



Agenda Report

MEETING DATE: Tuesday, March 8, 2022

TO: City Council

FROM: PARKS & COMMUNITY SERVICES DIRECTOR CALUBAQUIB
ADRIANA FLORES, SENIOR ADMINISTRATIVE ANALYST

SUBJECT: DISCUSSION AND RECOMMENDATION ON A PROPOSED
ORDINANCE THAT AMENDS THE WATSONVILLE MUNICIPAL
CODE RE ADDING TO CHAPTER 20 ENTITLED "PUBLIC ART
PROGRAM" TO TITLE 8

STATEMENT OF ISSUES:

Discussion and adoption of a new ordinance establishing a Public Art and Percent for the Arts program.

RECOMMENDED ACTION:

Staff recommends that the City Council adopt a new ordinance amending the Watsonville Municipal Code by adding to Chapter 20 Entitled "Public Art Program" to Title 8.

DISCUSSION:

According to Americans for the Arts, "Cities gain value through public art – cultural, social, and economic value. Public art is a distinguishing part of our public history and our evolving culture. It reflects and reveals our society, adds meaning to our cities and uniqueness to our communities. Public art humanizes the built environment and invigorates public spaces. It provides an intersection between past, present and future, between disciplines, and between ideas."

More specifically, in a report by Metris Arts Consulting, funded by the University of Florida, the authors argue that "Healthy, equitable communities are places that create the conditions for all people to reach their optimal well-being, such as access to safe neighborhoods, good jobs, homes, and schools. Healthy, equitable communities are places with strong social cohesion. Place-based arts and cultural strategies can uniquely contribute to the formation of social cohesion." In a time marked by social distancing and political polarization, efforts to build stronger social cohesion through the arts are more important than ever.

Background

The City of Watsonville has had a long history of recognizing the value of public art and the important role it plays in supporting a vibrant and culturally diverse community.

The City's Mural Policy was adopted by the City Council on March 23, 2004, by Resolution No. 66-04 to establish review criteria for murals visible to the public. Modifications to the Mural Policy were approved by the City Council on April 28, 2009, by Resolution No. 84- 09 to include language intended to promote the development of more murals as well as other artwork in the City.

In a joint meeting on August 10, 2010, the City Council and Redevelopment Agency approved Public Art Program Guidelines, which establish criteria for artwork, including murals, installed on exterior public spaces or private spaces visible from public property or rights of way. As part of the Guidelines, a Public Art Committee was established to develop an annual Public Art Plan and \$50,000 was appropriated from the Redevelopment Agency to support its execution. In 2011, the Committee recommended a Two-Year Public Art Plan for the City and on June 28, 2011, in a joint meeting, the City Council and Redevelopment Agency approved the plan by Resolution No. 123-11 (CM) and Resolution No. 22-11 (RA).

On February 1, 2012, the City of Watsonville Redevelopment Agency was dissolved pursuant to the Dissolution Act, Assembly Bill X1 26(ABX1 26) enacted on June 28, 2011. With the dissolution of the Redevelopment Agency, the funds appropriated for the Public Art Plan and the Public Art Committee were also dissolved.

In 2019, the Parks and Community Services Department was tasked with reviving the City's Public Art Program. This initiative was divided into two stages:

Phase	Funding Source	Location
Phase 1: Community Initiated Public Art Projects	Not City funded. Funding examples could include: <ul style="list-style-type: none"> • private investment • donations • grant funding 	<u>No Fee:</u> Public Spaces, City Buildings and Rights-of-Way <u>Fees Apply:</u> Privately owned commercial spaces visible from public spaces or rights of way
Phase 2: City Initiated Public Art Projects	Fully or Partially City Funded	Public Spaces, City Buildings and Rights-of-Way

Phase 1 involved creating a process for the approval of public art projects that are initiated by the community and not funded by the City of Watsonville. This phase was completed in 2019 and the Council adopted a processing fee for Public Art Applications involving art on privately owned commercial property that is visible from public spaces or rights of way during its meeting on October 22, 2019. The Parks and Recreation Commission was also tasked with approving applications for Community Initiated Public Art Projects.

Percent for the Arts

Phase 2 of the revival of the City's Public Art Program involves establishing guidelines for the City's procurement and implementation of public art, as well as the creation of a funding mechanism to support these efforts. For many years, specifically budgeted City funding for public art has been allocated on a per project basis.

In furtherance of creating a more intentional public art program, backed by funding to support implementation, City Staff has researched the implementation of a percent for art policy/ordinance in both private development and capital projects for Watsonville. City Staff have spent an extensive amount of time researching percent for art policies and public art programs. This research helped guide City Staff to draft the proposed Public Arts Program Ordinance.

In California alone, more than 48 cities have a percent for art policy for private development. Watsonville’s proposed Public Art Program Ordinance was drafted taking into consideration the following major trends (some of which have been incorporated into the draft Ordinance):

- Most of these cities have created public art programs in their percent of the art ordinances; rather than adopting a policy for the program separate from the ordinance.
- Almost all of them offer an in-lieu option paid to a Public Art Trust used for other Public Art program operational needs and specific artworks.
- In most cities, the developer retained the ownership and maintenance responsibilities for the artwork, and was required to go through an approval process led by a Public Art Commission, created by their public art program ordinances/policies.
- The overall trend was for the ownership of the artwork to remain with the property owner. If the property is sold, then the artwork is sold with the property and, in accordance with the Visual Artist Rights Act, an additional payment may be due to the artist.
- Most cities recommend that the developer hire an art consultant to guide the art selection and fabrication process or hire Public Art Program staff at a comparable rate.
- Many percent for art projects were triggered by a minimum construction cost of between \$200,000 and \$500,000.
- Some cities have exemptions for houses of worship, nonprofits, low income housing or hospitals. However, staff has been surprised by how few projects are given exemptions and some cities, such as Walnut Creek and Pasadena, offer no exemptions at all. Thus, many residential complexes of three units or more as well as nonprofits were included in the requirement.
- A majority of cities have a Public Art Master Plan to help guide art consultants in choosing artworks in keeping with the chosen priorities of that community as well as to help guide staff in the use of public art funds (Cultural Fund.)
- Most cities hold off on awarding the Certificate of Occupancy until the percent for art requirement has been fulfilled.
- Additionally, most cities require that the artwork be visible or accessible to the public at least 8 hours a day

The following is an inventory of existing Percent for the Arts programs adopted by nearby jurisdictions.

Jurisdiction	Program Details (% for arts)
Santa Cruz County	2% Cost of County funded Construction projects
City of Capitola	2% Total building valuation or 1% in lieu to City
City of Santa Cruz	2% of total eligible City construction costs
City of Salinas	.5% with a max of \$50,000 per project/ Annual Max \$100,000 aggregate

Parallel to conducting this research, staff has also worked closely with both the Watsonville artist community and developers to discuss these trends to draft the proposed ordinance. Parks and Community Services Staff held a stakeholder meeting on September 13, 2021 with local artists and developers for an initial review of the draft and to set the stage for a future Community Meeting. This stakeholder meeting was attended by 11 artists and developers.

Following the stakeholder meeting, a community meeting was held on September 30, 2021 to inform the public about these efforts and to solicit additional feedback. There were 25 community members in attendance.

Staff also reached out to a list of local developers with an invitation to meet with City staff to discuss the proposed ordinance and answer questions. Staff met with two developers.

Staff from the Arts Council of Santa Cruz County provided technical support and consultation for the planning and implementation of these engagement efforts.

Throughout these meetings, staff received generally positive feedback, with large support for the effort of developing sustainable funding for both visual and performing arts, with an emphasis on uplifting historically underrepresented voices in our community and increasing the presence and funding for art and forms created/led by underrepresented artists.

Watsonville's Public Art Program/Percent for Art Ordinance

Based on the above mentioned research and community engagement efforts, a Public Art Program ordinance was drafted that incorporates the following:

- The program policy for private development
- Requires payment by private developers prior to issuance of a building permit a fee equal to 0.25% of the total construction cost in-lieu of commissioning artwork in public places, with a maximum of \$75,000 per project;
- A requirement that private developers of projects commission original, site-specific artwork for the applicant's development project, with a valuation equal to or greater than the Watsonville Public Art Program allocation;
- Applies to all new residential development projects of five or more units (including affordable housing), and all commercial and industrial, development projects, with a building valuation of five hundred thousand dollars (\$500,000.00) or more and all remodels with a valuation of two hundred and fifty thousand dollars (\$250,000) or more;
- Establishes a restricted public art trust account that shall be the Watsonville Cultural Fund that may be used for the commission, acquisition and placement of public art throughout the City;
- Allows developers, for projects where the Watsonville Public Art Program allocation reached the maximum of \$75,000, to pay into the Cultural Fund, or commission original, site-specific artwork for the applicant's development project, donate artwork to the City or incorporate a Cultural Facility into the applicant's development project. Projects where the Watsonville Public Art Program allocation is less than \$75,000 would pay into the Cultural Fund.
- Provides for the creation of a Public Art Advisory Committee appointed by Commission and approved by City Council;

- Lays out the application and design review process for private developers required to commission artwork;
 - City Staff reviews the application and related submittals for completeness; then the Community Services Director shall prepare a report for the Public Art Advisory Committee and/or Parks and Recreation Commission, as may be required, recommending approval, denial or continuance for redesign.
- Decision by the Commission as to the application may be appealed to the City Council;
- Requires that ownership of the artwork is to remain with the property owner. If the property is sold, then the artwork is sold with the property;
The Parks and Community Services Department shall prepare a plan for the Public Art Program and update it annually through the budget process.

The Planning Commission held a Public Hearing on this item on March 1, 2022. Staff also presented this item to the Parks and Recreation Commission on March 7, 2022. The Planning Commission unanimously approved staff's recommendation. The Parks and Recreation Commission approved staff's recommendation with a fee of 1.5%.

Pending Council adoption of this ordinance, staff will hire a consulting firm to create a Public Arts Master Plan, developed through community input. This Master Plan will assist in determining community priorities and opportunities and provide direction for use of the Cultural Fund. This Master Plan will be presented to the Parks and Recreation Commission and City Council for review and approval. The Master Plan will then be used to develop an annual work plan and budget for the Cultural Fund for consideration by the Parks and Recreation Commission and the City Council.

STRATEGIC PLAN:

This recommendation is consistent with:

- #2 Fiscal Health – Sustainable Parks Funding
- #3 Infrastructure and Environment – Parks and Road Infrastructure
- #4 Economic Development
- #5 Community Engagement and Well-Being – Parks Accessibility, Services for Youth
- #6 Public Safety – Youth Development
- #7 Efficient & High Performing Government – Financial Management

FINANCIAL IMPACT:

The enactment of this ordinance and fee would create an ongoing and sustainable funding source to allow the City to budget for public art. A restricted public art account (Watsonville Cultural Fund) would be created for the purposes of:

1. The design, acquisition, purchase, commission, installation, placement, improvement, relocation, conservation, and insurance of artwork;
2. Preventative care, maintenance and utility charges related to the artwork;
3. Sponsoring or supporting the performing arts;
4. The acquisition and improvement of real property for the purpose of displaying artwork or conducting performing arts activities;
5. Other City-produced cultural or art education programs;
6. Structures which enable the display of artwork(s);
7. Preparation of site to receive artwork; and

8. Administrative fees/costs.

Future revenue generated from this fee, to be deposited into the Cultural Fund, is difficult to ascertain as revenue is dependent on development that occurs within the City. If this fee were in place during calendar year 2021, based on construction valuation of permitted projects, the total value of investment in the arts (payment to the Cultural Fund, art commissioned at development sites, etc.) would have been approximately \$416,500. Payments directly to the Cultural Fund from projects for which the Watsonville Public Art Program allocation would have been less than \$75,000 would have been approximately \$341,500.

ALTERNATIVE ACTION:

The Council could:

- Approve the Ordinance, but with a percentage fee other than 0.25%
- Approve the Ordinance with revisions
- Deny the Ordinance

ATTACHMENTS AND/OR REFERENCES (If any):

None.