be conducted in accordance with California Government Code Section 54953(e), as authorized by resolution of the City Council. Please contact city.clerk@mountainview.gov to obtain a copy of the applicable resolution. All members of the Visual Arts Committee will participate in the meeting by video conference, with no physical meeting location.

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to john.lang@mountainview.gov by 5:00 p.m. on the meeting date. Emails will be forwarded to the Visual Arts Committee and City staff. Please identify the Agenda Item number in the subject line of your email.
2. Provide oral public comments during the meeting.
 - **Online:** You may join the Zoom Webinar using this link: <https://mountainview.gov/meeting> and entering Webinar ID: 886 4698 0785. You may be asked to enter an email address and a name. Your email address will not be disclosed to the public.

When the Chair announces the item on which you wish to speak, click the “raise hand” feature in Zoom. Speakers will be notified of their turn shortly before they are called on to speak. For instructions on using the “raise hand” feature in Zoom, visit https://mountainview.gov/raise_hand.

- **By phone:** Dial: 669-900-9128 and enter Webinar ID: 886 4698 0785. When the Chair announces the item on which you wish to speak, dial *9. Phone participants will be called on by the last two digits of their phone number. When the Chair calls your name to provide public comment, if you are participating via phone, please press *6 to unmute yourself.

When called to speak, please limit your comments to the time allotted (up to three minutes, at the discretion of the Chair).

1. **CALL TO ORDER**

2. **ROLL CALL**—Committee members Cliff Bryant, Susi Merhar, Regina Sakols, Tootoo Thomson, Don Whitebread, Vice Chair Toni Hsu, and Chair Jesse Cupp.

3. **MINUTES APPROVAL**

Minutes for the April 6, 2022 meeting have been delivered to Committee members and copies posted on the City Hall bulletin board. If there are no corrections or additions, a motion is in order to approve these minutes.

4. **ORAL COMMUNICATIONS FROM THE PUBLIC**

This portion of the meeting is reserved for persons wishing to address the Committee on any matter not on the agenda. Speakers are limited to three minutes. State law prohibits the Committee from acting on nonagenda items.

5. **UPCOMING AGENDA TOPICS**

This portion of the agenda is reserved for identification of agenda items for future meetings.

6. **UNFINISHED BUSINESS**

6.1 **CIP PUBLIC ART PROJECT UPDATES**

Staff will provide updates on Pyramid Park (CIP Project 17-34), Mora Park (CIP Project 17-46), Rengstorff Park Aquatics Center (CIP Project 18-38), Fayette Park (CIP Project 20-48), and Rengstorff Park Maintenance and Tennis Buildings (CIP Project 21-48).

6.2 **PUBLIC ART STRATEGY-DONATION AND MAINTENANCE GUIDANCE**

Staff will provide an update on the Development of donation and maintenance principles and guidelines and seek additional feedback from the Committee on both guidelines.

7. **NEW BUSINESS**

7.1 **PERCENT FOR PUBLIC ART IN PRIVATE DEVELOPMENT**

Staff will introduce best practice research and ad-hoc committee feedback on a percent for public art in a private development policy. The Committee will have a

discussion and provide feedback to staff or further policy refinement and development.

7.2 REPORT OUT ON JOINT MEETING WITH THE DOWNTOWN COMMITTEE

Staff will provide a verbal update from the recent Joint Meeting with the Downtown Committee and seek Committee feedback and guidance on next steps.

8. COMMITTEE/STAFF COMMENTS, QUESTIONS, COMMITTEE REPORTS

No action will be taken on any questions raised by the Committee at this time.

9. ADJOURNMENT

JL/1/CDD

819-05-11-22A

AGENDAS FOR BOARDS, COMMISSIONS, AND COMMITTEES

- The specific location of each meeting is noted on the notice and agenda for each meeting which is posted at least 72 hours in advance of the meeting. Special meetings may be called as necessary by the Committee Chair and noticed at least 24 hours in advance of the meeting.
- Questions and comments regarding the agenda may be directed to the Community Development Department at 650-903-6306.
- **SPECIAL NOTICE—Reference: Americans with Disabilities Act, 1990**
Anyone who is planning to attend a meeting who is visually or hearing-impaired or has any disability that needs special assistance should call the Community Development Department at 650-903-6306 48 hours in advance of the meeting to arrange for assistance. Upon request by a person with a disability, agendas and writings distributed during the meeting that are public records will be made available in the appropriate alternative format.
- The Board, Commission, or Committee may take action on any matter noticed herein in any manner deemed appropriate by the Board, Commission, or Committee. Their consideration of the matters noticed herein is not limited by the recommendations indicated herein.
- **SPECIAL NOTICE**—Any writings or documents provided to a majority of the Visual Arts Committee regarding any item on this agenda will be made available for public inspection in the Community Development Department, located at 500 Castro Street, during normal business hours and at the meeting location noted on the agenda during the meeting.

ADDRESSING THE BOARD, COMMISSION, OR COMMITTEE

- Interested persons are entitled to speak on any item on the agenda and should make their interest known to the Chair.
- Anyone wishing to address the Board, Commission, or Committee on a nonagenda item may do so during the “Oral Communications” part of the agenda. Speakers are allowed to speak one time on any number of topics for up to three minutes.

MINUTES

REGULAR MEETING – WEDNESDAY, APRIL 6, 2022
VIDEO CONFERENCE WITH NO PHYSICAL MEETING LOCATION
6:00 P.M.

1. CALL TO ORDER

Vice Chair Toni Hsu called the meeting to order at 6:07 p.m.

2. ROLL CALL

Present: Committee members Cliff Bryant, Susi Merhar, Regina Sakols, Tootoo Thomson, Don Whitebread, Vice Chair Toni Hsu, and Chair Jesse Cupp.

Absent: None.

Staff Present: John Lang, Economic Vitality Manager; Tiffany Chew, Business Development Specialist; and Rey S. Rodriguez, Senior Project Manager.

3. MINUTES APPROVAL

The minutes of the March 9, 2022 meeting were distributed prior to the meeting and approved as presented.

Motion—M/S Whitebread/Bryant—Carried 7-0—Approve the March 9, 2022 meeting minutes as presented.

4. ORAL COMMUNICATIONS FROM THE PUBLIC

A member of the public asked that the Visual Arts Committee (VAC) consider or recommend that Public Art should be included as a component into roadway design and landscaping, especially in terms of complete street projects.

5. UPCOMING AGENDA TOPICS—None.

6. UNFINISHED BUSINESS

6.1 CIP PUBLIC ART PROJECT UPDATES

Staff noted no updates for Pyramid Park, Project 17-34, and Mora Park, Project 17-46; provided updates on Pyramid Park, Project 17-34, and Mora Park, Project 17-46; staff stated demolition should begin in a couple of months, and the artist is being onboarded for Rengstorff Park Aquatics Center (Project 18-38); staff is working on artist contracts for Fayette Park (Project 20-48); staff has coordinated with both artists to meet and discuss with the Senior and Youth Advisory Committees to seek input on overall mural concepts for Rengstorff Park Maintenance and Tennis Buildings (CIP Project 21-48).

6.2 PUBLIC ART STRATEGY

Staff presented different vision statements developed from Committee feedback on March 9, 2022. Members of the Committee provided information and responses to the three questions staff posed related to the development of a public art strategy vision statement:

1. Do any of the vision statements developed by staff resonate with the Committee for consideration and inclusion into the Public Art Strategy?
2. Are there alternative considerations for a vision statement?
3. Would the Committee prefer to refer the development of a vision statement to an ad hoc committee for further refinement and development?

The Committee discussed the presented vision statements and augmented one of the vision statements. The Committee collectively agreed upon the following Vision Statement for the Public Art Strategy: "The creation of diverse public art enriches Mountain View's innovative and creative culture, enhances the vibrancy of our community, supports local artists, and transforms Mountain View into an arts hub."

The Committee will review the Vision Statement again, at such time the Public Art Strategy is drafted, to ensure it is aligned with the complete document.

7. NEW BUSINESS

7.1 PUBLIC ART STRATEGY—DONATION AND MAINTENANCE POLICIES

Staff introduced to the Committee the reasoning behind developing an Art Donation Policy for the City of Mountain View. Staff explained a potential donation policy would complement the existing Council Policy K-6—Acceptance of Gifts.

Discussion questions the VAC addressed include:

1. Should there be a dollar threshold (value of art) for acceptance of donated art?
2. Should an endowment be required for future maintenance of an art piece as a condition of acceptance?
3. What site and placement criteria should be evaluated as part of acceptance of donated art?

Feedback from the Committee was a more appropriate criterion for acceptance of art and should be related to the relevance, context, meaning, and ability to enhance Mountain View versus a monetary threshold for consideration. Committee comments also included the status/fragility/durability of an art piece could be addressed through the site-specific location. The Committee suggested using the jurying process and setting standards or checklists to determine the acceptance or rejection of an art piece. Lastly, if art is to be donated to the City, the City should accept the responsibility for maintaining an art piece. The future financial responsibility of maintaining art pieces should not be the responsibility of the donating party.

Staff introduced to the Committee the reasoning behind developing an Art Maintenance Policy for the City of Mountain View.

Discussion questions the VAC addressed include:

1. Should the City hire a professional conservator to evaluate and audit the Public Art collection?
2. Should future Public Art RFPs include art maintenance plans or require limited maintenance for the life of the art piece?
3. Should future Public Art pieces require an estimate of the lifespan of the art piece?

Feedback from the Committee included ensuring the City has a better inventory/registry of all the art pieces and a conservator was not necessary. Other comments included knowing what maintenance may be needed up front from artists. Additional considerations can include art pieces that require exceptional maintenance versus regular maintenance for pieces.

7.2 PUBLIC ART DONATION INQUIRY

Staff introduced to the Committee an inquiry about a possible art piece donation. Artist Yeon Warner contacted the City of Mountain View about donating a 62x87x180 granite sculpture entitled “La Scappata” that he created. Staff sought feedback from the Committee on the suitability of the piece in Mountain View. Committee feedback to staff was to inquire with both the artist as well as other City staff about appropriate locations for the piece within Mountain View and bring it back to the Committee for consideration.

7.3 DEVELOP AN AD HOC COMMITTEE FOR WORK ON DEVELOPING A PUBLIC ART STRATEGY

Staff provided guidance from the City Clerk’s Office on the process for establishing an ad hoc committee.

Motion—M/S Cupp/Sakols—Carried 7-0—Approve the development of a time-limited ad hoc committee for work specific to developing a Public Art Strategy made up of Committee members Susi Merhar and Regina Sakols, and Chair Jesse Cupp.

7.4 PLANNING A JOINT MEETING WITH THE DOWNTOWN COMMITTEE

Staff provided an update on the time and date of the virtual Joint Special Meeting between the Visual Arts Committee and Downtown Committee. The meeting date is set for Wednesday, April 27, 2022, at 10:00 a.m. Topics for discussion include, murals, activating vacant storefront windows with art, art on other structures, and the Art Box Program.

8. COMMITTEE/STAFF COMMENTS, QUESTIONS, AND COMMITTEE REPORTS

Staff informed the Committee that the virtual meetings are currently allowed under Council resolution. It is envisioned this resolution will not be extended in the near future. The Committee will either be meeting in-person or virtually but will not be able to support a

hybrid meeting approach. Staff will keep the Committee abreast of any changes to meeting format once determined.

Committee member Bryant encouraged the Committee and public to visit Wyandotte Park to see the recent wood sculpture bench installation now that the wood has been treated. The treatment is resulting in a transformed look of the bench.

9. **ADJOURNMENT**

The meeting was adjourned at 8:25 p.m.

JL/4/CDD

819-04-06-22mn



MEMORANDUM

Community Development Department

DATE: May 11, 2022

TO: Visual Arts Committee

FROM: John Lang, Economic Vitality Manager

SUBJECT: **Public Art in Private Development Policy**

PURPOSE

Develop a framework for Public Art in Private Development Policy for inclusion into a Public Art Strategy. Potential key elements of a policy are outlined for consideration and discussion by the Visual Arts Committee.

BACKGROUND

The development of the City of Mountain View's Public Art Strategy (Public Art Strategy) looks to expand opportunities for public art within the community with specific strategies and actions, which make art more accessible and available within Mountain View. Over the past months, the Visual Arts Committee (VAC) has been discussing elements of the Strategy beginning with a vision statement, donation, and maintenance considerations. The next discussion item is key elements for the development of the Public Art in Private Development Policy.

ANALYSIS

A Public Art in Private Development Policy helps ensure public art is present and sustained through the community and requires certain private development projects to have a public art component. Currently, the City of Mountain View does not have a Public Art in Private Development Policy. In benchmarking other communities, this type of requirement is found in neighboring Santa Clara and San Mateo counties. Table 1 is a summary chart of cities with a public art in private development policy. Both Redwood City and San Mateo review and approve development projects similar to Mountain View. Staff has discussed with Redwood City and Los Altos City staff how their policies are implemented and working.

Table 1: City Comparisons

City*	Funding Structures	
Cupertino	1% of the first \$100 million construction valuation and 0.9% in excess of \$100 million.	1.25% in-lieu fee.
Los Altos	1% of construction costs.	1% in-lieu fee.
Los Gatos	1% of construction valuation.	In-lieu fee equivalent to public art cost.
Milpitas	0.5% of building development costs for nonresidential building developments over 2,000 square feet.	0.5% in-lieu fee.
Palo Alto	1% of construction valuation for first \$100 million and 0.9% in excess of \$100 million (valuation adjusted with CPI).	1% in-lieu fee.
Redwood City	1% of new commercial development over 50,000 square feet.	1% in-lieu fee. If developer does not spend all 1%, the remaining amount can go into the fee.
San Mateo	0.5% of building permit fee for commercial/multi-family projects over \$3 million construction valuation.	0.5% in-lieu fee.
Sunnyvale	2% of construction valuation. If developer does not spend entire 2%, remaining amount contributed to the public arts fund.	1.1% in-lieu fee.

*In Santa Clara County, Campbell, Gilroy, Morgan Hill, San Jose, and Saratoga do not have a requirement.

In addition, the VAC appointed three members to an ad hoc committee to create, refine, and research policy actions that could be incorporated into the Public Art Strategy. Attachment 1 is information from the ad hoc committee regarding art in private development policies.

Suggested Key Policy Elements

Based on the benchmarking and the information provided by the ad hoc committee, there are several suggested elements that the VAC should consider. Staff also had discussions with the

Planning and Building Inspection Divisions regarding integration of Public Art in Private Development Policy into the development review process.

- The intent of the Policy is to create public art opportunities without adding additional steps to the development review process.
- The Policy applies to new commercial development and multi-residential development only. Create an exemption list that includes affordable housing and nonprofit.
- Provide two options: (1) provide public art that is integrated within the private development project; or (2) provide an option to pay into an in-lieu fee.
 - Option 1: Develop guidelines to ensure the public art is in a location that is accessible to the public, and the developer is responsible for maintenance of the public art.
 - Option 2: Funds raised by the in-lieu fee will be placed into a public art fund. The VAC will discuss the funding opportunities and recommend implementation of the Public Art Strategy and/or Annual Work Plan.
- Funding structures range from 1% to 2% of construction valuation and 0.5% to 1.1% in-lieu fee. To align with neighboring cities, Mountain View could consider a 2% for construction valuation and 1% in-lieu fee.

NEXT STEPS

The VAC will discuss and provide input on the potential key elements. Staff will take feedback from the VAC to incorporate into the development of a Public Art in Private Development Policy. Staff will internally review the Policy so it aligns with other City policies and procedures and return to the VAC for consideration and recommendation.

JL/4/CDD

819-05-11-22M

Attachment: 1. Visual Arts Committee—Ad Hoc Committee Report: Private Development Policy Information

AD HOC COMMITTEE REPORT

PRIVATE DEVELOPMENT POLICY

INTRODUCTION

There is a growing effort among cities to leverage the private development permitting process to fund and provide art that is accessible to the public. California, perhaps unsurprisingly, has proven to be fertile ground for these programs, and many California cities adopted public art programs starting in the 1970s.

These programs, still in effect today, largely follow a similar template. As a condition of development, many cities require developers contribute to a public art fund or provide publicly accessible art within the development. The value of such a payment or installation is based on a percentage of total development costs. When art is provided as part of the development, cities generally exercise some control in reviewing the proposed art/artist. Public art under these programs must remain in place for a specified period, if not indefinitely (<https://www.tagalliances.com/other-areas-of-interest/6965-meeting-the-challenges-of-public-art-programs-in-private-development.html>).

RECOMMENDATIONS

- 2% art fee for all nonresidential private development, or 2% in-lieu fee paid into public art fund or provision of arts spaces within the development project (maybe 2% of total square footage, TBD).
- For market-rate or higher residential developments, the public art requirement should be 2% if the developer needs a discretionary legislative action, such as a rezoning or a General Plan Amendment. Affordable housing shall be exempted from the fee.
- Ask staff to research and return with options for imposing public art fees on code-compliant housing projects.
- Artwork must be approved by the Visual Arts Committee, and the Committee may make recommendations to alter proposals.
- Developers will have the choice between choosing from a prevetted stable of trusted, Visual Arts Committee-approved artists, or running a full call for artists through the standard Visual Arts Committee process.

- Art must be publicly accessible. The location of the artwork can be chosen by the Committee if the development is at a remote location or is otherwise inaccessible.
- Developers own the art and are responsible for its maintenance if it is on their property, unless/until property is redeveloped. In the event that the art is threatened by redevelopment, the VAC shall determine whether the City should accept ownership of the art. In some cases, the public art may be damaged or otherwise not worth keeping.

RESOURCES

Public Art Funding Chart: [Appendix A \(Pages 39, 40\) appendix.pdf](#): Valuable chart showing nearby cities' private development policies, as well as some nonlocal cities.

Arts and Planning Toolkit: [What is Percent for the Arts](#)

Sacramento's Arts, Culture, and Creative Economy Plan:

https://arts.cityofsacramento.org/-/media/CreativeEdge/Files/Cultural-Plan-Drafts/04721-SAC-Metro-Arts-LINOA_web.pdf?la=en

Pages 67-68: Art in Private Development: Encourage private developers to include public art and/or arts spaces in their developments through flexibility in zoning requirements and/or a menu of impact fees that allow developers to allocate their financial obligation to an arts component of their projects.

Public Art Master Plan: Develop a public art master plan to assess the history and successes of the City's Art in Public Places Program, to identify a new vision for public art, and to provide strategic guidance for its future development. Explore: (a) expansion of the application of the 2% requirement in public development to a broader range of public capital projects; (b) the possibility of a 2% art in public places requirement to include private development; and (c) the possibility of a dedicated municipal art gallery. Consider: (a) dedicating one-half of a private requirement to art within the development and one-half to a Citywide public art fund for use in other projects and places; and (b) allowing negotiation of a 2% private requirement to be satisfied with the provision of art spaces within the development project, in lieu of a work of public art. Determine appropriate staffing and administrative systems to support the public art program.

Sunnyvale: <https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=27513>

Pages 11, 15: The Art in Private Development program (AIPD) designates 1% of private development project funds to support artwork in the community. Developers can choose to incorporate art into their projects or contribute an in-lieu fee to the Public Art Fund to support City-managed art projects. As of February 2020, the AIPD program has completed 70 projects, with 84 separate artworks commissioned by private parties. The in-lieu fee option is available and, to date, has generated nearly \$500,000 for City-managed public art projects.

Private developers and business owners were also interested in the potential for partnerships in the public art program. They saw public art as a way of enhancing their projects, while providing a benefit to the community. They also acknowledged residents do not necessarily see or interact with the artworks installed in North Sunnyvale and were open to alternatives to on-site artwork, such as utilizing the in-lieu fee option so the City can commission art for residential neighborhoods and parks. Developers and business owners also expressed a desire for a better understanding of the in-lieu fee option.

Palo Alto Developer Brochure:

Guidelines for Private Developers:

https://www.cityofpaloalto.org/files/assets/public/community-services/public-art-program/pap-policies-and-docs/guidelines-for-private-developers_2018.pdf

WHAT ARE PALO ALTO'S REQUIREMENTS FOR PUBLIC ART IN PRIVATE DEVELOPMENT?

The Public Art in Private Development Ordinance, adopted by the City of Palo Alto in December 2013, establishes a requirement for art for all new commercial developments. This includes new construction, remodels, addition and reconstruction with a floor area of 10,000 square feet or more and construction valuation of \$200,000 or more; and all new residential projects of five or more units. The ordinance provides an option of commissioning artwork on the development site equal to the cost of 1% of the estimated construction valuation or paying the 1% to the Public Art Fund in-lieu of commissioning artwork.

HOW DO I PAY THE IN-LIEU CONTRIBUTION?

In lieu of an on-site project, a Developer may contribute 1% of the estimated Construction Valuation to the City's Public Art Fund. Developments with Art Budgets of \$60,000 or less are encouraged to pay the in-lieu contribution rather than commission artwork on-site.