

City of Brisbane

Agenda Report

To: Public Art Subcommittee

From: Administrative Services Director

Subject: Develop a Method for Funding of Public Art

Date: January 13, 2014

Purpose:

Develop a method to ensure public art is an integral component of the community enhancing Brisbane's quality of life and reputation as an art oriented City.

Recommendation:

Review the attached draft Public Art Ordinance and direct staff to bring it before the Planning Commission.

Background:

During the Parks and Recreation Commission's discussion of the Sierra Point Guidelines and the public plaza the issue of a signature piece of art was discussed. Based on this a Commissioner requested the Commission pursue the idea of creating an on-going funding source for public art on Sierra Point, the Baylands, or for other larger scale projects.

At the Parks and Recreation Commission's September 19, 2012 the Commission created a Public Art Funding subcommittee. The subcommittee reviewed a chart created by a former Community Development Director which showed what other cities have done in this regard. The subcommittee also discussed other local communities which have created funding sources for public art. In addition, the subcommittee reviewed questions which they thought would be important for an ordinance related to funding for public art should answer.

On November 5, 2012 the City Council directed the Parks and Recreation Commission to draft an Ordinance which would implement being able to either have public art as part of new development or to have developers pay an in-lieu fee.

The Commission's subcommittee reviewed a number of ordinances throughout the State and worked with staff and the City Attorney to create the attached draft Ordinance.

Discussion:

The subcommittee and Commission's draft ordinance have a few main features. First, it sets limits as to how much would be required to be set aside for public art.

Commercial Projects above \$1,000,000 in value – 1% of Building Development Costs

Residential Projects – 10-20 units 0.5%
20 or more units or above \$10,000,000 in value 1%

Public Projects above \$500,000 0.5%. In the case of public projects there are exemptions for park and landscape renovation projects; pipelines, power transmission lines and towers, switchyards and substations, dwellings in watershed areas;

Commercial projects above \$5,000,000 in value can acquire and install public art on their site instead of paying an in-lieu fee. Private residential development above \$10,000,000 can acquire and install public art on their site instead of paying in-lieu fees.

The Public Art Funding Subcommittee of the Parks and Recreation Commission is also required to create Implementation Guidelines for the Art in Public Places Program which would be approved by City Council. Adopting the guidelines through this method will allow the program to have greater flexibility depending on the needs of individual pieces of art or developments than if all of the guidelines were included in the current ordinance. The Commission thought that over time the needs of the community may change and how public art is created, viewed, and used may also change. Instead of tying the community to how public art is currently thought of it wanted to give the Council the most flexibility possible.

There were five basic points which will be included in the Implementation Guidelines these are:

1. The selection process for public art
2. How the Public Art Fund will work as well as the purpose of expenditures from the fund
3. Conditions for removing, re-siting, and replacing public art
4. Process for waiving provisions of this ordinance
5. Requirements for demonstrating compliance with provisions of the ordinance

Once the Planning Commission has reviewed the Ordinance and Council has approved it, the Parks and Recreation Commission would like to work with the community to develop the Implementation Guidelines.

The next step in the process is to bring the draft ordinance to the Planning Commission for their review and recommendation.

Fiscal Impact:

There is no cost for the adoption of the Public Arts Ordinance. Some public projects may end up costing more depending on how public art is incorporated within the design.

Attachments:

Draft Public Art Ordinance.

Nearby Cities with Funding for Public Art Ordinances

San Mateo
South San Francisco
San Francisco
Emeryville
Berkeley
Napa

Chapter 15.85 - ART IN PUBLIC PLACES PROGRAM

15.85.010 - Title.

This chapter shall be known as the city's "art in public places program" and may be so cited.

(Ord. No. 588, § 1, 10-2-14)

15.85.020 - Purpose.

The purpose of the city's art in public places program is to promote the visual arts by requiring the inclusion of a public artwork component in certain new public and private development projects in Brisbane. The city council recognizes that public art has the power to energize our public spaces, arouse our thinking, and transform the places where we live, work, and play into more welcoming and beautiful environments that invite interaction. By its presence alone, public art can heighten our awareness, question our assumptions, transform a landscape, or express community values, and for these reasons it can have the power, over time, to transform a city's image. Public art helps define a community's identity and reveal the unique character of a specific neighborhood.

(Ord. No. 588, § 1, 10-2-14)

15.85.030 - Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. "Brisbane public art fund" means the fund described in Section 15.85.040.
- B. "Building development costs" means construction costs, including grading and landscaping costs, for new private developments that do not include costs for hazardous materials abatement, land use planning consultants, feasibility studies, environmental review, land acquisition, legal fees, architecture/engineering, construction management, geotechnical surveys, historical surveys, and demolition. For public developments, "building development costs" means public construction costs that do not include costs for park and landscape renovation projects; pipelines, power transmission lines and towers, switchyards and substations, dwellings in watershed areas; mechanical, plumbing and electrical system upgrades; seismic or structural upgrades; modifications for disabled access, unless occurring in conjunction with a new building construction. "Building development costs" for public developments shall include costs for bridges and overpasses, but shall not include costs for other transportation improvement projects.
- C. "Implementation guidelines" means the guidelines for implementation of this chapter to

be developed by the public art subcommittee.

- D. "In-lieu contribution" means a cash contribution equivalent to the percentage of building development costs required herein.
- E. "Public art subcommittee" means a broadly representative subcommittee appointed by the parks and recreation commission.

(Ord. No. 588, § 1, 10-2-14)

15.85.040 - Brisbane public art fund.

- A. The city manager shall establish a Brisbane public art fund to receive in-lieu contributions, donations, and other funds contributed in support of the art in public places program. Unspent monies in the Brisbane public art fund shall be carried over to the next fiscal year, unless prohibited by the source of the funds, or applicable laws or regulations.
- B. The Brisbane public art fund may be used to acquire, place, and maintain public art on public or private property throughout the city, as described in the implementation guidelines.

(Ord. No. 588, § 1, 10-2-14)

15.85.050 - Contribution requirements.

A. Private Developments.

1: Commercial Projects.

- a. Private nonresidential and non-live-work building developments with building development costs from one million dollars (\$1,000,000.00) through five million dollars (\$5,000,000.00) shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. This section shall apply to both new projects and building alterations/additions.
- b. Private nonresidential and non-live-work building developments with building development costs above five million dollars (\$5,000,000.00) shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. Alternatively, at the discretion of the owner or developer, such projects may devote in an amount equal to at least one percent of their building development costs for the acquisition and installation of publicly accessible art on the development site, subject to the provisions of Section 15.85.060. This section shall apply to both new projects and building alterations/additions.

2. Residential Projects.

- a. Single and multiple family residential and live-work developments with ten (10)

through twenty (20) units shall contribute in an amount equal to at least one-half percent of their building development costs into the Brisbane public art fund as an in-lieu contribution.

- b. Single and multiple family residential and live-work developments with more than twenty (20) units shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution.
 - c. Single and multiple family residential and live-work developments with building development costs above ten million dollars (\$10,000,000.00), regardless of the number of units, shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. Alternatively, at the discretion of the owner or developer, such projects may devote in an amount equal to at least one percent of their building development costs for the acquisition and installation of publicly accessible art on the development site, subject to the provisions of Section 15.85.060.
 - d. Private residential and live-work building developments designated as low or moderate income housing shall be exempt from the requirements of this chapter.
3. Compliance with the provisions of Section 15.85.050(A) shall be demonstrated by the owner or developer prior to the issuance of a building permit as follows: (a) payment of the full amount of the in-lieu contribution; or (b) written proof to the building department of a contractual agreement to commission or purchase and to install the requested artwork on the development site. The owner or developer shall provide the city with proof of installation of the requested artwork on the development site before issuance of the certificate of occupancy, unless the city has approved some other method of assuring compliance with the provisions of this chapter.
4. An in-lieu contribution shall not necessarily change the characterization of the project as a private development.
- B. Public Developments. Building developments by the city with building development costs above five hundred thousand dollars (\$500,000.00) shall devote in an amount equal to at least one-half percent of their building development costs for the acquisition and installation of publicly accessible art on the development site or for contribution into the Brisbane public art fund as an in-lieu contribution.

(Ord. No. 588, § 1, 10-2-14)

15.85.060 - Implementation guidelines.

The public art subcommittee shall create implementation guidelines for the art in public places program, which shall be approved by the city council. These implementation guidelines shall include, among other things, provisions regarding:

- A. The selection and location of public art pieces;
- B. Contributions into, expenditures from, and maintenance of the Brisbane public art fund;
- C. The conditions for removing, re-siting, or replacing public art;
- D. The installation of project-specific publicly accessible art in lieu of contribution to the Brisbane public art fund;
- E. The process and specifications for waiving the provisions in this chapter; and
- F. Requirements for demonstrating compliance with provisions of this chapter.

(Ord. No. 588, § 1, 10-2-14)

15.85.070 - Violations of chapter.

In addition to other fines or penalties provided by state or municipal law, the city may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this chapter.

(Ord. No. 588, § 1, 10-2-14)