



MEMORANDUM

TO: City Council

FROM: Brian Pedrotti, Community Development Director

BY: Shayna Gropen, Assistant Planner

SUBJECT: Consider a Resolution Accepting a Donation of Time and Materials for the Second Phase of Painting of Utility Boxes Citywide and Waiving Encroachment Permit Fees; Staff Project 23-007; Applicant – Shirley Horacek, Arroyo Grande Public Art

DATE: October 24, 2023

SUMMARY OF ACTION:

Receive public comment and consider a Resolution accepting a donation of time and materials, and waiving encroachment permit fees of \$720, for the second phase of utility box public art proposed by Arroyo Grande Public Art.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

Staff time will be necessary in order to attend future meetings of the Arroyo Grande Public Art Committee. Staff time will likely be required on an individual basis to implement safety measures during painting, as well as processing a “small” encroachment permit for each utility box painting. It is recommended that City Council waive encroachment permit fees of \$180 for each of the four utility box locations for a total of \$720, as proposed in the attached Resolution. All time and materials necessary for the preparation and painting of the utility boxes will be donated by the applicant, valued at approximately \$5,000. The City will be responsible for ongoing maintenance costs.

RECOMMENDATION:

1) Receive public comment; 2) Adopt a Resolution accepting the donation of time and materials and waiving encroachment permit fees in the amount of \$720; and 3) Determine that this project is categorically exempt based upon section 15301(e) of the CEQA Guidelines regarding existing facilities. This exemption is applied to additions to existing structures provided that the addition will not result in an increase of square footage. The proposed project is for painting an existing structure and will not result in an increase in square footage.

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BACKGROUND:

The City Council approved staff recommendations for an Art in Public Places Program and Process in 2002. These recommendations were prepared in a collaborative effort with the San Luis Obispo County Arts Council, leading to the approval of an Art Donation Program by City Council in 2006.

Arroyo Grande Public Art (AGPA) was established in 2013 as a subcommittee within Arroyo Grande In Bloom (AGIB), a nonprofit organization. The Arroyo Grande Public Art Guidelines (Guidelines) were amended in 2021 to limit the purview of the Guidelines to only include projects located on property that is not zoned residential. Other changes that were made to the Guidelines at this time include changes to the City's advisory bodies that provide consultation to the Council regarding public art projects. The consulting body that makes recommendations to the City Council was changed from the San Luis Obispo County Arts Council (SLOCAC) to AGPA. Finally, the Guidelines established a seven (7) member Public Art Panel to review proposed art projects. The adopted Guidelines are included as Attachment 2.

Approved public art projects installed to date include two Chumash art pieces at 126 Mason and 127 Short Street, the painting of the Strother Park basketball court, and the first phase of utility box paintings which led to the painting of four (4) utility boxes in the City.

ANALYSIS OF ISSUES:

The Public Art Guidelines apply to City-owned property, and approvals of art on public property is discussed in greater detail below. Under AGMC 16.04.070, murals are works of art "applied directly to a wall" and the proposed artwork will only be applied to utility boxes. The Public Art Guidelines apply to City-owned property, and approvals of art on public property is discussed in greater detail below:

Review Process Under Public Art Guidelines

The Guidelines specify that projects shall be considered by City Council with community input gathered from a public hearing, with ultimate approval given by the Arroyo Grande Public Art Panel. The panel selection for this project includes the following members:

- Two representatives from the property owner: Bill Robeson and Sheridan Bohlken
- Two representatives from AGPA: Shirley Horacek and Kathryn Phelan
- One representative from the Architectural Review Committee: Kristen Juetta
- One representative from the Chamber of Commerce: Kassi Dee
- One representative from the South County Historical Society: Vivian Krug

The Guidelines apply to public art projects proposed on either non-residentially zoned public property or by a private owner in the adjacent public right of way. The Guidelines

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and criteria are also applicable to public art projects on City property. When the City approves art on City property, it approves that art as its own speech, government speech. Once approved, such artwork becomes the property and expression of the government. Donations for Public Art are required to be considered and approved by the City Council.

The following criteria are used in the selection of public art:

1. Relationship to the social, cultural and historical identity of the area. If the public art is proposed to be located in the Village Core Downtown or Village Mixed Use Districts, the art piece shall be representative or evocative of the turn of the century historical period;
2. Evaluation of artistic excellence;
3. Appropriateness of scale, form, material, content and design relative to the immediate and general neighborhood;
4. Relationship to the social, cultural and historical identity of the area;
5. Appropriateness of proposed materials as regards to structural and surface integrity, protection against vandalism, public safety and weathering;
6. Ease of maintenance;
7. Appropriateness of proposed method of installation of artwork and safety and structural factors involved in installation; and
8. Artist's experience in working on comparable projects.

The City Council viewed these findings as part of their acceptance of the donation for time and materials for the first phase of utility boxes in October 2022, and so they have been included for consideration for this second phase for consistency with the City Council's past action on the first phase. Following the public hearing and Council's acceptance of the donation, the project will be forwarded for review and approval by the Public Art Panel to make the necessary findings contained within the City's existing Public Art Guidelines.

Arroyo Grande Public Art & Staff Advisory Committee

A total of four (4) designs were selected for presentation to the City. On August 21st, 2023, the Staff Advisory Committee, consisting of the Recreation, Community Development, Public Works, Police and Fire Departments, discussed recommendations for five

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locations of the approved artwork. The following designs and preferred locations are provided as Attachment 3:

1. Southeast corner of Fair Oaks Ave and Valley Road—Strawberries by Amy Usrey
2. Northeast corner of South Halcyon Road and Fair Oaks Avenue—box will be removed during Halcyon Complete Streets project.*
3. Northeast corner of North Halcyon and East Grand Avenue—Flowers by Jenny Chang
4. Northeast corner of Rancho Parkway and West Branch Street—Jacaranda by Deborah Lord
5. Northwest corner of Traffic Way & West Branch Street – Butterflies by Amy Usrey

**The utility box located at the northeast corner of South Halcyon Road and Fair Oaks Avenue has not been selected for painting because it will be removed in the preconstruction phase of the Halcyon Complete Streets project.*

Waiver of Encroachment Fees

The project applicant has requested a fee waiver for encroachment permit fees totaling \$720, which includes \$180 for each of the four proposed utility boxes. Staff has determined that the requested fee waiver can be supported because the project provides a community benefit in that it will be available for use by the public at-large and is likely that the project will be used or will benefit more than the residents of the immediate vicinity of each utility box. Further, staff has determined that the project will be of obvious public benefit because it provides beautification of existing public facilities through the application of public artwork.

ALTERNATIVES:

The following alternatives are provided for the Council’s consideration:

1. Conduct the public hearing and adopt the Resolution accepting the donation of approximately \$5,000 in time and materials from the applicant and waive encroachment permit fees totaling \$720;
2. Do not adopt the Resolution, provide specific findings, and direct staff to return with an appropriate resolution to not accept the donation or waive encroachment permit fees; or
3. Provide other direction to staff.

ADVANTAGES:

Approving the donation of time and materials and waiving encroachment permit fees for the proposed public art installations will facilitate the enhancement of the appearance of existing utility boxes for the benefit of the community.

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DISADVANTAGES:

No disadvantages have been identified.

ENVIRONMENTAL REVIEW:

In compliance with the California Environmental Quality Act (CEQA), it has been determined that the donation of time and materials for the painting of utility boxes, and the waiver of applicable encroachment permit fees, is categorically exempt from the California Environmental Quality Act (“CEQA”) under the Class 3 exemption, which applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. (State CEQA Guidelines, § 15303.). This project falls within the Class 3 exemption because approval of the project would result in the donation of time and materials for the painting of existing utility boxes. This project is further exempted under CEQA Section 15301 regarding existing facilities, where no new utility boxes will be constructed in connection with this project. In the alternative, if the application is denied, the item does not qualify as a “project” under CEQA, because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (b)(2)-(3), 15378.)

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2.

Attachments:

1. Proposed Resolution
2. Public Art Guidelines
3. Proposed Designs