



OROVILLE ARTS COMMISSION
Council Chambers, 1735 Montgomery Street
Oroville, CA 95965
SPECIAL MEETING
JULY 25, 2016
2:30 P.M.
AGENDA

*This meeting may be broadcast remotely via audio and/or video conference
at the following address:
Cota Cole, LLP, 2261 Lava Ridge Court, Roseville, California 95661*

ROLL CALL

Commissioners Britton, Tamori, Wilcox, Vice Chairperson Vandervort, Chairperson Conn

PLEDGE OF ALLEGIANCE

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

This is the time the Commission will invite anyone in the audience wishing to address the Commission on a matter that is on the agenda to state your name and the agenda item on which you wish to speak. When that item comes up on the agenda, you will be asked to step to the podium, repeat your name and give your address for the record, and make your presentation. Under Government Code Section 54954.3 the time allotted for presentations may be limited.

CONSENT CALENDAR

- 1. APPROVAL OF THE MINUTES OF THE JUNE 13, 2016 SPECIAL MEETING OF THE OROVILLE ARTS COMMISSION.**

Commission Action Requested: **Approve the minutes of the Oroville Arts Commission meeting date June 13, 2016 at 2:30 p.m..**

SPECIAL BUSINESS - None

- 2. REVIEW UPDATED DRAFT NOTICE OF FUNDS AVAILABLE FOR ART IN PUBLIC PLACES/OROVILLE BEAUTIFICATION – Staff Report**

The Commission may review and provide direction on the updated draft Notice of Funds Available for the Art in Public Places/Beautification funding under Ordinance No. 1798, Section II, Chapter 26, §26-10.135. **(Amy Bergstrand, Management Analyst III & Dawn Nevers, Assistant Planner)**

Commission Action Requested: **Provide direction as needed.**

REGULAR BUSINESS – None

ITEMS FOR THE NEXT MEETING

ADJOURNMENT

The meeting will be adjourned. The next regular meeting of the City of Oroville Arts Commission will be held on Monday, August 8, 2016 at 3:30 p.m.

Respectfully submitted by,

Amy Bergstrand
Management Analyst III
Business Assistance and Housing Development

***** NOTICE *****

If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact Donald Rust, Director for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting should telephone or otherwise contact Donald Rust, Director as soon as possible and preferably at least 24 hours prior to the meeting. Donald Rust, Director may be reached at 530-538-2433, or at e-mail rustdl@cityoforoville.org, or at the following address: City of Oroville Community Development Department, 1735 Montgomery Street, Oroville, CA 95965.



**OROVILLE ARTS COMMISSION SPECIAL MEETING MINUTES
JUNE 13, 2016 – 3:00 PM**

The Agenda for the June 13, 2016 special meeting of the Oroville Arts Commission was posted on the bulletin board at City Hall and on the City of Oroville's website located at www.cityoforoville.org on Friday, June 10, 2016, at 2:15 p.m.

The June 13, 2016 special meeting of the Oroville Arts Commission was called to order by Chairperson Conn at 2:35 p.m.

ROLL CALL

Present: Commissioner Tamori, Wilcox (arrived at 3:16 pm), Vice Chairperson Vandervort, Chairperson Conn

Absent: Commissioner Britton (excused)

Staff Present:

Don Rust, Community Development Director
Dawn Nevers, Assistant Planner

Amy Bergstrand, Management Analyst III
Luis Topete, Associate Planner

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chairperson Conn.

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS - None

PRESENTATIONS - None

CONSENT CALENDAR

A motion was made by Vice Chairperson Vandervort, seconded by Commissioner Tamori, to approve the following Consent Calendar:

- 1. APPROVAL OF THE MINUTES OF THE MAY 9, 2016 SPECIAL MEETING OF THE OROVILLE ARTS COMMISSION AND A THE MAY 9, 2016 SPECIAL JOINT MEETING OF THE ARTS COMMISSION AND PARK COMMISSION.**

The motion to approve the above Consent Calendar was passed by the following vote:

Ayes: Commissioners Tamori, Vice Chairperson Vandervort, Chairperson Conn
Noes: None
Abstain: None
Absent: Commissioner Britton, Wilcox

SPECIAL BUSINESS

2. REVIEW UPDATED DRAFT NOTICE OF FUNDS AVAILABLE FOR ART IN PUBLIC PLACES/OROVILLE BEAUTIFICATION – Staff Report

The Commission reviewed and provide direction on the updated draft Notice of Funds Available for the Art in Public Places/Beautification funding under Ordinance No. 1798, Section II, Chapter 26, §26-10.135. **(Amy Bergstrand, Management Analyst III & Dawn Nevers, Assistant Planner)**

Complete suggested revisions of the rough draft of the Art in Public Places/Beautification Notice of Funds Available and present final draft back at the next Arts Commission meeting.

ITEMS FOR FOLLOW-UP - None

DISCUSSION ITEMS - None

DIRECTOR'S REPORT - None

COMMISSIONERS' ANNOUNCEMENTS/REPORTS

Vice Chairperson Vandervort discussed and provided and update on the Art in Public Places brochure and suggested to incorporate Art in Public Places into the Kiosk idea proposed by the "Your Voice for the Arts" Committee.

Chairperson Conn provided a handout and announced the approval of the Butte County Board of Educations, Arts Education Proclamation. Additionally, planning and preparations were reported for the November 48 Hour Film Festival.

ANNOUNCEMENTS

The Arts Commission unanimously agreed to move the July 11, 2016 regular Arts Commission meeting to a Special Meeting to be held on July 25, 2016 at 2:30 p.m.

CORRESPONDENCE

- MEMO – Arts Commission related City Council Activity report – March 2016
- MEMO – Oroville Downtown Business Association activity

ITEMS FOR THE NEXT MEETING

- Review final draft of Art in Public Places/Beautification NOFA

ADJOURNMENT

The meeting was adjourned at 4:15 p.m. The next meeting of the City of Oroville Arts Commission will be a special meeting and will be held on Monday, July 25, 2016 at 2:30 p.m.

Amy Bergstrand, Management Analyst III
Business Assistance and Housing Development

Machelle Conn, Chairperson



Oroville Arts
Commission

**OROVILLE ARTS & DOWNTOWN
BEAUTIFICATION
REQUEST FOR PROPOSAL
(RFP)**

2016 GRANT GUIDELINES & APPLICATION



**CITY OF OROVILLE
OROVILLE ARTS COMMISSION**

MARCH 13, 2014

FUNDING PROVIDED BY

PUBLIC ART / OROVILLE BEAUTIFICATION REQUIREMENT
ORDINANCE NO. 1798, APPROVED BY CITY COUNCIL ON AUGUST 20, 2013

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CONTACT INFORMATION

City of Oroville
Community Development Department
Fund Administrator
1735 Montgomery Street
Oroville, Ca 95965

If you have any questions, please contact:

Dawn Nevers
Assistant Planner
Phone: (530) 538 - 2429
Email: dnevers@cityoforoville.org
Website: www.cityoforoville.org

The Oroville Arts Commission will hold a grant application workshop to explain the application process and program requirements.

The Recommended workshop will be held on:



THURSDAY, APRIL 3, 2014, FROM 1:00 P.M. UNTIL 3:00 P.M.
(ATTENDANCE FOR THE DURATION OF THE WORKSHOP IS REQUIRED)

City of Oroville, City Council Chambers
1735 Montgomery Street, Oroville, CA 95965

Please RSVP to: (530) 538-2429 or email at info@cityoforoville.org
NO LATER THAN: April 2, 2014

SEND COMPLETED APPLICATIONS BY
4:00 P.M. (PDT) THURSDAY, MAY 15, 2014
TO:

City of Oroville
Community Development Department
Fund Administrator
Attention: Dawn Nevers, Assistant Planner
1735 Montgomery Street
Oroville, Ca 95965

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2016 NOFA LEGAL ANNOUNCEMENT

I. REQUEST FOR PROPOSAL (RFP)

The Request for Proposal (RFP) is issued by the Oroville Arts Commission and the City of Oroville (City), acting to select a capable and qualified artist to help us meet the needs of our Oroville Beautification goals and community involvement plans.

II. INTENT OF THE DOWNTOWN OROVILLE BEAUTIFICATION PROJECT

The purpose is to expand the opportunities for citizens and visitors of the City of Oroville to experience public art and other projects resulting from the creative expression of its visual artists in public places throughout the City. The Public Art / Oroville Beautification Ordinance No. 1798, was established to direct the inclusion of works of art in new non-residential development projects and establishing a fund used solely for the creation, purchase, installation, security and maintenance of art in public spaces throughout the city.

III. GENERAL REQUIREMENTS

The ideal respondent will have knowledge of the Oroville community, history, and culture. The creator of public art shall be an artist, defined as a person who has a reputation among peers as a person of artistic excellence, through a record of exhibitions, public commissions, sale of works, or educational attainment as judged by the Arts Commission. Public art shall be displayed in a manner that will enhance its enjoyment by the general public.

All amounts collected from the in lieu fee shall be placed in said Beautification Fund and expended by the City Administrator or his/her designee solely for the costs associated with projects that result in the creation, purchase, installation, security or maintenance of art in public spaces that include but are not limited to paintings, mural decorations, inscriptions, stained glass, statues, reliefs or other sculptures, monuments, fountains, arches, or other structures intended for ornament or commemoration, carvings, frescoes, mosaics, or drawings. Furnishing or fixtures affixed to the building or its grounds, including architectural features of the building or landscaping that have been uniquely enhanced to be visually appealing, may qualify as art. Works of art will be permanent.

IV. SUBMITTAL REQUIREMENTS

The City of Oroville and the Oroville Arts Commission reserves the right to reject any and all proposals submitted, to request clarification of services submitted, to request

additional information from competitors, and to waive any irregularity in the proposal and review process. The applicant must submit the following information:

1. Project Application Submittal

Note: Project elements should be presented in a clear and consistent manner, throughout the application, including scope, timeline, and cost estimates.

The Grant Application is comprised of the following sections:

- A. Applicant Information
- B. Description of Project
- C. Project Cost Estimate (with cost breakdown by phase)
- D. Timeline to Complete the Project (by phases)
- E. Drawings/Renderings of Project to Scale (with incorporation of security device as necessary)
- F. Consistency with Arts Commission Goals
- G. Project Selection Criteria
- H. Applicant Acknowledgement and Signature

The complete application is in Appendix C, pages 11 – 16. A printable copy of the application is available at www.cityoforoville.org, Local Government, Boards, Committees, Commissions, etc., and Arts Commission for information and forms. If using additional pages to complete the application, please use the appropriate titles (on each page) as listed above.

2. Arts Commission Review of Applicant's Project (Screening Process)

The next step involves a technical review of the submitted application considering basic Project Submittal Requirements, Arts Commission Goals and Objectives, and a set of Screening Criteria. On the basis of these considerations, a decision would be made whether or not an application meets minimum requirements. If not, the application would be respectfully rejected. This Initial Screening Process will eliminate projects that lack merit given the seven following considerations:

- 1) Conceptual compatibility of the design with the immediate environment of the site;
- 2) Appropriateness of the design to the function of the site;

- 3) Compatibility of the design and location within a unified design character or historical character of the site;
- 4) Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
- 5) Preservation and integration of natural features with the project;
- 6) Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
- 7) Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community;

An applicant whose Project Concept application does not meet the Initial Screening Criteria has the right to appeal to the Arts Commission, based upon appeal procedures established by the Arts Commission. (see Appendix D, page 17)

3. Staff Assembly and Submittal of Proposed Projects

City of Oroville staff is available for direction to ensure applications are complete and ready for consideration. City of Oroville staff will assemble all project proposals together and prepare packages for the Arts Commission review.

4. Arts Commission Project Selection Process

The Arts Commission will individually be provided a copy of the application, and the Executive Summary one (30) days prior to the applications presentation at a Public Meeting. This provides time for the Arts Commissioners to review the request and formulate questions that they might have.

5. Timeline Following Arts Commission Screening Process

- a. The Arts Commission selects those applicants that fall within the scope of the project NOFA to move forward for final consideration.
 - i. 15 Day Appeal process begins.
- b. **No Appeals:** Final project application selection announced at the next regularly scheduled Arts Commission meeting (approximately 30 days).
 - i. **Appeal(s) Received:** Appeals will be heard and considered by the Arts Commission at the next regularly scheduled Arts Commission meeting (approximately 30 days). Final project selection will be announced at the

following regularly scheduled Arts Commission meeting (approximately 30 days).

- ii. Should an applicant not be satisfied with the Arts Commissions denial of their project application appeal, the applicant may request to be heard by the City Council.
- c. Project Application awarded.

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APPENDICES

Appendix A: Ordinance No. 1798 Public Art / Oroville Beautification

Appendix B: Accounting and Audit Requirements

Appendix C: Project Application Form

Appendix D: Appeal Process

Appendix A

ORDINANCE NO. 1798

PUBLIC ART / OROVILLE BEAUTIFICATION

NOTE: The City Council approved the attached Ordinance No. 1798 Public Art / Oroville Beautification on August 20, 2013.

(See attached Ordinance No. 1798)

Appendix B

ACCOUNTING AND AUDIT REQUIREMENTS GRANT ADMINISTRATION

A. ACCOUNTING REQUIREMENTS

The Grantee must maintain an accounting system that:

- Accurately reflects fiscal transactions, with the necessary controls and safeguards.
- Provides a good audit trail, including original source documents such as purchase orders, receipts, progress payments, invoices, time cards, canceled checks, etc.
- Provides accounting data so the total cost of each individual project can be readily determined.

B. RECORDS RETENTION

Project records must be retained for a period of three (3) years after final payment is made by the Fund Administrator. All project records must be retained by the Grantee at least one (1) year following an audit. Grantees are required to keep source documents for all expenditures related to each grant for at least three (3) years following project completion and one (1) year following an audit. A Project is considered complete upon receipt of final grant payment from the Fund Administrator.

C. PAYMENT OF GRANT FUNDS

Approved grants require a fully executed Grant Agreement between the Fund Administrator (City of Oroville) and the Grantee. The City of Oroville will provide reimbursement for costs of an approved Grant Agreement as stipulated. All payments are paid on a reimbursable basis. Grantee's will submit an invoice with appropriate proof of payment (canceled checks, etc.) The Fund Administrator will verify submittals. Once funds are received by the Fund Administrator the Grantee will be issued a check.

D. SITE VISITS

The Fund Administrator will make periodic visits to the Project site, including a final inspection of the site. The Fund Administrator will determine if the work is consistent with the approved Public Art / Downtown Beautification Project Scope and ensure compliance with signage requirements that identify the project as an Public Art / Beautification Grant.

E. LOSS OF FUNDING

The following are examples of actions (some or all may apply) that may result in the Grantee's loss of funding.

- Grantee fails to sign the Grant Contract within the thirty-day time period as specified in the Grant Contract.
- Grantee withdraws from the grant program.
- Grantee fails to complete the funded Project within the agreed upon time frame.
- Grantee fails to submit all documentation within the time periods specified in the Grant Agreement.
- Grantee is unable to acquire any required permits.
- Grantee changes Project Scope, without prior approval from the Arts Commission.

If loss of funding occurs the grantee must return any advanced funds, plus accrued interest (at the current saving rate offered by banks) to the City of Oroville.

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APPENDIX C: PROJECT APPLICATION FORM



**Oroville Arts Commission
2016 Project Application Form**

OROVILLE ARTS & DOWNTOWN BEAUTIFICATION

Estimated Project Cost: \$ _____

NOTE: Please complete all requested information. If the question is not applicable to your request enter N/A. If additional space is required, please attach additional pages using the format at the end of this application.

A. Applicant Information

1. Name of Applicant and Associated Entity (if any) Legal status

2. Contact Information

a. Mailing address:

b. Telephone, Voice Mail, E-mail Contact Information

B. Description of Project

(Briefly summarize the proposed art/beautification and the benefit if the grant is approved)

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C. Cost Estimate

(Provide a cost breakdown of the project by phase)

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D. Timeline to Complete Proposed Project

(Included phases to match cost breakdown phases)

E. Drawings / Renderings of proposed project

(Please draw to scale. Attach if necessary)

F. Consistency with Arts Commission Goals: (if not applicable to your request enter N/A)

Please indicate whether the request is consistent with any of the following Arts Commission Goals. **(Please mark all that apply)**

<input type="checkbox"/>	Provides opportunities for the artistic and cultural development of citizens of Oroville.
<input type="checkbox"/>	Facilitate the education of all citizens in the development of their creative skills and an appreciation for the arts
<input type="checkbox"/>	Support the development of artists and the access and exposure to the community.
<input type="checkbox"/>	Consider integrating artists and other design professionals into the planning, design, building, and development of Oroville in order to achieve the highest standards of design for the city.
<input type="checkbox"/>	Support diversity in the arts
<input type="checkbox"/>	Support a program of "Art in Public Places" as an important component in the revitalization into a thriving, pedestrian friendly downtown.
<input type="checkbox"/>	Promote and support the development of long term fiscal strategies to assist local arts organizations in maintaining their stature and contribution to the quality.

G. PROJECT SELECTION CRITERIA

- 1) Conceptual compatibility of the design with the immediate environment of the site;
- 2) Appropriateness of the design to the function of the site;
- 3) Compatibility of the design and location within a unified design character or historical character of the site;
- 4) Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
- 5) Preservation and integration of natural features with the project;
- 6) Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
- 7) Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community.

H. APPLICANT ACKNOWLEDGEMENT AND SIGNATURE

Authorized Signature Date

Name and Title (Please type or print)

**SEND COMPLETED APPLICATIONS BY
4:00 P.M. PDT, THURSDAY, MAY 15, 2014**

TO:

City of Oroville
Arts Commission
Fund Administrator
1735 Montgomery Street
Oroville, Ca 95965



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City of Oroville USE ONLY

Date Received: _____

How Received: _____

Has the applicant provided all information requested in the Preliminary Application?

___ Yes ___ No

Notes:

Record of follow-up:

Date: _____

Issue: Discussed: _____

Date: _____

Issue: Discussed: _____

COPY THIS PAGE TO INSERT ADDITIONAL INFORMATION THAT IS EXPANDED BEYOND THE SPACE PROVIDED.

HEADING: _____

Additional information from page # _____

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Appendix D

The 2016 NOFA Appeal Process

As part of the Oroville Arts & Downtown Beautification Program the Oroville Arts Commission established a standardized appeal process for applicants that do not meet the initial screening process. The 2016 NOFA Application combines the initial screening process and formal application into one process. The following details the approved 2016 Appeal Process:

A. Appeals to City Council.

1. If the applicant or any other person is dissatisfied with Arts Commission action, he or she may appeal, in writing, to the Executive Committee within 15 days after the action. If no appeal is filed, the Arts Commission's action shall be final.
2. Within 45 days of the filing of an appeal, the Executive Committee consider the action taken by the Arts Commission and the appeal of that action. The Executive Committee shall render its decision within 30 days of the public hearing, and it shall provide immediate verbal notice of this decision. The decision shall be final.

B. Form of Appeals. All appeals shall be submitted in a form established by the zoning administrator, accompanied by a fee established by resolution of the city council. (Ord. 1749 § 4; Ord. 1790 § 2)

Responses to denial letters must be sent, in writing, to:

**City of Oroville
Community Development Department
Fund Administrator
Attention: Dawn Nevers, Assistant Planner
1735 Montgomery Street
Oroville, CA 95965**

**CITY OF OROVILLE
ORDINANCE NO. 1798**

AN ORDINANCE OF THE OROVILLE CITY COUNCIL AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF OROVILLE BY ADDING SECTION 26-10.135 RELATING TO A PUBLIC ART / OROVILLE BEAUTIFICATION REQUIREMENT OR IN LIEU FEE EQUIVALENT FOR ALL NEW NON-RESIDENTIAL DEVELOPMENT PROJECTS

WHEREAS, the City of Oroville has determined that public art is a critical element of providing a diverse and culturally rich environment to residents and visitors to Oroville that promotes the general public welfare; and

WHEREAS, research has shown that the arts foster economic development, revitalizes urban areas and improves the overall business climate. Additionally, a well-conceived work of art can increase the value of a development project, help to lease space more quickly, enhance the corporate image of the community, promote cultural tourism and provide a visible and lasting contribution to the community in return for the ability to build; and

WHEREAS, in order to ensure that public art is present throughout the community it is necessary to require that all new non-residential development in the City of Oroville include an element of public art or, where appropriate, contribute to a City fund for public art, in an amount to be determined by the City Council, in lieu of providing said art; and

WHEREAS, the Planning Commission takes legislative notice of court cases holding that regulations imposing aesthetic requirements through zoning enactments are valid exercises of the police power and do not constitute impermissible takings merely because they may restrict uses or impose costs in conjunction with the development of property (see, e.g., Ehrlich v. City of Culver City, 12 Cal. 4th 854, 885-886; Metromedia Inc. v. San Diego (1980) 453 U.S. 490, 508 fn. 13; Penn Central Transp. Co. v. New York City (1978) 438 U.S. 104, 124; Agins v. Tiburon, (1980) 447 U.S. 255); and

WHEREAS, the requirement that applicants for development projects provide either public art or an in lieu equivalent is a legitimate and valid land use regulation that has been compared by the California courts as akin to traditional land use regulations imposing minimal setbacks, parking and lighting conditions, landscaping requirements and other design conditions; and

WHEREAS, the City Council hereby finds that the public art contribution is thus neither a "development fee" subject to the requirements of the California Mitigation Fee Act, California Government Code 66000 *et seq*, nor a development exaction subject to the heightened scrutiny of relevant rules set forth in Nollan v. California Coastal Commission 483 U.S. 825 (1987) and Dolan v. City of Tigard 512 U.S. 374 (1994), but rather, that the public art contribution is a zoning requirement that furthers aesthetic objectives under the authority of the City's general police power; and

WHEREAS, at their October 24, 2011 meeting, the Oroville Arts Commission discussed the establishment of an “Art in Public Places” program for the City of Oroville and recommended that the Oroville City Council, direct staff to establish an “Arts in Public Places” program, in conjunction with the Oroville Arts Commission, for the City of Oroville; and

WHEREAS, on January 17, 2012, the Oroville City Council directed staff to develop an Art in Public Places / Oroville Beautification ordinance through the coordination of the Arts Commission; and

WHEREAS, at their January 14, 2013 meeting, the Oroville Arts Commission discussed the need for maintenance and the issue of vandalism and theft of public art and directed staff to address both topics in the proposed Art in Public Places / Oroville Beautification ordinance; and

WHEREAS, at their July 8, 2013 meeting, the Oroville Arts Commission reviewed the draft version of the Art in Public Places / Oroville Beautification ordinance and forwarded a recommendation to the Oroville City Council to adopt the proposed ordinance; and

WHEREAS, pursuant to Section 26-56.090 of the Oroville Municipal Code, the Planning Commission shall hold a public hearing on any proposed amendment to the Zoning Code; and

WHEREAS, at their July 22, 2013 meeting, the Oroville Planning Commission reviewed the draft version of the Art in Public Places / Oroville Beautification ordinance and forwarded a recommendation to the Oroville City Council to adopt the proposed ordinance with their modifications included.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OROVILLE DO ORDAIN AS FOLLOWS:

SECTION I. Chapter 26, Section 26-10 of the Oroville Municipal Code shall be amended to include the following:

26-10.135 Art in Public Places / Oroville Beautification

SECTION II. Chapter 26 of the Oroville Municipal Code is hereby amended to include Section 26-10.135 as follows:

26-10.135 Art in Public Places / Oroville Beautification

A. Purpose

The purpose of this section is to expand the opportunities for citizens of the City of Oroville to experience public art and other projects resulting from the creative expression of its visual artists in public places throughout the City. A policy is hereby established to direct the inclusion of works of art in new non-residential development projects and establishing a fund used solely for the creation, purchase, installation, security and maintenance of art in public spaces throughout the City.

B. Applicability

This section shall apply to the estimated construction costs (labor and materials) of all new non-residential development projects.

C. Public Art Contribution

All new non-residential development projects subject to the requirements of this section shall install public art on the project site in a public place as approved by the City Council. The cost of the public art must be equal to at least one percent (1%) of the estimated construction costs. The creator of public art shall be an artist, defined as a person who has a reputation among peers as a person of artistic excellence, through a record of exhibitions, public commissions, sale of works, or educational attainment as judged by the Arts Commission. Public art shall be displayed in a manner that will enhance its enjoyment by the general public. The developer has the option to opt out of this requirement and instead pay the equivalent in lieu fee which shall be a one percent (1%) fee of the estimated construction costs.

D. Execution of Installation / Time of Payment

If the developer chooses to pay the in lieu fee, payment in full shall be required at the time all fees are due on any project processed through the City or upon completion of the project, whichever occurs first. The payment of all outstanding fees shall be required prior to the issuance of a Certificate of Occupancy.

For developers choosing to provide art as part of their project, the developer shall provide the City with proof of installation of the required public art on the development site prior to the issuance of a Certificate of Occupancy.

E. Beautification Fund

The City Administrator is hereby directed to create a special interest-bearing fund entitled Art in Public Places / Oroville Beautification Fund (Beautification Fund) or other appropriate accounting mechanism. The City Administrator or his/her designee shall administer the Beautification Fund.

F. Use of Funds

All amounts collected from the in lieu fee shall be placed in said Beautification Fund and expended by the City Administrator or his/her designee solely for the costs associated with projects that result in the creation, purchase, installation, security or maintenance of art in public spaces that include but are not limited to paintings, mural decorations, inscriptions, stained glass, statues, reliefs or other sculptures, monuments, fountains, arches, or other structures intended for ornament or commemoration, carvings, frescoes, mosaics, or drawings. Furnishing or fixtures affixed to the building or its grounds, including architectural features of the building or landscaping that have been uniquely enhanced to be visually appealing, may qualify as art. Works of art may be temporary as well as permanent.

G. Ownership & Maintenance of Art

Title to all public art required by and installed pursuant to this section on private property shall be vested in the owner and pass to the successive owners of the development project. Each successive owner shall be responsible for the custody, protection and maintenance of such works of art. Public art installed on public property is owned by the City of Oroville and maintenance, removal or protection is the responsibility of the City.

For any works of art installed on private property, the owner(s) of the property shall be required to enter into a written agreement for the maintenance of the artwork. The agreement shall be in a form approved by the City Attorney and Zoning Administrator and suitable for recordation with the Butte County recorder. The agreement shall be binding upon the property owner(s) and any successors in interest.

H. Review Process / Standards

The developer shall submit a narrative proposal and artistic rendering of the public art in satisfaction of the requirements imposed by this section, including any additional information, plans or maps prescribed by the Director of Planning and Development Services at the time of submission of their development application, or indicate an intention to pay the in lieu fees. The proposal for the public art shall be considered as an element of the design review.

The approval of all public art to be created, purchased, installed, secured and maintained under this section shall require a review of the City of Oroville Arts Commission which shall make a recommendation to the City Council for final approval or denial. The decision of the City Council shall be final. Review of all proposed artwork shall be considered based on the following criteria:

1. Conceptual compatibility of the design with the immediate environment of the site;
2. Appropriateness of the design to the function of the site;
3. Compatibility of the design and location within a unified design character or historical character of the site;
4. Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
5. Preservation and integration of natural features with the project;
6. Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
7. Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community;

I. Removal of Public Art

If, for any reason, the current owner or successor in interest shall choose to replace any public art installed pursuant to this section, the following requirements shall be met before the art is replaced:

1. The replacement of public art must go through the review process established above, unless the replacement will be identical to the existing art work and in the same location.
2. The cost of the replacement shall be equal to, or greater than, the initial cost of the existing public art to be removed adjusted for time.
3. The location of the replacement public art shall meet the requirement for public visibility in effect at the time of the replacement.
4. The replacement of public art shall conform, in every respect, to all standards in effect at the time of the replacement.
5. The replacement public art, location and installation shall violate no other ordinance.
6. The replacement public art shall be installed within 180 days of the removal of the existing public art piece, unless the period is extended by the Director of Planning and Development Services.
7. The owner may choose to pay an in lieu fee equivalent to the cost of the replacement of the existing public art.

J. Annual Report

The City Administrator or his/her designee shall annually prepare and present a report to the Oroville City Council indicating the amount of revenues accumulated in the Beautification Fund and the expenditures made by the City in the preceding fiscal year.

K. Authority for Additional Mitigation

Fees collected pursuant to this section do not replace existing development fees or other charges or limit requirements or conditions to provide additional mitigation of impacts imposed upon development projects as part of the normal development review process.

L. WAIVER

The City Administrator may request that the City Council exclude certain capital improvement projects from the provisions of this ordinance by the passage of a resolution authorizing such a waiver.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on August 20, 2013, by the following vote:

AYES: Council Members Andoe, Pittman, Vice Mayor Wilcox, Mayor Dahlmeier

NOES: Council Members Berry, Bunker, Simpson

ABSTAIN: None

ABSENT: None



Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:



Scott E. Huber, City Attorney

ATTEST:



Donald Rust, Acting Interim City Clerk