

MINUTES
CITY OF FORT MYERS
PUBLIC ART COMMITTEE
April 19, 2022

The Public Art Committee of the City of Fort Myers, Florida, met in regular session at Oscar M. Corbin Jr. City Hall, 2200 Second Street, its regular meeting place in the City of Fort Myers, FL, on Tuesday, April 19, 2022, at 4:00 p.m. Present were: Carolyn Gora, Chair, presiding, Committee Members, Bettye Middlebrooks, David Meo, William Taylor, Victor Dotres, and Ava Roeder. Also present were Councilmember Bochette (Arrived at 5:00 p.m.), Grant Alley, City Attorney, Tom Hall, Art Consultant, Donna Lovejoy, Assistant Director of Public Works, Jose Parrilla, Parks Interim Manager, and Reva Daly, Public Works Fiscal Coordinator. Absent: Leila Mesdaghi and Molly Deckart

CALL TO ORDER

Chair Gora called the meeting to order at 4:03 p.m.

PLEDGE OF ALLEGIANCE

Chair Gora led the Pledge of Allegiance to the Flag.

ROLL CALL - Taken by Reva Daly.

PUBLIC COMMENT – None.

REGULAR ITEMS

1. Approval of March 15, 2022, Minutes

MOTION: Committee member Taylor moved to approve the minutes of the March 15, 2022, meeting; seconded by Committee member Meo; motion carried 5-0.

2. Input from Councilmember Bochette, City Council Liaison, (Ward Four)

Councilmember Bochette noted that at the recent City Council meeting they had a discussion about green space and that the amount needed in the city per the population is quite low. He said that they need to get the committees together and all endorse green space. He noted that the city owns quite a bit of property, but they can sell it now or they could use it as green space. Councilmember Bochette noted a meeting with the city manager about the land right next to the Caloosa Nature Center and why not make them stewards of it. He stated they don't have to deed it away and to at least put it to green use. Councilmember Bochette discussed Rachel at the Well. Tom Hall, Art Consultant noted that some repairs were done just earlier this year, the problem was there were conditions that were not anticipated by the original work order and so they need to come back at an additional cost to do the things that they didn't get to. Councilmen Bochette discussed the crumbling frogs at Tootie McGregor. Mr. Hall noted that Rosa Lowinger and Associates had to recast the frogs for

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Uncommon Friends and they have the cast at their offices in Miami, so if more frogs are needed there is already a cast that's made and they can produce those frogs. Mr. Hall told Councilmember Bochette that if there is ever an art question to put him on speed dial. Councilmember Bochette noted that he has got a discretionary fund that he can't exhaust it all on one line, but possibly could cover replacing a couple of frogs. He noted they also discussed at Council the sidewalk ordinances particularly to carve out the historical neighborhoods. Councilmember Bochette and Mr. Hall discussed Otocast. Councilmember Bochette noted he called the new superintendent who is not in office yet and ran over some issues with meeting in front of the school board. The superintendent would like to meet with us, but his contract doesn't start until May. He asked if the committee had any questions. Committee member Roeder mentioned the importance of green space and air quality. She noted that Fort Myers at one point had the cleanest air in the country and in the past couple of years it has moved to a moderate quality, so the question was what makes it different. Chair Gora noted more people more cars. Committee member Roeder noted that green space, public art and public spaces go hand in hand. Councilmember Bochette spoke on his concern with the developers, because there is this feeling that they all come from out of town, pour lots of concrete and make lots of money. They stack everybody in here and leave. He noted that we need them to step up to the arts and the culture more and more. Councilmember Bochette noted that there's talk about reexamining the Parks and Recreation master plan and asked what the Council can help provide you with. Donna Lovejoy, Assistant Director of Public Works noted that they needed funding. She spoke on an update of the master plan, and they feel doing it at this time would be very appropriate, because of the growth and they're getting closer to the cap in our plan for the green space that is currently within the city. Councilmember Bochette noted he brought to Council to try and take five points; the bridge to the Edison Estates and put it in a historic district, so we can't get that excessive growth in that historic area. He noted that they are going to try to get Lee trust to come convince us that's a good idea, because mid-town is never going to grow unless we tighten up over there. Councilmember Bochette spoke on the Yacht Basin and protecting the charm that makes Fort Myers. Committee member Taylor inquired about Montage at midtown and if they would not pay anything to public art. Ms. Lovejoy noted they don't have to pay anything. Committee member Taylor asked if that could be changed. Ms. Lovejoy stated no, and explained the original public art ordinance and that the committee chose not to stay with that ordinance. She continued that the committee wanted the ordinance to be mandatory, but legally we could only impose mandatory fee's for public art on City or municipal projects, so that changed the wording in the ordinance that had us having the ability to negotiate on the PUD's. She noted that we can ask for a voluntary contribution, but they are not mandatory or required. Grant Alley, City Attorney spoke on PUD's and mandatory contributions, but that there was no case law to prove that you can make it mandatory. He noted that at that time we gave an opinion you can't make it mandatory, because it was thought that we would end up with a class action lawsuit and have to reimburse. He noted that subsequently the

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law's clear now and you can't make it mandatory, because there has been a case on it. He stated that they did make it mandatory on city construction, but that it's been inefficient, because it's hard enough to get the city project funded in itself and then you add the art component. Mr. Alley noted another way to get funding for public art is a budget allocation, but with the ordinance in place when someone comes for PUD like the project you're mentioning the ordinance says that we will encourage them to get public art, but it is difficult for staff to request and negotiate that and it may even slow the process down. He noted it is difficult, because you could go too far, for example, if you don't give me public art then I'm not going to approve the landscaping. He noted that you can't do that. He assured that we've never been challenged on our process for requesting public art, but you certainly can ask when someone comes to the city for a zoning change for a PUD, you can ask them for a contribution. Councilmember Bochette noted that Mr. Hall did a great job with First Street apartments and that he sat down with them and gave them options of lighting, light as art and mosaic's. Mr. Hall noted that they are talking about doing a mosaic project at the entrance into that building. The committee continued to discuss development of the city. Mr. Hall stated that developers are really receptive to the idea of public art if you catch them early enough. Councilmember Bochette noted that there's a lot coming out of the ground, and as Mr. Hall said catch them early and when they need you they'll work with you. If you are late to the race, they don't need you anymore they got their permits they got everything. Chair Gora noted that it's two ways, and we have to be notified that's actually happening. She continued that sometimes we are late to it, because we didn't know about it. Committee member Dotres asked Mr. Hall if he checks on a regular basis for building permits. Mr. Hall said no, in these two instances it was Councilmen Bochette who brought him into the discussion. Committee member Dotres asked how do we keep Mr. Hall in the loop. Councilmember Bochette noted that council at best are only 50 percent informed and all of a sudden it appears at Council or CRA, it's just we could do better with communications. He stated that coordination means information and your committee needs to know everything going on, but, unfortunately, our PIO officer doesn't have staff to cover the bases. Councilmember Bochette spoke on budget and said they need new sources of revenue. He thought that when the committee redistributed the Carmona sculptures around the city, that was a good sign, showing everybody is part of this. The committee spoke on putting art at low-income housing. Councilmember Bochette thought the art industry is what ties the thread together between all the socioeconomic classes. He spoke on inflation and that the rate of inflation is going up more than the rate of income. He spoke on having a chairs meeting.

3. Update from Jose Parrilla, Parks & Beautification

Jose Parrilla, Parks Interim Manager noted that everything was good, and all the routine maintenance was being done. He noted that a new filtration system was purchased for Tootie McGregor and that it will be installed, that way it will have clean

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water. He noted there was going to be a meeting at Rachel at the Well sometime this week to go over what needs to be fixed.

4. Consideration of Deaccession Fountain Features Associated with Uncommon Friends

Tom Hall, Art Consultant noted that Uncommon Friends was just serviced by Rosa Lowinger and Associates and the maintenance costs on it were about \$4,500 plus per diem, but unfortunately they weren't able to do all of the work that was required, because there was more breakage than they had anticipated. He said that they need to return in order to finish repairing some of the creatures that are in the pool. He spoke on the damages to the water feature. Mr. Hall stated that they have a proposal from RLA for another several thousand dollars of expense in order to complete the repairs on that sculpture. He asked the committee if it was time to deaccession the component pieces inside the pool. He said they would keep the three inventors and they would keep the island, certain of the otters around the bank would remain, but the fish, the manatees, the alligators that are in the pool would all be removed and they would be replaced with sawgrass or something like that would be more natural to the environment. Mr. Hall reviewed the deaccessioning process which would entail a signed deaccessioning report, applying for a certificate of review with the Historic Preservation Commission and then City Councils approval. Chair Gora thought that it's a brilliant move and that they are literally pouring money into it, and she would prefer to spend money on something else. Mr. Hall noted that part of his report would be to go back and trace how much money we've spent over the life of that art piece. Chair Gora thought that it would easily justify it and that parks and recreation would support this. Committee member Dotres asked if it requires a motion. Mr. Hall stated no, it simply requires one of you to sign the formal letter asking for deaccessioning and then the committee will simply consider it at the next meeting. Chair Gora volunteered to sign it. Mr. Hall noted that they will put it on the agenda for next month and then at that point they can consider it and make a motion then. Mr. Hall just really wanted to put the committee on notice and make sure that was the right path to proceed.

5. Art Hub Tracker

Tom Hall, Art Consultant noted that he has no comments to make on the art hub tracker and that he can answer any questions that they may have after looking it over.

6. Status of Mickael Broth Rise Above Project

Tom Hall, Art Consultant asked Ms. Lovejoy if she spoke with Mr. Moulton about when the Forum Park would be built and what they should do with the contract with Mr. Broth. He asked do we go back and renegotiate a longer period. He explained that the issue is that once the contract is approved by City Council, the city is obligated to provide him with a completed site within six months of the first payment that he receives or we're in breach of contract and at this point they haven't started that phase

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of the park. Donna Lovejoy, Assistant Director of Public Works noted that they have money in the budget right now to go out for a design consultant to develop that portion of the park, but the discussion that is going on is should they design the three parcels or just this one parcel that would have the public art and the pickle ball courts. She continued that once that decision is made, the request for our proposal will go out and we'll get a design consultant on board. She said they generally take somewhere between 8 and 18 months to complete a design depending on how complicated it is. Ms. Lovejoy noted that they were not looking at this being implemented probably until 2024 and that's if funding is allocated to that park to construct it and right now there are a lot of demands on general fund money. Committee member Taylor stated so we've got the cart before the horse type of thing. Ms. Lovejoy replied without a doubt. She didn't want to discourage the committee for meeting so early with these people, but that's part of what the problem is, you end up issuing a call to artist without having a final location, without having a final look at what it's looking like. So now we have a piece of art that's ready to go into Forum park that's not built. You have a piece of art that doesn't necessarily match the fire station. She thought that maybe we need to put the breaks on a little bit and take it a little slower going forward. She concluded that obviously, we all want to see brand new art in the city, but maybe we concentrate on fixing what we have, as opposed to building all new right now. Chair Gora stated that we under the understanding that we were doing it in a timely manner. Committee member Taylor stated that there were designs for the park. Ms. Lovejoy noted that they were conceptual. Chair Gora stated that we were not told this is not the right timing either, we could have waited, well we're learning. She said we never had the situation where we had so many projects that were a possibility. Mr. Hall noted he would call Mr. Broth and discuss with him and see what he's amenable to doing. Ms. Lovejoy thought the smartest thing would be to negotiate that into the contract. She thought that we have to do a better job of keeping the committee informed of things that we know what you are working on and apologized. She thought that when the initial project was dreamed up and it was conceptual the thought was that it would get funded quicker and it really comes down to dollars, cents and choices.

7. Status of MLK/VSSB Gateway Artwork, Cecilia Lueza Journey of Hope Project

Tom Hall, Art Consultant noted that Mr. Alley's department has created a contract for Ms. Lueza, but the contract recites that it will be between the city of Fort Myers and the artist. Mr. Hall was informed by the CRA that contract should be between the CRA and the artist, and asked Mr. Alley which is it. Grant Alley, City Attorney noted that he would have to check on that, but it's a quick easy fix, whether it's the CRA or whether it's the city. Mr. Hall noted that the contract has been completed, it has been sent to Ms. Lueza and her attorneys are reviewing it, so if we just have to make a substitution of the CRA for the city of Fort Myers like Mr. Alley said it's a quick fix. He stated that shouldn't delay the process. Mr. Hall said to keep in mind once she signs the contract

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and it comes back then it would go before the CRA for approval or if it's the city then it would go before the city.

8. Status of Fire Station 17, HaiYing Wu Artwork

Tom Hall, Art Consultant noted that yesterday the City Council unanimously resolved to return the award of the Fire station 17 to our committee for further discussion and consideration and Council has based this decision on staff's argument that two of the voting members were not included in the vote and had different opinions about who should have received the commission. He posed the question of what we do next. Grant Alley, City Attorney noted that the committee went through a competitive procurement process. One option is that you move to number two, but the city has a bid protest process, so that could trigger a bid protest from number one. He explained a bid protest and that we don't have one right now, but very well could and that it would stop everything and then it would go before a bid protest committee that would need to be created with a goal to try to resolve it in a way where the protester is satisfied if they can be. Once the bid protest committee makes a ruling then it would go to the attorney and the manager. The next option would be you could go to number three and that could trigger a bid protest. He stated that the committee shouldn't make their decision based on whether you get a bid protest, but it can guide you as to what is coming. Another option is to throw it out and do it over again. Mr. Alley stated that he is reviewing the ordinance if they could get the art and put it someplace else, as he does not have his ordinance in front of him and would like to review it. He noted that Mr. Hall explained that the federal and state require it to be on site, but he didn't think we have that in the ordinance, but it may be that it could be waived by the mayor and council, but not by this board. Another option is a payment of money where it goes into the public art fund, but again he would like to review that and confirm it. Committee member Roeder asked if they started over again would that wipe the bid protest away. Mr. Alley noted he didn't review the RFP before it went out, but there is language in the standard RFP's where you can reject every one of the bids, you can accept them, or you can change in the middle of the process and that there is some flexibility there. He said if we got a bid protest we would be in a position to defend it and nothing would prevent them from applying again or they may walk. Mr. Hall noted that he thought it best for the committee to hear about the bid protest concern first. Committee member Taylor asked Mr. Alley if it was conceivable instead of going back to square one we just go back to these three artists who we've selected and say try again. Mr. Alley noted that it is a possibility, and it depends on the extent of what you change. Donna Lovejoy, Assistant Director of Public Works thought that Council's intention was to return it to the committee to make an evaluation of what you thought the next step should be. She thought that the committee just needed to come up with a process and as long as it's legal then they can move forward with that. Tracy McMillion, Fire Chief for the City of Fort Myers noted that he appreciated the art committee and apologized for coming to the committee with complaints. He stated that there were some challenges as far as not understanding that if you are on Zoom you

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don't have a vote. Chief McMillion said there are a lot of things with art that should be considered and that station 17 may not be the best place for art to be held. He explained that one, people drive extremely fast past the station and, two, the difficulty entering the fire station, because if you are going northbound there is not a cut out to be able to turn. He noted you have to make a U-turn to come in and see it. Chief McMillion stated that it is a momentous station and it's beautiful in itself. There are bright red doors that actually take a lot of focus away from some of the other particular areas of the station. They would like to know that this one percent of the fire departments vertical cost would go towards a piece of art that could be appreciated wherever it might be in the city of Fort Myers versus people going by the station at 60 miles per hour and seeing beautiful red doors of the fire station and not actually having the time to be able to appreciate the art. Mr. McMillion explained some other challenges as this project is coming to fruition is that it started off in ward six and that was one of the things that this art committee was diligent in doing and making sure they're taking care of the residents of ward six to have a representation of art. Then redistricting happened and now fire station 17 is in ward five, so even that check box that you were trying to accomplish is no longer the same. He stated that he'd rather not get into the feelings and the thoughts about the particular piece of artwork that was chosen other than we would not like that piece of artwork to be at the fire station. He said he would just like to throw out as consideration to this committee is that you have opportunity here to be able to say hey we can take this \$50,000 and what can we do with it to make our city beautiful. What are some things that we can do that are the most impactful within the city of Fort Myers to have artwork that people can appreciate. Chief McMillion noted that the other thing to think about is typically when people stop off to a fire station a lot of times it is not really to look at art. It's either to look at the fire truck or to hang out with the fire fighters. He just wanted to say those couple of things to consider those different points as you guys make your decisions. He said you have opportunities to do something magnificent and great for our city that can be appreciated by each and every resident and visitor to the City of Fort Myers. He thanked the committee for their time. Chair Gora asked if there were any other fire stations that art would be appropriate to be at. She said that this just may not have been the right art for the right fire station, with the hopes that we can do something that still says something about what you do for the community. Chief McMillion said inherently in the heart of a firefighter our innate desire is to help individuals, but recognition is something we struggle a lot with, because a lot of the firefighter's desire is to be humble and serve the public as best as possible. We definitely appreciate that recognition, but as far as the city fire stations there is a challenge how that art could potentially be displayed, because they are not really places that seem to be a gathering hub. Committee member Roeder asked if it was just the design in front of the station or was it the design itself. Chief McMillion stated that it was both. He noted that within that particular piece of artwork there are some things that we see as a trade that are not consistent to what we do. Committee member Dotres thanked the Chief for coming and stated that the committee wanted to

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commemorate and honor them and thank them for everything they do for us. He noted that this is a learning experience just like our chairperson said, so we learn from this. Committee member Dotres noted that a lot of the things that he said made sense and he wished we had all their input a while back. So moving forward it was suggested to let us know which ones appeal to you, so we are not back here again. Chief McMillion noted that they definitely do appreciate that and apologized that they weren't more vocal through the process and for putting this back to the committee and having them relook at this. Mr. Hall noted that Council woman Darla Bonk was very adamant and proactive about having art within her ward and of course that's been changed because of the redistricting. Mr. Hall thought that Station 17 functioned as neither a gateway or art hub location and would not be a location that they would have chosen. Mr. Hall noted that we are governed by our public art ordinance which is 118.7.7. So there are two considerations here, one is what Mr. Alley suggested that the provision in the ordinance could be waived, in which case that gives us the latitude not to install a public artwork at station 17 and then therefore we could choose a more appropriate location for an artwork which may or may not be homage to the fire department. Or it's conceivable that we can hold that money in the public art fund unallocated in reserve harkening to Councilman Bochette's comments last month that the city is considering some kind of inflation crisis plan that could portend budgetary cuts for the public art committee and other committees, so we should just hold the money in the public art fund, but again all that is going to be dependent upon Mr. Alley providing us with direction in terms of does this ordinance require us to install artwork at the building that's responsible for the contribution and if it does can that provision be waived or if it cannot be waived can we then amend the ordinance. Mr. Alley noted he couldn't provide an answer tonight and that he would like to have an opportunity to review the ordinance in its totality and try to give the best legal opinion. The committee discussed the language in the Call to Artist and that it not only builds in the ability to go to number two or to start over again, but it gives us the ability to reject all three and start over again. Committee member Taylor asked if they could reject all three then go back to those three and not start all over again just ask for a resubmission. Mr. Hall was not sure, but if they decided they would start over they would have to do a new call. Chair Gora noted they would put this on the agenda for next month, but asked what we do with the artists, number one has he been informed. Mr. Hall noted Mr. Wu was knowledgeable about the fact that it has to go through an approval process. It was understood that before they could move forward, they would have to wait for Mr. Alley's assessment and to give the three-artist notice that the matter is still pending and that a decision will be forthcoming in June.

9. Discussion of Weight to be Given to Stakeholders Selection Committee

It was decided to delay item number nine to another meeting.

10. Discussion of Nature and Scope of Otocast Content of Audio Recordings for Carmona Sculptures

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Tom Hall, Art Consultant noted that 11 more artworks were uploaded to Otocast. He stated that all of the Carmona sculptures that were moved in November to their permanent homes are now included on Otocast. Mr. Hall mentioned that they do not have the audio component to those 11 artworks. He addressed Ms. Mesdaghi's comments from the last meeting and that she expressed some reservations about using the audios to tell historical stories that are really not related to the artwork. He gave scripts for example in their materials for both Utopia, which is the boy fishing from a bucket and for Al Galope, the horse that's at Billy Bowlegs park. He said that the scripts tell stories that go beyond what the artist intended for the artworks. He thought Ms. Mesdaghi's concern was that it is not really what the artist intended, and we should just stick to what the artist intended. Mr. Hall noted that what he was doing was utilizing the artworks as an opportunity to share with the general public who listens to those recordings some stories about our local history that they might not otherwise be exposed to. He asked the committee what the nature and the scope should be for the audio recordings and what level of review would they want to play. Chair Gora thought that gives the people who are listening or viewing it more information and history about our area, which is getting a full package. Committee member Dotres noted he read them and liked them and volunteered to read one. He thought all of the committee members should read one. Mr. Hall stated that the intent was not to put words in the artists mouth, but to use it as an opportunity to tell stories about this is why it is there. Committee member Roeder noted that you would have to explain how we acquired these, but you don't have to explain the whole thing. Chair Gora thought that each one would need a little biography, because people may not be seeing all of them, so the biography even if it's repeated that's very important. She stated that it doesn't have to be very detailed, just how we got these sculptures. Mr. Hall confirmed following the same general format. He noted that as he prepares a script he'll send it to the committee and they can look at it and let him know whatever comments or mark ups they want to make. Chair Gora noted that she has learned so much from them. Committee member Dotres called them educational and thanked Mr. Hall for his great job!

11. Brief Report on Annual Maintenance by Rosa Lowinger & Associates

Tom Hall, Art Consultant had a question for Ms. Lovejoy and the annual maintenance on Stacked Brands and that they now have a revised proposal for the conservation. He noted that the costs of conserving that artwork dropped from \$24,000 down to \$16,000, so the next step is communicating with someone from the county about the necessity for conserving it and how do we proceed with that. Donna Lovejoy, Assistant Director of Public Works asked for a copy of the proposal, and she could reach out to the facilities team at the county and have a conversation with them to start. She continued that once they initially make contact maybe it would be best at that point for Mr. Hall to jump in and work with them, since he has the expertise on that.

12. Individual Artist Grant Recipient Show at Sidney and Burne Davis Art Center Opening May 6th, 2022

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Tom Hall, Art Consultant announced to save the date the opening of our 2022 biannual individual artist grant recipient show at the Sidney and Burne Davis Art Center on Friday, May 6th, coextensive with art walk. He said there will be about 14 artists that will be participating in the show. The show will be up through May 26th including during the Fort Myers film festival, so the artist will get exposure during the film festival, as well. It goes 6 to 10p.m. Chair Gora suggested wearing your name tags.

13.FAPAP Annual Conference, April 26-29, 2022

Tom Hall, Art Consultant noted that the Florida Association of Public Art Professionals has its annual conference April 26th through the 29th.

14.Upcoming Public Art Committee meeting on Tuesday, May 17, 2022

OTHER

ADJOURNMENT

There being no further business, it was moved by Committee member Dotres; seconded by Committee member Middlebrooks; to adjourn the meeting at 6:11 p.m.