

**CARSON CITY CULTURAL COMMISSION
STAFF REPORT**

MEETING DATE: June 19, 2012

AGENDA ITEM NUMBER: 3A

APPLICANT: Vern L. Krahn, Park Planner
Roger Moellendorf, Parks and Recreation Director

REQUEST: **For Possible Action:** to make recommendations to the Board of Supervisors regarding policies and procedures and an ordinance related to incorporation of public art in public projects, buildings, and other locations in Carson City.

GENERAL DISCUSSION: Using the City of Elko's Public Art Ordinance as a model, Parks and Recreation Department staff has identified a number of potential changes to make Elko's ordinance language specific to Carson City (Exhibit A). Staff would like to review these potential changes with the Commission at this meeting, discuss other possible additions to the ordinance, and get approval to move ahead with the creation of a draft ordinance for the Commission to discuss at their next meeting.

In developing a Carson City Public Art Program Ordinance based on the City of Elko's Ordinance, the Commission needs to have a discussion on a number of issues and assist staff in answering the following questions:

- 1) Non-enterprise Fund Capital Project vs. General Fund Capital Project ???
- 2) Remove Redevelopment Agency ???
- 3) 1% vs 2% vs 3% ???
- 4) New projects / Remove renovation projects ???
- 5) Requiring private developers in a City supported project to provide 1% of the project to the Public Art Trust Fund ???
- 6) Private Donations eligible for 1% ???

In addition, staff would like to discuss a public outreach effort to solicit public comment on the proposed ordinance before going to the Board of Supervisors for their approval.

RECOMMENDED ACTION: I move to make recommendations to the Board of Supervisors regarding policies and procedures and an ordinance related to incorporation of public art in public projects, buildings, and other locations in Carson City.

Agenda Item # II-A

Elko City Council Agenda Action Sheet

1. Title: **First reading of Ordinance No. 711, an Ordinance adding Title 8, Chapter 19 to the Elko City Code entitled "Public Art Program", and matters related thereto.**
ACTION ITEM
2. Meeting Date: **January 12, 2010**
3. Agenda Category: (Please highlight)
*PERSONNEL UNFINISHED BUSINESS NEW BUSINESS SUBDIVISIONS APPROPRIATIONS
REPORTS PUBLIC HEARINGS RESOLUTIONS AND ORDINANCES SPECIAL PRESENTATION
PETITIONS, APPEALS, AND COMMUNICATIONS*
4. Time Required: **30 Minutes**
5. Background Information: **On September 22, 2009, the City Council directed Staff to draft a Public Art Program ordinance for review and consideration. A copy of the proposed ordinance has been included in the agenda packet for review. CC**
6. Budget Information:
Appropriation Required: **1% of public works construction projects over \$100,000**
Budget amount available: **Unknown**
Fund name: **General Fund, Capital Construction Fund, Facility Fund**
7. Business Impact Statement: Required / Not Required
(If Business Impact Statement is required, please attach)
8. Supplemental Agenda Information: **Copy of draft Ordinance No. 711**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review: **Arts & Culture Advisory Board; City Attorney**
12. Council Action: (to be completed by City Clerk)
13. Agenda Distribution: **Catherine Wines, Chairwoman
Arts & Culture Advisory Board
catherine@r6studio.com
exhibits@museumelko.org**

**CITY OF ELKO
ORDINANCE NO. 711**

**AN ORDINANCE ADDING TITLE 8, CHAPTER 19 TO THE ELKO CITY
CODE ENTITLED "PUBLIC ART PROGRAM" AND MATTERS RELATED
THERE TO.**

WHEREAS, the City has considered a request and desires to create a 1% for public art program.

THE CITY COUNCIL OF THE CITY OF ELKO DOES ORDAIN AS FOLLOWS:

SECTION 1: Title 8, Chapter 19 is added to read as follows:

8-19-1: TITLE:

This chapter shall be known and cited as the *PUBLIC ART PROGRAM*.

8-19-2: PURPOSE

The purpose of this chapter is to establish a public art program and to provide for the funding, selection, creation, and maintenance of public art within the City of Elko.

8-19-3: POLICY

Appropriations for eligible public works construction projects shall, from the effective date of this chapter, include an amount equal to one (1) percent (%) of the total eligible project costs, to be used for artist design services and for the selection, acquisition, display, maintenance, and/or performance of public artworks.

8-19-4: DEFINITIONS

For the purposes of this chapter, certain words, terms and phrases are defined as follows:

ARTIST: Any practitioner of the arts, including but not limited to architecture, sculpture, painting, music, literature, drama, and/or dance, generally recognized by critics and peers as a professional in the field as evidenced by his/her education, experience, exhibition record and artwork production.

ARTWORK: Refers to works in a variety of media produced by professional artists; works may be permanent, temporary or functional, may be stand-alone or integrated with the architecture or landscaping, if such are designed by an artist as defined above, and should encompass the broadest range of expression, media and materials.

ARTS AND CULTURE ADVISORY BOARD: The City of Elko Arts and Culture Advisory Board established on January 22, 2008 that makes recommendations to the City Manager and City Council.

CAPITAL IMPROVEMENT PROGRAM: The City's program for capital development.

ELIGIBLE PUBLIC WORKS CONSTRUCTION PROJECT: Any non-enterprise fund capital project over \$100,000, paid for wholly or in part by legally eligible City or Redevelopment Agency funds for the construction or renovation of any building, park, street, streetscape or road

beautification, bridge, transit facility, trail or bikeway, parking facility, above-grade utility, or any portion thereof, to which the public has access or which is visible from a public right-of-way. Renovation includes any major redesign of a facility or system, or portion thereof, which is included in eligible public works construction projects, including expansion or upgrading the capacity of the facility or system, enlarging the facility or creating a new use for the facility. It does not include repairs, maintenance or installation of replacement mechanical equipment or modifications required solely for the purposes of compliance with state or federal laws.

ELIGIBLE PROJECT COSTS: The total project appropriation, less real property acquisition, demolition, environmental remediation, legal and accounting fees and interest costs. It shall also exclude funding from any outside source, if such funds are not permitted to be used for works of art.

PUBLIC ART COLLECTION: The works of art donated or sold in whole or in part to the City as a result of this ordinance. For example, an artist may donate or sell to the City the right to non-exclusive use of the art while reserving the copyright to the art.

PUBLIC ART TRUST FUND: A separate account into which all monies generated under this ordinance or derived from gifts or donations for public art shall be deposited.

PUBLIC PLACE: An area on public property that is accessible and visible to the general public.

8-19-5: CREATION OF PUBLIC ART TRUST FUND

Any monies collected in accordance with this chapter shall be deposited into a separate account by the Director of Administrative Services. The Director of Administrative Services shall establish accounting records sufficient to identify and control these funds in accordance with the provisions of this chapter. The account containing these funds shall earn interest and the earned interest shall be used for and subject to the same restrictions established by this section. The Public Art Trust Fund shall be authorized to accept gifts, grants and donations made to the City for works of art. The Public Art Trust Fund shall be self-perpetuating from year to year, unless specifically terminated by the City Council.

8-19-6: FUNDING

During the adoption of the City's annual capital improvement budget, the City Council shall identify all eligible public works construction projects and budget one (1) percent (%) of the estimated eligible project costs. Upon final acceptance of the eligible public works construction project(s), an amount equal to one (1) percent (%) of the completed contract cost shall be deposited in the Public Art Trust Fund. Appropriations for purposes of acquiring works of art in order to carry out the provisions of this chapter shall be made in accordance with the Nevada Revised Statutes, City policy, and established budgeting procedures.

8-19-7: ELIGIBLE EXPENSES

Eligible expenses for the public art program are limited to the following categories:

- A. The artwork itself, including but not limited to:
 1. Artist design fees;
 2. Additional labor and materials required for the production and installation of artwork;
 3. Artist's operating costs;

- 4. Travel related to the project;
- 5. Transportation of the artwork to the site and installation; and
- 6. Applicable permit or certificate fees.
- B. Identification plaques and labels.
- C. Frames, mats, mountings, anchorages, containments, pedestals, or materials necessary for the installation, location, or security of the artwork.
- D. Photographs of completed artworks.
- E. Communication and other indirect cost, including insurance deductibles.
- F. Expenses for special advisors or consultants.
- G. Historical artifacts displaced by construction.
- H. Public art management and maintenance.

8-19-8: PUBLIC ART SELECTION CRITERIA

- A. Each proposed project will be evaluated by the Arts and Culture Advisory Board as to artistic excellence, appropriateness in terms of scale, material, and content relative to the immediate and general architectural, social, and historic context; and long-term durability against vandalism, weather, theft, and excessive maintenance. A recommendation shall be provided by the Arts and Culture Advisory Board to the City Council for consideration and possible approval.
- B. Artists will be selected on the basis of their qualifications as demonstrated by past work, appropriateness of the proposal to the particular project, and its probability of successful completion as determined by the Arts and Culture Advisory Board and approved by the City Council.
- C. Upon advice from the Arts and Culture Advisory Board, the City Council shall make the final selection of artists and artworks, selecting those artists and artworks of the highest aesthetic quality, and those which fulfill the purposes of the public art program.
- D. In all cases, consideration will be given to materials, construction, durability, maintenance, public access, and safety.

8-19-9: PUBLIC ART SELECTION PROCESS

Selections of artworks will be made by one of the following methods:

- A. Open Competition: Site and program advertised; proposals accepted from all artists; no proposal fee is paid to artist unless otherwise stipulated.
- B. Limited/Invitational Competition: One or more artists are invited to submit proposals; no proposal fee is paid to artists unless otherwise stipulated.
- C. Direct Purchase: A completed artwork is purchased, in accordance with the City Purchasing Policy and/or Nevada Revised Statutes.

8-19-10: OTHER AGENCIES

- A. If the City or Redevelopment Agency enters into an agreement with another public agency, whereby City or Redevelopment Agency funds are transferred to such agency for the purpose of performing a capital improvement project which would otherwise be deemed an eligible construction project under this chapter, such agreement shall provide — whenever it is lawful — that the recipient or its successor in interest shall take appropriate measures to insure that one (1) percent (%) of said funding is deposited in the Public Art Trust Fund.
- B. If the City or Redevelopment Agency enters into an agreement with a private developer for a

capital improvement project which would otherwise be deemed an eligible construction project under this chapter, wherein the City or Redevelopment Agency provide financing, loan guarantees, tax abatement, land or other significant in-kind support, the private developer shall deposit an amount equal to one (1) percent (%) of the total project cost in the Public Art Trust Fund.

SECTION 2: All ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

SECTION 3: If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability or unconstitutionality of such section, paragraph, clause or provision shall not affect any remaining provisions of this Ordinance.

SECTION 4: That adoption, the City Clerk of the City of Elko is hereby directed to have this Ordinance published, by title only, together with the Councilmen voting for or against its passage, in the Elko Daily Free Press newspaper, a newspaper printed and published in the City of Elko, for at least one publication.

SECTION 5: This Ordinance shall be effective upon the publication mentioned in Section 4.

PASSED AND ADOPTED this _____ day of _____ 2010, by the following vote of the Elko City Council.

AYES :

NAYS:

ABSENT:

ABSTAIN:

APPROVED this _____ day of _____ 2010.

CITY OF ELKO

By: _____
MICHAEL FRANZOIA, Mayor

ATTEST:

SHANELL OWEN, City Clerk