



CITY OF SOUTH PASADENA

1414 Mission Street • South Pasadena, California 91030
Tel. (626) 403-7210 • Facsimile (626) 403-7211

AGENDA

Public Art Commission

Wednesday, April 24, 2019 at 6:30 pm
City Council Chambers

1414 Mission Street, South Pasadena, CA 91030

Commissioners: Betty Avila, Jeffrey Burke, Jaz Sawyer, Howard Spector, and Steven Wong

City Council Liaison: Mayor Marina Khubesrian, M.D.

1. Call to Order
2. Public Comments (Items not on the Agenda)
3. Commissioner Comments
4. Council Liaison Comments
5. Staff Comments
6. Discussion Items:
 - A. Election of Chair and Vice-Chair
 - B. Brown Act Training
 - C. Public Art Commission Purview and Work Plan
7. Agenda Input
8. Adjournment

STATE OF CALIFORNIA, CITY OF SOUTH PASADENA, COUNTY OF LOS ANGELES

I declare under penalty of perjury that I posted this agenda on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena as required by State Law.

Date: April 18, 2019

Signature 
Margaret Lin



Public Art Commission Agenda Report

DATE: April 24, 2019

FROM: Margaret Lin, Manager of Long Range Planning and Economic Development

SUBJECT: Purview Review and 2019 Public Art Commission Work Plan

Recommendation

It is recommended that the Commission:

1. Discuss the Public Art Commission purview; and
2. Approve the 2019 Public Art Commission Work Plan.

Discussion/Analysis

Per the City Council's direction each Commission will review their purview and develop a subsequent work plan for the year. The work plan will help manage limited staff resources and the tasks or processes necessary to achieve those goals for the commission.

Background

On October 17, 2018, the City Council approved Ordinance No. 2326 to create the Public Art Commission. The Public Art Commission is responsible for the review and approval of public art projects associated with the Public Art Program, including but not limited to, proposed site-specific public art, art donations, and public art developed with the funds from the Public Art Development Fee.

On October 17, 2018, the City Council also approved Ordinance No. 2325 to establish a Public Art Development Fee Program. The Development Fee would provide one percent (1%) of the total building valuation towards public art on-site or one and a half percent (1.5%) of the total building valuation to the public art development fee in lieu of providing public art on-site:

- Residential developments of four or more units with a building valuation exceeding \$500,000 as determined by the Building Official; and
- Commercial and industrial building projects with a building valuation exceeding \$500,000 as determined by the Building Official; and
- Remodeling projects of existing commercial or industrial buildings, when the remodeling has a building valuation exceeding \$250,000 as determined by the Building Official; and
- Remodeling projects of residential buildings of four or more units or complexes of four or more units, whether exterior or interior, when the remodeling has a building valuation exceeding \$250,000 as determined by the Building Official.

Developments or modifications to affordable housing, performance arts facilities, museums, private non-profit and institutional uses, interior remodel or tenant improvements, and national disaster repairs or rebuilding required by code will be exempt from this provision.

Projects that are subject to the Public Art Development Fee will be required to allocate a percentage of the total building valuation towards the following:

- One percent (1%) for on-site installation of approved site-specific public artwork, cultural, or artistic facilities equal to or exceeding the value of the contribution amount; or
- One and a half percent (1.5%) for payment in cash of the development fee to a new Public Art Fund.

Projects to be funded from the Public Art Fund shall consist of artwork placed in public places or incorporated into public buildings, art education programs, art display programs or performances, or the allocation of space such as a civic gallery or theater space. All projects subject to the Public Art Development Fee shall be reviewed and approved by the Public Art Commission following the design review for the associated development or redevelopment project.

Public Notification of Agenda Item

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

Attachments:

1. Public Art Commission Ordinance
2. Public Art Development Fee Program Ordinance
3. 2019 Public Art Commission Work Plan

ORDINANCE NO. 2326**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA
ADDING A NEW ARTICLE IVL (PUBLIC ART COMMISSION)
OF THE SOUTH PASADENA MUNICIPAL CODE**

SECTION 1. A new and renumbered Article IVL (Public Art Commission Commission) Sections 2.79-1 through 2.79- 5 is added to Chapter 2 (Administration) to read as follows:

"ARTICLE IVL. PUBLIC ART COMMISSION**2.79-1 Creation.**

There is hereby created a five member public art commission.

2.79-2 Responsibilities.

It shall be the responsibility of the public art commission:

- (a) To act in an advisory capacity to the city council in all matters pertaining to public art or art in public places;
- (b) To review and approve proposed public art projects associated with the City's Civic Center Art Gallery, Public Art Program, and Public Art Development Fee; and
- (c) To provide policy recommendations on public art projects and programs as directed by the city manager or the city council, including but not limited to artwork placed in public places or incorporated into public buildings, art education programs, or art display programs or performances.

2.79-3 Limitations.

The public art commission may discharge its responsibilities in the manner and means selected by it, except as follows:

- (a) Unless expressly authorized to do so by the city council, it shall not represent itself to be, nor in any way act for or on behalf of the city council, nor shall it commit the officers, employees or staff of the city in any manner to any course of action; to the contrary, it shall act as a study center and clearinghouse for advisory action to the city council; and
- (b) It shall not encroach upon any area preempted by state or federal law; and
- (c) It shall forward all of its findings and recommendations to the city manager and the city council prior to public release.

2.79-4 Composition of members.

- (a) All members shall have an expressed interest in and knowledge of public art projects, methods, and procedures.

2.79-5 Meetings.

The public art commission shall hold up to one regular meeting each month on an as needed basis. The chair may call for a special meeting if needed with concurrence of the commission."


SECTION 2. SEVERABILITY. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 3. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Section 15378(b)(5) as an agency organizational or administrative activity that produces no physical changes to the environment.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code Section 36937.

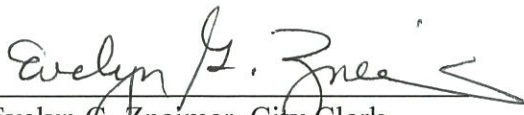
SECTION 5. This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 17th day of October, 2018.


Richard Schneider, M.D., Mayor

ATTEST:

APPROVED AS TO FORM:


Evelyn G. Zneimer, City Clerk
(seal)


Teresa L. Highsmith, City Attorney

Date: 10/17/2018


I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 17th day of October, 2018, by the following vote:

AYES: Cacciotti, Joe, Khubesrian, Mahmud, and Mayor Schneider

NOES: None

ABSENT: None

ABSTAINED: None



Evelyn G. Zneimer, City Clerk
(seal)

ORDINANCE NO. 2325

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,
ADDING DIVISION 36.390 (“PUBLIC ART PROGRAM”) AND
CHAPTER 36.395 (“PUBLIC ART DEVELOPMENT”) TO
ARTICLE III OF CHAPTER 36 OF THE SOUTH PASADENA
MUNICIPAL CODE REGARDING THE ESTABLISHMENT OF A
PUBLIC ART PROGRAM AND CORRESPONDING ART
DEVELOPMENT**

WHEREAS, the South Pasadena City Council (City Council) recognizes that public art and cultural resources can enhance the quality of life for individuals that live, work, and play within the City of South Pasadena (City); and

WHEREAS, City-owned facilities provide an opportunity to engage the public with art and provide public art opportunities; and

WHEREAS, the City Council wishes to demonstrate their commitment towards creativity and innovation by providing opportunities and support for public art; and

WHEREAS, the creation of a Public Art Program will enhance the general welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new Division 36.390 (“Public Art Program”) is added to Article III (Site Planning and General Development Standards”) of Chapter 36 (“Zoning”) of the South Pasadena Municipal Code to read as follows:

Division 36.390 Public Art Program

- 36.390.010 Purpose.**
- 36.390.020 Definitions.**
- 36.390.030 Public Art Work at City-owned Facilities.**
- 36.390.040 Establishment of Public Art Program Fund.**
- 36.390.050 Use of Funds.**
- 36.390.060 Artwork Review Process.**
- 36.390.070 Ownership of Art.**

36.390.010 Purpose.

The purpose of the Public Art Program is to promote cultural experiences, increase economic development, and enhance the general welfare and quality of

life in the community. The Public Art Program will achieve this purpose through the exhibition of high quality artwork and the creation of programs that promote art to the general public.

36.390.020 Definitions.

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. "Artwork" means an original creation of physical art by an artist; and includes but is not limited to a fountain, mobile, mosaic, mural, painting, sculpture, or tapestry. Artwork may be realized through mediums including but not limited to bronze, ceramic tile, concrete, stained glass, steel, or wood. An artwork shall not include objects that are mass-produced with a standard design; signage; or landscape gardening.
- B. "Building Valuation" means the value computed by the Building Official using the latest Building Valuation Data as set forth by the International Conference of Building Officials.
- C. "Development Project" means a new residential development of four or more units, a new commercial and industrial building project with a Building Valuation exceeding \$500,000 as determined by the Building Official, any remodeling project of an existing commercial or industrial building, and any residential building of four or more units or complex of four or more units when the non-exempt portion of the remodeling project has a Building Valuation exceeding \$250,000 as determined by the Building Official.
- D. "Public Art Development Fee" means a fee paid to the City's Public Art Fund by a development project applicant in an amount equal to one and a half percent of the total Building Valuation for the project excluding land acquisition off-site improvement expenses, interior improvements, parking facilities, and public facilities.
- E. "Public Art" means any artwork installed on private property in a publicly accessible location as established by the Public Art Program or artwork displayed on City-owned facilities.
- F. "Publicly Accessible" means located on an area open to the general public and clearly visible from an adjacent public property such as a sidewalk or street.

36.390.030 Public Artwork at City-owned Facilities.

City-owned facilities that are publicly accessible during regular business hours or are visible from the public right of way are eligible for the display of public artwork. Any art proposed to be donated or installed in or on City-owned facilities will be reviewed by the Public Art Commission.

36.390.040 Establishment of a Public Art Program Fund.

The City’s Finance Director shall establish a depository hereunder for the Public Art Development Fee within a designated Public Art Fund specifically for said fees to account for any fees for the Public Art Program paid pursuant to this Chapter. The Public Art Fund shall be accounted for separately and shall not be used for general governmental purposes. The Public Art Fund shall be maintained by the City Finance Director, and shall be allocated as follows:

- A. Eighty percent (80%) solely for project costs including fees for design, acquisition, commissioning, placement, installation, exhibition, improvement, maintenance, and insurance of public artwork.
- B. Twenty percent (20%) for administrative costs including project administration, staff time, artist-selection, design, drawing, maquette, community education, insurance, maintenance, curatorial services, identifying plaques, documentation, and publicity.

36.390.050 Use of Funds.

Projects to be funded from the designated Public Art Fund shall consist of artwork placed in public places or incorporated into public buildings, art education programs, public art display programs or performances, or the allocation of space such as a civic gallery or theater space as recommended by the Public Art Commission and approved or accepted by the City Council.

36.390.060 Artwork Review Process.

The Public Art Commission, as appointed by the City Council, shall review procedures for the selection of locations of public art displays, art to be purchased or commissioned for display, review and approval of proposed public art work, and for the selection of public performers on behalf of the City’s Public Art Program.

36.390.070 Ownership of Art.

All artwork purchased or created from the Public Art Fund shall become the property of the City upon acceptance by the City Council.

SECTION 2. A new Division 36.395 (“Public Art Development”) is added to Article III (Site Planning and General Development Standards”) of Chapter 36 (“Zoning”) of the South Pasadena Municipal Code to read as follows:

Division 36.395 Public Art Development

- 36.395.010 Percentage for Public Art for Development Projects.**
- 36.395.020 Exempt Projects.**
- 36.395.030 Allocation.**
- 36.395.040 Satisfaction of Requirement.**

- 36.395.050 Public Art Consultant**
- 36.395.060 Public Art Concept Approval Process.**
- 36.395.070 Public Art Final Approval Process.**
- 36.395.080 Ownership and Maintenance Plan of On-Site Public Art.**
- 36.395.090 Removal or Alteration of Public Artwork on Private Property.**

36.395.010 Percentage for Public Art for Development Projects.

Every new residential development of four or more units and every new commercial and industrial building project with a Building Valuation exceeding \$500,000 will be required to provide public artwork or dedicate funds to support public art. The Public Art Program shall also apply to any remodeling project of existing commercial or industrial buildings and any residential building of four or more units or complex of four or more units, when the remodeling has a Building Valuation exceeding \$250,000.

36.395.020 Exempt Developments.

The following developments or modifications, alterations, and additions to the developments are exempt from this chapter: affordable housing, performing arts facilities, museums, private non-profit and institutional uses, interior remodel or tenant improvements, seismic reinforcement, and rebuilding necessitated by a natural disaster.

36.395.030 Allocation.

The valuation of the percentage for Public Art development, as provided for in Section 36.395.010 above, shall be based on a percentage of the building cost in an amount equal to one percent (1%) or more of the total Building Valuation for the project if the project is being built on-site and one and a half (1.5%) if the developer will be paying the public art development fee in lieu of providing public art on-site, excluding land acquisition off-site improvement expenses, interior improvements, parking facilities, and public facilities.

36.395.040 Satisfaction of Requirement.

Development projects subject to the Public Art Program may satisfy the requirement through:

- a) Installation of approved site-specific public artwork, cultural, or artistic facilities equal to or exceeding the value of the contribution amount; or
- b) Payment in lieu of the one and a half percent development fee to a new Public Art Fund
 - i. Payment of the public art development fee will be collected in two installments; 1) fifty-percent (50%) of the total public art development fee shall be collected prior to issuing the building

permits and 2) fifty-percent (50%) of the total public art development fee shall be collected prior to final inspection or issuing the certificate of occupancy.

- c) No final approval, such as final inspection or a certificate of occupancy, for any development project subject to this chapter shall be granted or issued unless and until full compliance with the Public Art Program is achieved.
- d) The applicant must certify that any artwork donated or purchased is free and clear of all liens, claims, encumbrances, and restrictions. The applicant must also certify that no portion of the artwork has been exported from its country of origin in violation of laws of that country in effect at the time of export, nor imported into the United States in violation of United States laws and treaties at the time of import. The applicant must represent and warrant that no tax laws, laws of inheritance, or other laws or regulations applicable to the artwork have been broken. The applicant agrees to indemnify, defend, and hold harmless the City from and against any and all claims, damages, loss, and expenses relating to the break or alleged break of any of the applicant's obligations, representations, or warranties herein, and relating to the claims of third parties or challenging the title to the artwork or any intellectual rights or copyright for the artwork transferred and conveyed to the City.

36.395.050 Public Art Consultant.

For public art projects developed on site, the developer must contract the services of a professional art consultant experienced in working with municipal art programs for any public art project valued at more than \$25,000 (if not paid in lieu).

36.395.060 Public Art Concept Approval Process.

For public art projects developed on site, prior to the associated entitlement review for a development project an application for public art concept review shall be submitted to the Public Art Commission and shall include:

- a) Completed Public Art Application; and
- b) Preliminary sketches, photographs, or other documentation to provide sufficient clarity of the nature of the proposed artwork; and
- c) Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development, and its compatibility with the proposed development, including compatibility with the character of the adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and

- d) A narrative statement to be submitted to demonstrate that the artwork will be displayed in an area open and freely available to the general public; and
- e) A maintenance plan describing the required maintenance and costs to preserve the artwork in good condition.

The Public Art Commission's concept review shall be provided to the entitlement review body(ies) for consideration during the approval process.

36.395.070 Public Art Final Approval Process.

For public art projects developed on site, following the entitlement approval process for a development project, an application for final public art approval shall be submitted to the Public Art Commission and shall include:

- a) Completed Public Art Application; and
- b) Finalized sketches, photographs, or other documentation to provide sufficient clarity of the nature of the proposed artwork; and
- c) An appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs; and
- d) Written agreement executed by or on behalf of the artist who created or is creating the artwork which expressly waives their rights under the California Art Preservation Act or other applicable laws; and
- e) Finalized plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development, and its compatibility with the proposed development, including compatibility with the character of the adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and
- f) A narrative statement to be submitted to demonstrate that the artwork will be displayed in an area open and freely available to the general public at least ten hours each day, or otherwise are publicly accessible in an equivalent manner based on the characteristics of the artwork or its placement on the site; and
- g) A maintenance plan describing the required maintenance and costs to preserve the artwork in good condition.

Completed applications shall be submitted to staff for the Public Art Commission's review and approval. Building permits shall not be issued until final approval has been granted by the Public Art Commission.

36.395.080 Ownership and Maintenance Cost of On-Site Public Art.

Any artwork associated with the Public Art Program that is included on site for an applicant's project shall remain on the property of the applicant; the obligation to provide all maintenance to preserve the artwork in good condition will remain with the owner of the site. Maintenance of artwork shall include without

limitation, preservation of the artwork in good condition, protection of the artwork against physical defacement, mutilation or alteration, and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the City Attorney. Prior to placement of an approved artwork, the applicant and owner of the site shall execute and record a covenant in a form approved by the City for maintenance of the artwork. Failure to properly maintain the artwork is hereby declared a public nuisance. In addition to all remedies provided by law, in the event the real property owner fails to maintain the artwork, upon reasonable notice, the City may perform necessary repairs, maintenance or secure insurance, and the costs therefore shall become a lien against the real property.


36.395.090 Removal or Alteration of Public Artwork on Private Property Public artwork installed on private property to satisfy the Public Art Development requirement shall not be removed or altered without the prior approval of the City Council. In addition to any other applicable penalty, violation of this section may render the property owner liable for payment of the one and a half percent development fee to the Public Art Fund and may result in revocation of the occupancy permit issued for the subject development project. Prior to any imposition of the one percent development fee to the Public Art Fund or occupancy permit revocation pursuant to this section, the City shall afford the property owner notice and an opportunity for a hearing.

SECTION 3. SEVERABILITY. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Section 15378(b)(5) as an agency organizational or administrative activity that produces no physical changes to the environment.

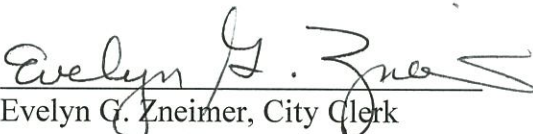
SECTION 5. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its final passage, and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED ON this 17th day of October, 2018.


Richard D. Schneider, M.D., Mayor

ATTEST:

APPROVED AS TO FORM:


Evelyn G. Zneimer, City Clerk
(seal)


Teresa L. Highsmith, City Attorney

Date: 10/17/2018

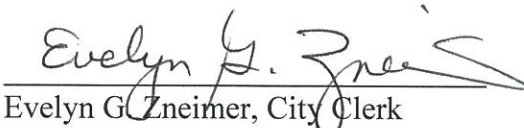
I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 17th day of October, 2018, by the following vote:

AYES: Cacciotti, Joe, Khubesrian, Mahmud, and Mayor Schneider

NOES: None

ABSENT: None

ABSTAINED: None


Evelyn G. Zneimer, City Clerk
(seal)

2019 Public Art Commission Work Plan

Public Art Commission purview includes:

- To act in an advisory capacity to the City Council in all matters pertaining to public art or art in public places
- To review and approve proposed public art projects associated with the City's Civic Center Art Gallery, Public Art Program, and Public Art Development Fee
- To provide policy recommendations on public art projects and programs as directed by the City Manager or the City Council, including but not limited to, artwork placed in public places or incorporated into public buildings, art education programs, or art display programs or performances.

April

- Brown Act Training
- Election of Chair and Vice-Chair
- Review of Public Art Commission Ordinance/Work Plan/Public Art Development Fee Ordinance

May

- Public Art Review Criteria

June

- Artists/Organizations/Events/Programs – Inventory

July

- Artists/Organizations/Events/Programs – Gaps

August

-

September

- Artists/Organizations/Events/Programs – Proposals

October

-

November

-

December

-