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ORDINANCE NO. 07-002

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA, AMENDING ORDINANCE 05-060 TO PROVIDE THAT THE ART FEE DOES NOT APPLY TO PROJECTS WHICH HAD APPLICATIONS PENDING ON OR BEFORE OCTOBER 5, 2005; PROVIDING WHEN THE ART FEE IS PAYABLE; PROVIDING CONFLICTS, SEVERABILITY; INCLUSION AND AN EFFECTIVE DATE

WHEREAS, the Commission has heretofore adopted Ordinance 05-060 creating the Art in Public Places program; and

WHEREAS, the City Commission has determined that it is in the best interest of the Art in Public Places Program to modify the program as hereinafter set forth.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Ordinance 05-060, codified as Article XII, Chapter 2 of the Code of Ordinances of the City of Boynton Beach, entitled "Art in Public Places Program," is hereby amended to read as follows:

Sec. 2-159. Short title; intent.

(A) This chapter shall be known and cited as the "Art in Public Places Program."

(B) It is the intent and purpose of this chapter to further the commitment of the City of Boynton Beach to the aesthetic, historical, cultural and economic enrichment of the community through the creation of works of art so that citizens and visitors to the City of Boynton Beach are afforded an opportunity to enjoy and appreciate works of art. The requirements of this chapter shall be construed to promote the aesthetic values of the entire community and to encourage the preservation and protection of works of art.

1 **Sec. 2-160. Definitions.**

2 (A) *Definitions.* For the purposes of this section, the following words and
3 phrases shall have the following meanings:
4

5 (1) *Artist or Professional Artist* means a practitioner in the visual arts, generally
6 recognized by critics and peers as a professional of serious intent and ability.
7 Indications of a person's status as a professional artist include, but are not
8 limited to, income realized through the sole commission of artwork, frequent
9 or consistent art exhibitions, placement of artwork in public institutions or
10 museums, receipt of honors and awards, and training in the arts.

11
12 (2) *Art, Artwork or Works of Art* means tangible creations by artists exhibiting
13 the highest quality of skill and aesthetic principles and includes all forms of
14 the visual arts conceived in any medium, material, or combination thereof,
15 including, but not limited to, paintings, sculptures, engravings, carvings,
16 frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs,
17 video projections, digital images, bas-relief, high relief, fountains, kinetics,
18 collages, drawings, monuments erected to commemorate a person or an
19 event, functional furnishings, such as artist designed seating and pavers,
20 unique or original architectural elements ~~designed by an artist~~, and artist
21 designed landforms or landscape elements. The following shall not be
22 considered artwork or works of art for purposes of this chapter:
23

- 24 (a) Reproductions or unlimited copies of original artwork.
25
26 (b) Art objects, which are mass-produced.
27
28 (c) Works that are decorative, ornamental, or functional elements of the
29 architecture or landscape design, except when commissioned from an
30 artist or designed as an integral aspect of a structure or site.
31

32 (3) *Building* means any structure that encloses space and is used or built for the
33 shelter or enclosure of persons, businesses, chattel or property.
34

35 (4) *Development* means any construction, or redevelopment, or structural
36 alteration of any private or public building within the limits of the City.
37

38 (5) *Arts Commission* means the advisory board established by the City
39 Commission pursuant to Ordinance 01-64.
40

41 (6) *Public Art Fund* means a separate, interest bearing account set up by the City
42 to receive monies for the Art in Public Places Program.
43

44 (7) *Remodeling or conversion* means alterations made to a building within any
45 twelve month period, including, but not limited to, changes to the façade of a
46 building, changes to the interior of a building, increases or decreases in the

1 floor area of a building and changes to exterior improvements.

2
3 (8) In-fill housing means new residential units on parcels less than 5 acres that are not
4 part of an approved planned unit development as defined by the City of Boynton
5 Beach land development regulations.
6

7 **Sec. 2-161. Arts Commission.**

8 The Boynton Beach Arts Commission shall function and operate as outlined in the
9 City of Boynton Beach's Ordinance No. 01-64.

10
11 **Sec. 2-162. Powers and duties of committee.**

- 12 (A) The Arts Commission shall have the following additional powers and duties:
- 13 (1) Recommend to the City Commission, adoption of Art in Public Places
14 Program Guidelines and amendments thereto;
- 15 (2) Recommend to the City Commission, adoption of a Public Art Master Plan
16 identifying locations for public artworks and establishing a priority order;
- 17 (3) Recommend to the City Commission authorization of expenditures for
18 maintaining and implementing the Art in Public Places Program;
- 19 (4) Recommend to the City Commission other expenditures of the Public Art
20 Fund such as hiring staff and services to run the Art in Public Places
21 Program;
- 22 (5) Exercise their authority to approve, approve with conditions or disapprove
23 proposed installation of artwork based on Art in Public Places Program
24 Guidelines; and
- 25 (6) Advance, through education and communication, the Art in Public Places
26 Program Guidelines. The guidelines are attached as Exhibit "A".
27
28
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35 **Sec. 2-163. Establishment of Public Art Fee**

36 (A) All development, redevelopment, reconstruction or remodeling projects
37 commenced after the adoption of this ordinance which have a construction value of
38 \$250,000.00 or greater, shall participate in the Art in Public Places Program by paying a
39 Public Art Fee. For the purpose of this section, a project will be considered "commenced"
40 when an application for review is first submitted to the City's Development Department.
41 The Public Art Fee shall be equal to 1% of construction value of the project. ~~The Public Art~~
42 ~~Fee shall be collected by t~~The Building and Code Compliance Division/Finance Department
43 shall administer the billing and collection of the 30% or (.03) of the 1% of the Public Art
44 Fee at the time of Building Permit issuance and the 70% or (.07) of the 1% prior to and as a
45 condition of building permit-issuance of the certificate of occupancy that includes the Public
46

1 Art. One hundred percent (100%) of the Public Art Fees collected are to be allocated to the
2 Public Art Fund. All distributions for the Public Art Fund require the recommendation of
3 Arts Commission prior to City Commission approval.

4
5 (B) The following types of projects are exempt from the payment of the Public Art
6 Fee:

- 7
8 (1) Remodeling, repair or reconstruction of structures damaged by fire, flood,
9 wind, earthquake or other calamity determined by the city of Boynton Beach
10 building official.
11
12 (2) The percent of the project dedicated to affordable housing as defined by the
13 City of Boynton Beach.
14
15 (3) All projects which were submitted prior to or on October 5, 2005,
16 notwithstanding any subsequent request for site plan extension.
17
18 (4) Single family and two family in-fill housing.
19

20 (C) Project owners required to participate in the Art in Public Places Program
21 may obtain reimbursement up to seventy percent (70%) of collected art fee if the following
22 conditions are met;

- 23
24 (1) The owner of a development agrees to follow the Art Commission's
25 recommendations to develop the art in the project; and
26 (2) Prior to placement on the development site, has the artwork approved by the
27 Arts Commission to insure that the artwork will be accessible and readily
28 visible to the public based on location of artwork and normal traffic of
29 vehicles/pedestrians in the proposed location; and
30
31 (3) (3)-Select an artist directly to execute a project that meets specific criteria
32 outlined by the recommendations and guidelines document provided by the Arts
33 Commission or hire a professional consultant to select artists to commission site-
34 specific, architecturally integrated artworks that meet specific art criteria outlined
35 by the recommendations and guidelines document provided by the Arts
36 Commission or; Purchase artworks for permanent installation recommended by
37 the Arts Commission or; Elect to purchase an existing artwork or commission an
38 original artwork for donation as a gift to the City of Boynton Beach's public art
39 collection or;
40

41 **Sec. 2-164. Art and artist selection criteria.**

42
43 (A) The Art and Artist selection criteria shall be in compliance with the Arts
44 Commissions Guidelines and Recommendations.
45

46 **Sec. 2-165. Public Art fund.**

1
2 (A) There is hereby created a public art fund administered by the Arts
3 Commission. Funding shall consist of all contributions received from art fees for
4 development and redevelopment. Contributions shall include 1% of construction value on
5 projects exceeding \$250,000.00, any cash grants and donations to the City for public art
6 projects from governmental or private resources, and all other funds allocated by the City
7 through the budgetary process for the provision of public art.
8

9 (B) Expenditures from the Public Art Fund shall include, but not be limited to
10 expenses associated with the selection, commissioning, acquisition, transportation,
11 maintenance, public education, promotion, administration, program marketing,
12 documentation, removal and insurance of the works of art or in relation thereto. The Arts
13 Commission can recommend to the City Commission, expenditures from the funds in
14 furtherance of the Art in Public Places Program.
15

16 (C) Disbursements of the Public Art Fee shall be seventy percent (70%) to the
17 construction of art in a given project and thirty percent (30%) for the administration of the
18 Art in Public Places Program and a (endowment or reserve fund) for future work as
19 described in the Arts Commissions Guidelines & Recommendations.
20

21 **Sec. 2-166. Ownership of artwork.**
22

23 Unless otherwise expressly agreed to in writing by the City, ownership of all art
24 acquired through expending funds in the Public Art Fund shall be owned by the City
25 according to the Arts Commissions Recommendations and Guidelines.
26

27 **Sec. 2-167. Art in Public Places Program Guidelines**
28

29 The Arts Commission shall prepare, and from time to time recommend to the City
30 Commission revisions to the, Art in Public Places Program Guidelines and make the same
31 available to the public, which shall provide guidance for program organization;
32 organizational governance and staffing responsibilities; procedures for project planning;
33 artist selection; art selection criteria; art placement criteria; donations; loans and memorials;
34 collection management; and, administration of the Public Art Fund.
35

36 In the event language contained in the Art in Public Places Program Guidelines
37 conflicts with this Ordinance, the language in the Ordinance shall control.
38

39 **Sec. 2-168. Art in Public Places Program Location Plan**
40

41 The Arts Commission shall prepare, and from time to time revise, a Art in Public
42 Places Program Location Plan that identifies locations and criteria for public artworks and
43 establishes a priority order.
44

45 **Section 3. Severability.**
46

1 If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or
2 unconstitutional by any court of competent jurisdiction, then said holding shall in no way
3 affect the validity of the remaining portions of this Ordinance.

4 **Section 4.** Inclusion in Code.

5 It is the intention of the City Commission of the City of Boynton Beach, Florida, that
6 the provisions of this Ordinance shall become and be made a part of the City of Boynton
7 Beach Code of Ordinances, and that the sections of this Ordinance may be renumbered or
8 relettered and the work "ordinance" may be changed to "section," "article," or such other
9 appropriate work or phrase in order to accomplish such intentions.

10 **Section 5.** This Ordinance shall become effective immediately on passage.

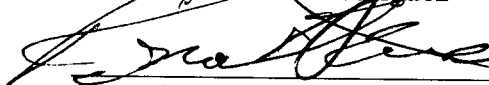
11 FIRST READING this 2 day of January, 2007.

12 SECOND, FINAL READING AND PASSAGE this 3 day of April, 2007.

13 CITY OF BOYNTON BEACH, FLORIDA

14
15 
16 Mayor - Jerry Taylor

17
18 
19 Vice Mayor - Jose Rodriguez

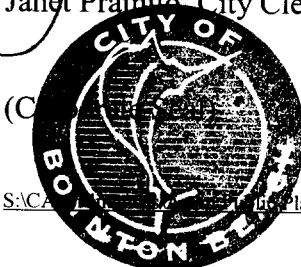
20
21 
22 Commissioner - Ronald Weiland

23
24 
25 Commissioner - Mark McCray

26
27 
28 Commissioner - Carl McKoy

29 ATTEST:

30 
31 Janet Prainito, City Clerk



Acknowledgements

The Arts Commission extends special thanks to City Manager Kurt Bressner, Planning and Development Director Quintus Greene and CRA Director Doug Hutchinson. Their wisdom and guidance were vital to the mission of the Advisory Board. The experience and vision they bring to our city is proactive and innovative. We listened, we researched and we reedited. We hope it is evident we designed an Arts in Public Places Program for Boynton Beach's past, present and future based on experiences locally and across the country.

In addition, we would like to thank, in no particular order: Seattle Arts Commission for the Public Art 101 Curricular Book, Betty Pierce, Park and Recreation Advisory Board, Dan De Carlo, Nancy Byrne, Mike Rumpf, Hanna Matras, Jeanne Heavilin, Susan Vielhauer, Vivian Brooks, Wilfred Hawkins, Virginia Farace, Boynton Cultural Centre Board of Directors, Elayna Toby-Singer, Jeff Siegal, Beth Ravtiz, David Coles-Dobay and all of the participants of our first Creative Workshop held April 4, 2005.

The following individuals currently serve on the Arts Commission Advisory Board and each played an integral role in this document:

- Debbie Coles-Dobay, Chair
- Cheryl Arflin
- Angela F. Budano
- Rick Beaulieu, Co Chair
- Kimberlee McGow
- Deborah Nesbit
- Anita Remer
- Linda Sage
- Suzette Urs
- Arleen Dennison, City Staff Liaison as well as past members:
- Richard Brightfield
- Raymond Marcinkoski
- Michael McGoey.

Respectfully submitted,

Boynton Beach Arts Commission

Cover

Artist Oil: Boynton Beach
Ralph Papa

Sculpture: Patina Steel Turtle
On loan to the City of Boynton Beach since 1995
Rick Beau Lieu, Neighborhood Art Gallery

Cover Design:
Debbie Coles-Dobay, Creative Marketing Impact, Inc.

Presented May 24, 2005
Revised 9/30/05

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Executive Summary

The Arts Commission was charged with creating and executing an Art in Public Places Program for the City of Boynton Beach. The following document is the end product of nine months of research.

Research included review of population, demographics, growth potential, community identity and the best of current Public Art programs not only in the State of Florida, but also across the nation. A key component to the value of the Arts in Public Places program understanding the **economic impact** and **rewards** this type of endeavor provides.

Clearly it is known that art offers:

- community pride
- civic awareness
- and a sense of place.

The focus of this document is to address the mechanics and funding appropriate for Boynton Beach.

RECOMMENDATION:

This plan proposes a funding program designed for an Art in Public Places program concurrent with and complementary to the rapid growth of the City of Boynton Beach. Our recommendations encompass a comprehensive program that would be funded by assessing a public art fee equal to 1% of the construction value to real property and subject to the following criteria:

- Non residential construction alteration or repair for which a building permit is required
- All new residential construction and/or redevelopment for which a building permit is required
- All new public construction for which a building permit is required
- Fees will be calculated on amounts exceeding the \$250,000.00 threshold

Exceptions to Public Art Fees:

- Remodeling, repair or reconstruction of structures damaged by fire, flood, wind, earthquake or other calamity determined by the City of Boynton Beach building official.
- The percent of the project dedicated to affordable housing as defined by the City of Boynton Beach.
- Construction less than \$250,000.00

The total funds are based on 1% of construction cost. The land value is excluded from the calculations. The funds would be dedicated at 70% to the development of public art that stays within the project and 30% to run an Arts in Public Places program that includes:

- Administration of Art Fund and Art in Public Places Program, including Public Art Coordinator salary, record-keeping such as registration, maintenance, renovation, insurance, etc.

- Art for publicly owned properties to include: site preparation, installation, insurance, maintenance and renovation
- Marketing and advertising of the Art in Public Places program
- Acquisition, siting and decommissioning
- Art programs and events with a cultural emphasis that draw community participation
- Artist and artwork selection-related expenses
- Endowment program

This document also addresses private sector developers who wish to participate in an alternate program that provides for payment in lieu of participation.

Staff including the Planning and Zoning Department, the CRA and the Legal Department has reviewed the Boynton Beach Arts Commission Recommendations and Guidelines. This comprehensive document integrates many of their recommendations as well as the best of successful Public Arts Programs and has been refined to meet the city's special needs.

The Arts Commission Advisory Board is prepared to give an informative presentation of this plan to the city commission in a workshop setting. We have enlisted key speakers that include a noted public artist, city administrator, and a developer all with national expertise in art. We look forward to implementing this plan and are available to expedite this endeavor.

Introduction

Art is "...a product that evokes the senses and stimulates emotions. The product may be something thought to be beautiful, interesting, controversial, emotionally moving, educational, or displaying historic or cultural meaning."

Public Art is "...objects in our environment for public use and enjoyment that may be historic, aesthetic, or functional in the form of sculpture, monuments, murals, banners, fountains, playgrounds, trellis, gardens or amenities such as seating, lights, signs." On occasion, the building itself could be considered Art. This would occur when the architecture design has built in artistic elements incorporated into the structure. Public art is essentially a dialog between an artist's work and the people who experience his or her artwork in the course of their activities. A successful public artwork can be thought provoking, transform the environment and become an active part of the community. An unsuccessful public artwork can become an eyesore and the target of ridicule and vandalism (Barbara Goldstein, Public Art 101 Curricular Book, Seattle Arts Commission Page 41).

In general, public art is works of art displayed in publicly accessible places and buildings. Up until the mid 20th century, public art as sculptures, mosaics, carvings and handmade, decorative building elements were normal parts of a building. In the last 30 years, more than 350 American municipalities have required public art in public and/or private construction in order to restore the lost aesthetic qualities. Today, public art has come to mean traditional sculptures, murals and the full range of things made by artists for buildings, streetscapes and landscapes.

"Our belief is that powerful, well-integrated public art can transform people's lives by linking their perceptions, senses and intellects to the living systems that sustain them."

What Makes a Successful Public Art Program?

Successful public art programs have a number of ingredients as identified in a study done by the City of Boynton Beach Strategic Initiative Team of communities throughout the United States. These ingredients include:

- A commitment to leadership by public bodies.
- A broad community understanding of the policies that underpin public art.
- Identification of opportunities to create a sense of place through public art.
- A solid financial base to initiate and sustain a public art program.
- Early collaboration and involvement of the arts community in developing public art.
- Support and involvement of the private sector.
- Support and involvement of all sections of municipal government including engineering, planning, finance, community services.
- Continuous effort to include and draw upon the support of the public.

Developing principles to which everyone can agree starts the process of creating a public art plan. These principles will guide the process:

- Public art is an expression that is often diverse and innovative.
- Public art intends to reflect community values and community identity.
- Public art utilizes the creative energy of artists for public benefit.
- Public art increases public awareness of the role of art and artists in the community.
- Public art is a community resource.
- Public art contributes to the economic health of the community.
- Public art responds to the natural, social, and built environment.
- Public art is collaboration between the public, public agencies, the private sector, and the design community.

Who judges art? From DaVinci to Andy Warhol, doesn't everyone have the right to define their taste in what is good art over bad? Art is subjective and the viewer must have a certain level of appreciation to identify with the artist and their inspiration, motivation or simply their desire to evoke emotion.

In commercial development, how do you rate the work of a designer or architect to measure an effort that lacks artistic character vs. one that possesses strong artistic merit? If it is within the context of the City's objectives, is that enough? The goal of the Arts Commission is to have an impact much greater than that of minimal projects; rather it is one that goes above and beyond to enhance our community.

"Because of the diversity of ecological, biotechnical, educational, recreational and cultural opportunities within the county, our goal is to help reestablish the intellectual and emotional connections that will ultimately draw people... in a thoughtful way."

Historically, in 1967, the Endowment for the Arts created its Art in Public Places Program.

It gave the public access to the best art of our time, outside museum walls. NEA's first commission art was Calder's La Grande Vitesse, Grand Rapids, MI. It was the sculpture that was used as their "logo".

By 1974, the NEA guidelines said that commissioned art should be appropriate to the immediate site, and by 1978 approach creatively the wide range of possibilities for art in public situations.

*Total economic
impact of the arts
in 1992 for the
NYC area was
92 billion dollars.*

In 1979, the NEA asked for methods to insure an informed community response to the project and in 1983 grant recipients were required to submit plans for the community involvement. Preparation and dialogue expanded in 1990's to include educational activities, which invite community involvement. This progression from a pursuit of the "best" art to community involvement is still evolving.

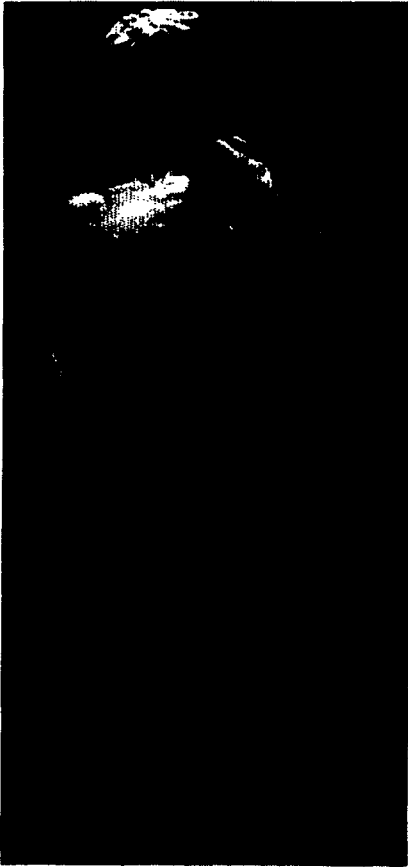
Artists contribute to making projects more palatable. They act as a conduit for the project and the community objectives.

Examples of Public Art:



*While the spiritual
aspects of art are
well known, it also
has a quantifiable
economic impact.*

1982- Vietnam Memorial in Washington DC, was the concept of a 21 year old undergraduate at Yale University, Maya Ying Lin. Originally protested by many Washington congressman, this memorial is the #1 visited "Art" in America. Her concept was to cut a "wound" into the landscape and construct granite in which visitors can see their reflection. The interaction continues when loved ones take a rubbing on the name inscribed into the wall.



The Medici Family was the first to fund Public Art. In 1504, Michelangelo's David was featured in a public square in Florence, Italy



The building itself can be art, as in France's Eiffel Tower built circa 1887, which the Parisians did not like when built.



In 1969, Calder's Stabile, Le Grande Vitesse, in the Calder Plaza in Grand Rapids, MI was considered "Plop Art" or "Logo Art". It caused so much controversy that it put Grand Rapids on the map as a destination location! The community now holds it as a National treasure. This art is the National Endowment for the Arts first commissioned piece for its Art in Public Places Program.

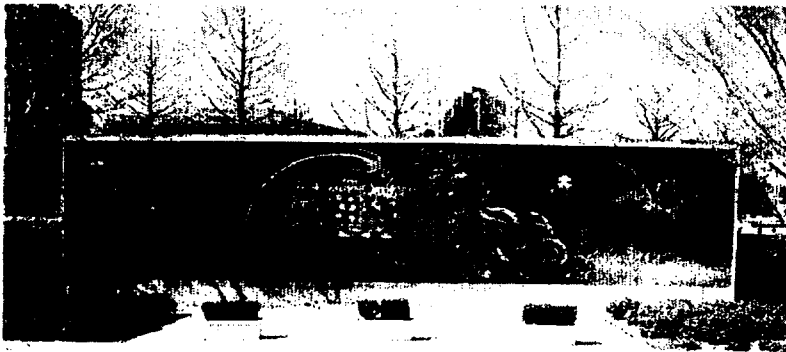
Walkways Gary Moore's "Ninth Street Pedestrian Mall" 1995

Rustic terrazzo, dyed concrete unit pavers, bronze inserts & landscaping. Historic Overtown, Downtown Miami



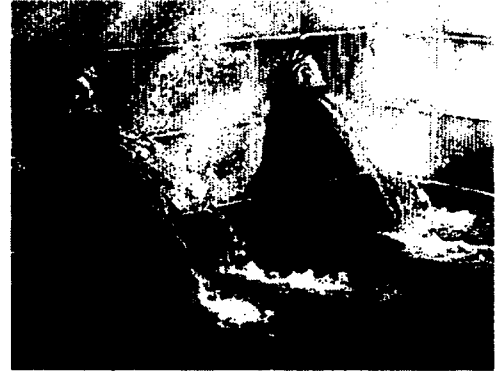
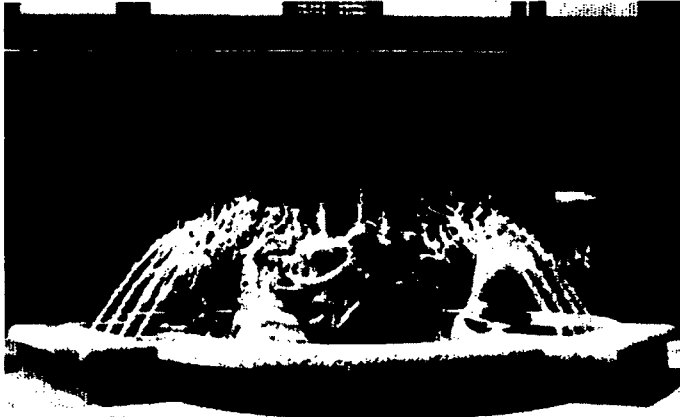
Benches as in this wood and iron bench created by Quigley in 1982 in Cincinnati. Its iron frame was inspired by Music Hall, which is located directly across the street from the park.

Mosaic walls similar to the subway stations in Moscow built in 1935. Today Moscow's Metro system has grown into an enormous network of 11 lines and over 160 stations.



Genesis, the Gift of Life, glass mosaic, 1954
Originally commissioned by Peter and Waldo Stewart for the Stewart Building in Dallas, this mosaic was moved to the entrance of the museum and restored in the 1990s. The design is based on the Indian concept of the four elements, seen from left to right: water, earth, fire, and air.

Fountains, Waterfalls and Gardens similar to the fish fountain along the steps of the Philadelphia Museum on the parkway tour built in 1928.



Alexander Stirling Calder (after) Delights and Terrors of the Sea, 1983
Cast stone Vizcaya Metrorail Station, Miami, Florida

Sculptures

Picasso's gift to the city, once controversial, has now become "the" landmark to downtown Chicago.

This subject has become a mantra for the defense of public art--you *will* like this in the future.



Arts Commission Ordinance for the City of Boynton Beach

ARTICLE XI. ARTS COMMISSION

Sec. 2-154. Creation of Commission.

The City Commission, in accordance with the powers vested in it, hereby creates and establishes the Boynton Beach Arts Commission, hereinafter referred to as the "Arts Commission."

(Ord. No. 01-64, § 1, 1-2-02)

Sec. 2-155. Purpose and duties.

(a) The purpose of the Arts Commission is to advise the City Commission on matters related to the arts, to develop a plan and programs to promote and support art in Public Places, and to recommend guidelines and funding for implementation.

(b) It shall be the duty of the Arts Commission to act as an advisory board to the City Commission in providing advice on matters relating to the visual arts.

(c) The Arts Commission may develop a public art plan and program for the City.

(d) The Arts Commission may recommend funding sources including private sources and grant funds; encourage public and private partnerships in the arts; review and make recommendations on proposals for art work for public buildings and public spaces; encourage the flow of art into the City; stimulate art related activities and events; study issues related to art and implement art programs as delegated to it by the City's Commission from time to time.

(e) The Arts Commission shall periodically advise the City Commission of its findings or proposals with respect to the foregoing issues and make recommendations to the City Commission on any matter referred to it within as much time prescribed by the City Commission.

(Ord. No. 01-64, § 1, 1-2-02)

Sec. 2-156. Organization.

(a) The Arts Commission shall consist of seven (7) regular members and two (2) alternate members and serve at the pleasure of the City Commission.

(b) The Arts Commission shall be comprised of seven (7) permanent members, and two (2) alternate members, all to be appointed by the City Commission. Of the members so appointed, three (3) shall be for a term of three (3) years, two (2) shall be for a term of two (2) years, and two (2) shall be for a term of one (1) year. Their successors shall be appointed for a term of three (3) years. Alternate members shall be appointed for a period of one (1) year. All members may be reappointed at the pleasure of the City Commission at the termination of their appointment, with

no limit as to the number of terms they may serve.

(c) Appointees to the Arts Commission shall be residents or business owners preferably with the following background: artist, art volunteer/activist; planner; private developer; architect; neighborhood association member; interested citizen.

(d) At the organizational meeting of the Arts Commission, a Chairperson and Vice-Chairperson shall be selected by majority vote of the Arts Commission. The Chairperson and Vice-Chairperson shall be selected annually at the anniversary of the first meeting of the Arts Commission, or at the May meeting of the Arts Commission.

(Ord. No. 01-64, § 1, 1-2-02; Ord. No. 04-031, § 2, 4-20-04)

Sec. 2-157. Meetings.

The Arts Commission shall meet at an appropriate place and shall arrange a time for holding regular meetings of the Arts Commission, and for such other meetings as shall be necessary, and it may add to such rules of organization, regulation and procedure as it may deem necessary and determine the duties of its members and officers. Other specifications for conducting meetings, such as the number needed for a quorum, shall be in conformance with F.S. § 166.041(4).

(Ord. No. 01-64, § 1, 1-2-02)

Sec. 2-158. Powers.

Nothing in this article shall be construed as restricting or curtailing any of the powers of the City Commission, or as a delegation to the Arts Commission of any of the authority or discretionary powers vested and imposed by law in the City Commission. The City Commission declares that public interest, convenience and welfare required the appointment of the Arts Commission to act in a purely advisory capacity to the City Commission for the purposes set forth in this article. Any power delegated here to the Arts Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority, but purely a delegation of legislative authority.

(Ord. No. 01-64, § 1, 1-2-02)

Top of Form

6

Bottom of Form

City Image

Spotlight on Boynton Beach . . . The Gateway to the Gulfstream

A large part of the Arts Commission's future success will depend on its ability to develop and implement a Public Arts Program that serves to strengthen the City's connection with its residents, helps to stimulate a community identity and promotes the City as *the* place to live, work, play and visit. The program must help to articulate what it is that makes this City so special, to help define the City's image. So, what is the City's image? The following 'image statement' begins with a declaration of sorts about the reasons for promoting such an image and continues with a historical, and yet contemporary, perspective on all that the City has to offer.



Arts Commission Image Statement:

To heighten awareness of our City's historical and contemporary personality by celebrating its diversity and strengthening the City as a destination location. By vitalizing, stimulating and focusing on cultural interaction, amenities, education, business growth and economic development, the City will create a communal sense of pride and civic ownership.

Boynton Beach, which was once one man's dream as a beach hotel destination, soon became a bustling coastal center of South Florida. Yet, even at the turn of the 21st century, it retained some of its distinctive farmlands, offering a unique, small town atmosphere central to South Florida living.

Its proximity to the Gulfstream and easy ocean access make it a prime location for a wide variety of water activities, while its businesses, public and historical amenities reflect a metropolitan atmosphere. It is laid back with a touch of sophistication. Boynton Beach is strategically close to two international airports, three regional airports and two major seaports, making it easily accessible, whether from across the state or across the globe.

Our dynamic cultural community demonstrates the success of the American Melting Pot. Whether their origins are Floridian, national or international, residents and business owners alike have made Boynton Beach their choice for a great place to be for their next life phase. The City government works closely with the community to ensure that quality of life is preserved and enhanced, and that growth is beneficial to all of its residents. From the first settlers that touched the beaches of Boynton to today's international visitors, all agree, that Boynton Beach truly is a unique jewel on Florida's southeast coast.

New Boynton Beach Tag Line

The Arts Commission recommends the current Boynton Beach tag line be reevaluated and reconsidered. Please refer to the Reference Document: Marketing for more on Tag Lines. The Arts Commission recommends the following tag line to be considered:

Boynton Beach... The HeART of the Palm Beaches!

The Arts Commission recommends that it conduct a focus group to validate the suggested tag line for the image for the City of Boynton Beach.

Program Overview

The goal of the Arts Commission is to develop and execute an Art in Public Places Program for the City of Boynton Beach. The plan begins with an aggressive four-year funding program to generate capital to establish an Art in Public Places Program concurrent with, and complementary to, the current rapid growth of the City of Boynton Beach. The Arts Commission will identify and pursue additional sources of funding to expand the program beyond the four-year recommendation.

It is the intent of the Arts Commission to recommend a method to obtain the necessary capital to make an impact in the projects currently slated for development in the City within the next five years. It is the intent of the Arts Commission to assist developers and planners dedicated to the development of Art within these projects. The Arts Commission seeks to establish itself as a valuable resource to which developers and planners can turn for advice and assistance when incorporating Art into their projects.

The Arts Commission does not intend to function as a type of "Art Cop". However, under the supervision of the Arts Commission, an independent Artist-Selection Jury will assist in the art selection process. In addition, the Arts Commission will consult established county, state and national resources for guidance and information pertaining to the "Call to Artists" process, fundraising and other program functions.

The Arts Commission will endeavor to provide opportunities for artists of all ages and racial, ethnic and cultural backgrounds. It will consider art from independent artists as well as from group art projects and other art programs. It will recommend exhibits, temporary or permanent, in designated places for public display. The Arts Commission may integrate the art produced from other City programs into the Art in Public Places Program. It may also recommend new programs for expansion of the Art in Public Places Program.

It is the intent of the Arts Commission to develop public art projects that: enhance the urban environment of public spaces, as well as the visual design form and content of the City; enhance a particular community, and; enhance the tourist and economic potential of Boynton Beach and individual sites within the community. It is the intent of the Arts Commission to create an Art in Public Places Program that will become an effective and valuable tool in enhancing building projects, green spaces and public areas. The Art in Public Places Program will benefit the City of Boynton Beach by:

- Enhancing the City's image
- Creating a positive image and identity
- Expressing who we are as a community
- Making Boynton Beach a destination location
- Gaining amenities and appreciative assets

- Creating investments that will increase in value
- Educating the community
- Creating a sense of civic pride
- Evoking emotion and stimulate community interaction
- Improving the environment
- Increasing quality of life
- Creating a greater cultural base
- Preserving community history
- Attracting the arts, artists and art advocates to the community
- Placing The City Boynton Beach "on the map".

*The Arts and Culture Industry is part of the solution
that impacts...*

...Community Revitalization

...Economic Development

...Quality of Life

...Student Achievement

...Tourism

*Refer to the Reference Document: Making the Case
for documentation on each of the topics that was compiled
by the Florida Cultural Alliance.*

Funding Recommendations and Alternatives

Public Art Fee

The Arts Commission recommends that the City of Boynton Beach initiate a Public Art Fee to fund the Art in Public Places Program. Since there are many newly planned projects in the City, a Public Art Fee would establish a financial base for the Arts Commission to immediately begin the Art in Public Places Program.

This recommendation provides a way for the City to create a balance with the rapid building growth to ensure that culture is matched with green spaces. Our recommendations encompass a comprehensive program that would be funded by assessing Public Art Fee equal to a % of construction value to real property excluding the land value.

Public Art Programs across the Nation and State of Florida typically have between a 1/2 - 5% Public Art Fee. Since we want to create a program that will eventually self fund itself we looked at it from a business prospective. If we implement a fee that could be collected for a limited time period it will give us the seed money to run the program for the future. In addition to the seed capital generated from the fee we recommend to reserve some of that money as an endowment (or savings account) in addition to actively seeking grants and private funding through aggressive marketing and fundraising events.

A. The Arts Commission recommends that a **Public Art Fee be assessed equal to 1% of construction value over \$250,000** of improvements to real property in the City of Boynton Beach meeting the following criteria:

- 1) Non residential construction alteration or repair for which a building permit is required
- 2) All new residential construction and/or redevelopment for which a building permit is required
- 3) All new public construction for which a building permit is required
- 4) Fees will be calculated on amounts exceeding the \$250,000 threshold

Exceptions to Public Art Fees:

- Remodeling, repair or reconstruction of structures damaged by fire, flood, wind, earthquake or other calamity determined by the City of Boynton Beach building official.
- Construction less than \$250,000.00

Public Art Fee shall be collected by the Building and Code Compliance Department at the time of permit issuance.

Where does the money get spent?

The total 1% Public Art Fee funds would be dedicated at 70% to the construction of art in a given project and 30% to run the Arts in Public Places program. At the suggestion of the CRA director, Doug Hutchinson, the Arts Commission is recommending to adopt an

Presented May 24, 2005
Revised 9/30/05

endowment program with the Public Arts Fees collected for future program funding.

A. Create a Public Art Fund which is administered by the Arts Commission board and a Public Art Administrator to consist of all contributions received from art fees for development, redevelopment, cash grants and donations to the City for public arts projects from public or private resources and all the funds allocated by the City through the budgetary process for the provision of public art.

The Arts Commission recommends 30% of the total fee to run a Public Arts Program. These funds will be designated to run the entire program and cover:

- Administration of Art Fund and Art in Public Places Program, including Public Art administrators salary, record-keeping such as registration, maintenance, renovation, insurance, etc.
- Art for publicly owned properties to include:
Site preparation, installation, insurance, maintenance and renovation
- Marketing and Advertising of the Art in Public Places program
- Acquisition, siting, decommissioning
- Art programs and events with a cultural emphasis that draw community participation
- Artist and artwork selection-related expenses
- Endowment program

B. Art Projects in Developments

As we stated 70% of the 1 percent Public Art fee will STAY in the project and dedicated towards the development and construction of the art.

The Arts Commission worked with Planning & Zoning to ensure that the building process is not inhibited by the development of art in the project. We support their recommendation for a bonding option, which states:

Certificates of Occupancy will not be issued until completion and installation of all Public Art requirements are met. The Developer may, at his option, post 110% surety for work, which may be more prudently put in place subsequent to building construction with a required completion deadline of 60 - 90 days.

Art in Project Alternative

The Arts Commission recommends that a Public Art Fund be established as a depository for public art fees paid by City departments and private developers to secure a building permit from the City of Boynton Beach. For the private sector, this fee may be refunded in part if an artwork has been either placed on the development site or donated to the City. The Public Art Fund schedule for private sector developers who wish to participate in the alternative program shall be as follows:

- 1) 7/10 of 1 percent of construction costs (as defined above) to artwork on site or donated to the City (refundable upon completion and installation or receipt of approved donation)
- 2) 3/10 of 1 percent of construction costs (as defined above) to Public Art Fund (non-refundable)

The fee remains in the Public Art Fund for the discretionary use of the Arts Commission should the developer elect not to participate in the program. City generated funds are typically tied to the construction site, but unspent project specific funds may be pooled with other unspent funds and used for off site projects.

Developer Options

1) Artwork on Site

Upon assessment of the public art fee, the Developer may elect to site a permanent public artwork as part of the development project. Using this option, the Developer may:

- Elect to site permanent public artwork as part of the development project and utilize the Arts Commission's assistance to develop the Art in the project or;
- Select artist directly to execute a project that meet specific art criteria or;
- Hire a professional consultant to select artists to commission site-specific, architecturally integrated artworks that meet specific art criteria or;
- Purchase artworks for permanent installation.

Artworks may be:

- Singular, discrete objects (sculpture);
- Artist designed amenities (streetscapes, paving treatments, lighting standards and treatments, benches, way finders, architecturally integrated water features, artist designed landscape treatments or other artist designed amenities or aesthetic treatments);
- Artworks must be located in publicly accessible locations.

The **Artwork on Site** approach benefits the Developer to:

- Create a positive relationship with the community
- Attract visitors to the Art project therefore the development
- Provide a competitive edge
- Create a signature/ identity for the project

2) Art Donated or commissioned to the City of Boynton Beaches Art in Public Places Program

Upon assessment of the public art fee, the Developer may elect to purchase an existing artwork or commission an original artwork for donation as a gift to the City of Boynton Beach's public art collection. Donations to the City are reviewed by the Arts Commission to determine the aesthetic quality of the donation, the work's maintenance requirements and the appropriateness of the donation to the overall goals of the Art in Public Places Program.

This approach allows the Developer to:

- By-pass the commission or purchase and subsequent installation of the artwork on the property;
- Increase public awareness of the Developer and development as civic benefactors.

3) Fees in lieu of Artwork on Site

Upon assessment of the public art fee, the Developer may elect to pay the fee to the Public Art Fund with no intention of placing artwork on site or donating a work of art to the City. Funds are subsequently used by the Arts Commission on publicly sited projects of its choosing.

This approach allows the Developer to:

- By-pass completely the public art process.

SITE CRITERIA FOR DEVELOPERS

A. Eligible Public Art Location

- Such facilities include commercial or residential buildings and adjoining plazas, parks, greenways, sidewalks, traffic islands, roadways, public buildings, lobbies, courtyards and towers, etc.;
- Spaces may only be accessible to the public;
- Locations can include surface treatments of buildings, retaining walls and bridges. The definition of "location" can also be expanded by an artist's ability to extend the possibilities for public art, and would then be determined on a case-by-case basis;
- Projects can also include artist-designed features that might otherwise be provided by commercial sources, such as gates, water fountains, tile and surface materials, doors, furniture, clocks, lighting fixtures, railings, signage, etc.

B. Eligible Public Art Components

On-Site Art in Public Places

The Arts Commission is receptive to the broadest definitions of art and encourages imaginative interpretations of media. The possible media and materials, which might be used for permanent or temporary installation, decorative or functional purpose, include:

- Sculpture: Free-standing, wall supported or suspended; kinetic, electronic, etc., in any material or combination of materials;
- Painted and mosaic murals;
- Earthworks, fiber works, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media, etc.;
- Standardized fixtures such as gates, streetlights, signage, etc., may be contracted to artists for unique or limited editions.

BUDGETARY GUIDELINES FOR DEVELOPERS

A. Eligible Costs

All artworks created by artists are considered eligible expenses for the Art in Public Places Program as well as the following:

- Structures, which enable the display of the artwork(s);
- Artist's budgets for projects, which will be expected to cover:
 - Professional fees for the artist(s)
 - Labor of assistants, materials and contracted services required of the production and installation of the artwork
 - Any required permit or certificate fees
 - Business and legal costs directly related to the project
 - Studio and operating costs
 - Communication and other indirect costs (insurance, utilities, etc.)
 - Travel expenses of the artists for site visitation and research
 - Transportation of the artwork to the site
 - Installation of the completed artwork
 - Documentation of the artwork (color slides, etc.)

B. Ineligible Costs

- Directional elements such as super graphics, signage or color-coding except where these elements are integral parts of the original work of art;
- "Art objects" which are mass-produced of standard design such as playground equipment, fountains or statuary objects;
- Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts;
- Decorative, ornamental or functional elements that are designed by the building architect as opposed to an artist commissioned for this purpose;
- Landscape architecture and landscape gardening except where these elements are designed by the artist and/or are an integral part of the work of art by the artist;
- Services or utilities necessary to operate or maintain the artwork over time.

ART IN PUBLIC PLACES ART SELECTION GUIDELINES

The following are specifics that will guide the art selection process. The Art selection process is very similar to the architecture and construction of a building. Our reference document provides detailed examples of this process.

- Will the art component be concentrated in one area or distributed throughout the public spaces?
- Is the proposed project/program a collaborative effort? If so, specify the participants, responsibilities, and proposed arts budget allocation to non-arts components, if applicable.
- How will the art component function within the whole development? Activate a space? Provide a landmark? Serve a function (gateway, seating, etc.)?
- Who are the primary and secondary audiences for the artwork or cultural program (pedestrians, building users, tourists, automobile traffic, etc.)?
- How has the anticipated audience influenced your choice of artwork?
- If applicable, describe plans for artwork to conform to necessary safety and functional requirements. Who will assist on these requirements?
- Describe plans for fabrication and installation of the artwork.
- Describe needs and plans for ongoing maintenance or program development responsibilities.
- Please submit 50 percent schematic design, with model, if appropriate.

Refer to the Reference Document: *Criteria and Evaluation Tools* for more on this topic.

VII. PRIVATE OWNERSHIP AND MAINTENANCE REQUIREMENTS

A. Maintenance

All privately sited artworks shall remain the property of the owner for the life of the Certificate of Occupancy. Details are explained in Other Program Considerations.

B. Location, Installation and Identification

- Artworks for public and private projects must be located in an exterior area, which is accessible to the public at all times.
- Installation of the artwork should be planned to complement the work and allow for unrestrained viewing from a variety of vantage points.
- Potential obstruction of growing trees, shrubbery, or future construction should be taken into account.
- The artwork shall be a permanent, fixed asset to the property. A plaque stating the artist's name, artwork title, shall identify each artwork and date the artwork was dedicated. The plaque will be placed in an appropriate location near the artwork that can be easily accessed by pedestrians.

C. Private Placement

- On-Site: The artwork shall be displayed in one or more of the following locations on the site of the commercial structure:
 - Architecturally integrated into the structure or hardscape.

- Placed as a discrete object in any exterior location open and available to the general public, in a manner, which complements the artwork and site.
- Off-Site: At the request of the applicant for a Certificate of Occupancy, the artwork may be located on a site other than that of the development provided, however, that the site is selected by the Arts Commission.

Art Commission Services

The Services the Art Commission proposes to provide:

The Arts Commission recommends that it become an integral part of the development review process for any new or major modification to a project. The goal is to make recommendations for the inclusion of Art into the project from the planning stage, and to manage the Artwork's creation and execution so that it will enhance the project, provide positive community relations and attract its target market as well as visitors to the project. Some of the services the Art Commission proposes to provide are as follows:

The Arts Commission will participate in the development review process by creating an Art amenity that will have positive impact on the project, to attract its target market, generate good community relations and motivate visitors to the project

The Arts Commission will create a positive public relations program based around the art and highlight it through events

The Arts Commission will work with engineers on safety, installation and permit issues.

The Arts Commission will provide legal documents necessary to include art in projects

The Arts Commission will work with city departments to consult and manage the installation of the art piece in project

The Arts Commission will provide a tax write off on the portion of the project that is dedicated to the Art.

The Arts Commission will provide ongoing supervision and recommendations for the maintenance of the Art in the project; however the project owners association will be responsible for maintenance costs.

Process Outline

A. Pre Application Review Meeting

At this meeting, many city departments review the preliminary site plan of a project. Typically, the following boards/department representatives are in attendance, along with the builder or builder's agent:

- * Building
- * Public Works/Utilities/ Fire
- * Engineering
- * Planning Staff

The Arts Commission recommends that at least one of its members attend these meetings to review the projects. As the project is discussed, the Arts Commission member can provide feedback and contribute ideas to the plan where Art is concerned. The Arts Commission recommends that the following information be obtained at this meeting and included on the Planning & Zoning Standard Review Comments form:

1) Image for project

- o Design intent or concept for project?
- o What is the concept or design of the project?
- o What will the project portray?
- o What will it represent?

2) Specs for project

- o What elements (materials, construction methods, dimensions, etc.) will the project encompass?
- o What amenities will it offer?

3) Budgets designated

- o What are the preliminary construction costs?
- o What is the overall (construction) cost of the project?
- o What, if any, costs apply to the Art in the project?

4) Marketing objectives

- What market will the project target?
- What is the demographic profile for the residential and/or commercial project?

B. FTR- Final Technical Review

Meeting that determines and defines the specifications for the project. Costs for project are defined and budgets set.

The Arts Commission will play a part in the review where Art in the project is concerned.

C. Site Plan Submitted - Site Plan Approval

At this stage, the Arts Commission recommends that coordination take place with architects and planners on timing, delivery and installation of the Art in the project

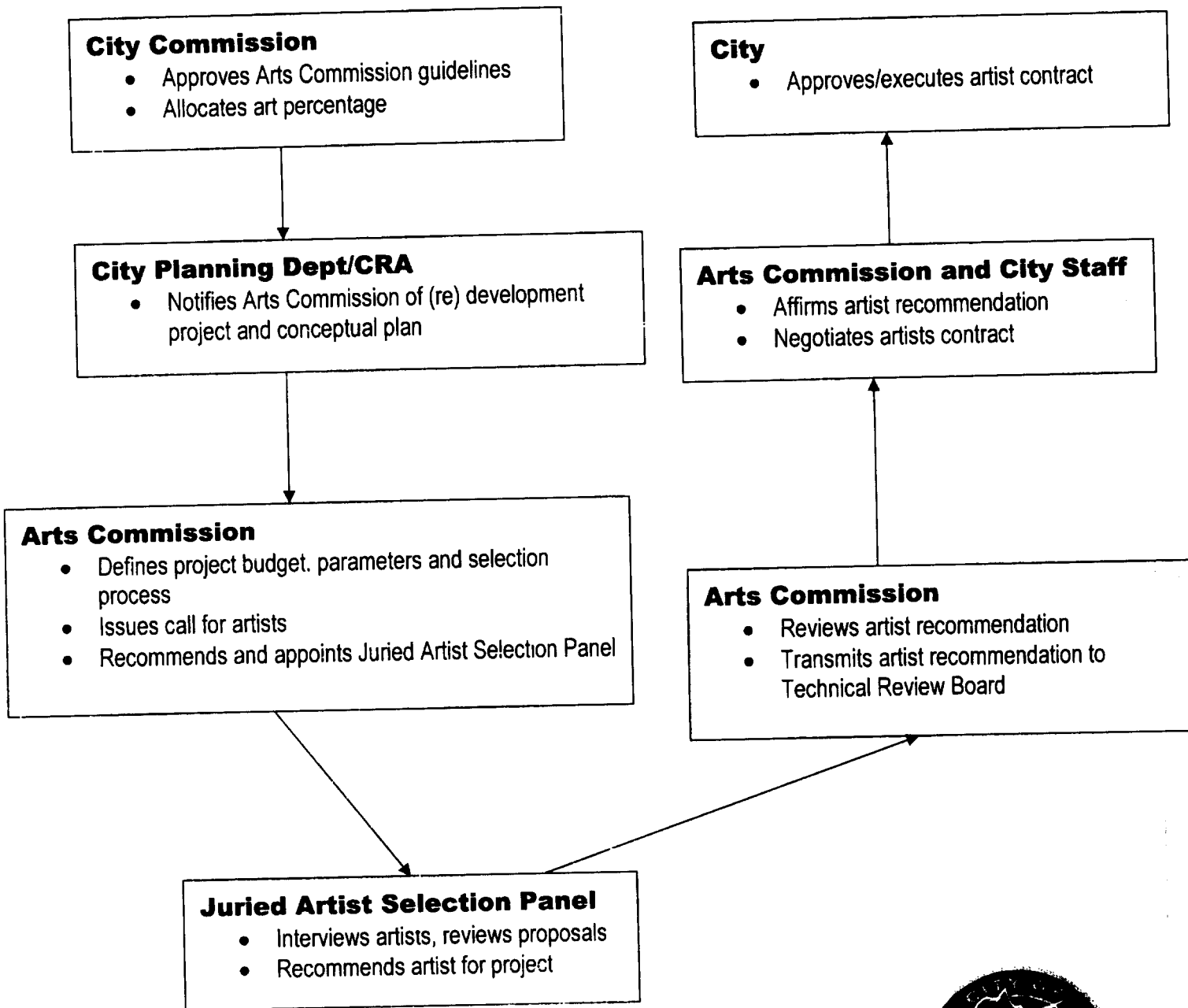
D. Scheduling fundraising and unveiling event

The Arts Commission recommends that it assist and coordinate with other City departments, developers and the Chamber of Commerce to coordinate an Art unveiling/fundraiser event. This will be a key way to raise funds for the Art in Public Places Program and to provide the project with positive press and advertising.

E. Maintenance

The Arts Commission recommends that the project's property owner's association maintain the Artwork, once in place. The Arts Commission will work with the City Attorney and Finance Department to develop the appropriate language and budget allocations to integrate into the association regulations that will provide for the proper maintenance of the Art in the project.

BOYNTON BEACH RECOMMENDED PUBLIC ART SELECTION PROCESS



Art Procurement Process

Methods to Procure Art in Public Places

The Arts Commission will consider the following methods for acquiring art for the purpose of Art in Public Places Program:

Direct purchases

This is defined as the purchase of existing art pieces created by locally, nationally and internationally recognized artists for placement in the Arts in Public Places Program.

Commissioning

This is defined as commissioning newly created art pieces from artists locally, nationally and internationally, for placement in the Arts in Public Places Program. The Arts Commission will host a Call to Artists process to obtain the Art for a specific project. The Arts Commission will act as a design team bringing Artists, architect and design professionals together to work on an overall design of a site or major project.

Gifts

Art can be donated to the Art Commission for its Art in Public Places Program. Gifts are tax deductible and must meet the same criteria that other art projects are required to meet.

Temporary Lending Program

The Arts Commission will initiate a temporary Art in Public Place program. It will identify and designate areas in the City for rotating art placement and qualify art for placement in these areas.

Coordinate with other City programs

The Arts Commission can coordinate with other City programs such as Schools, Parks & Recreation, The Arts Center, Schoolhouse Children's Museum, The Civic Center, The Library, The Hester Center, The Wilson Center, Sister Cities, Neighborhood Associations, Organizations, Neighborhood Art Gallery, etc., to enhance and display art created within these programs. In addition, the Arts Commission can accommodate these programs by placing art on display at or in facilities, or on behalf of, on a permanent or temporary basis.

Regional, National and International Rotating Art Exhibits

The Arts Commission will recommend, procure and designate locations for display of traveling art exhibits.

The Art Commission proposes the following considerations when purchasing, commissioning, placing and decommissioning art in Public Places:

Does the Art...

- Enhance the City's image
- Create a positive image and identity
- Express who we are as a community
- Make Boynton a destination location
- Provide investments and amenities that will increase in value
- Educate the community
- Create a sense of civic pride
- Evoke emotion and stimulate community interaction
- Improve the environment
- Enhance the quality of life
- Create a greater cultural base
- Preserve community history
- Attract the arts, artists and art advocates to the community

ART FORMS

The Arts Commission will initially focus on Visual Art. Once the Art in Public Places Program is established, it may recommend that its focus be broadened to include other art forms such as Theater, Music and Dance, etc.

WHAT IS VISUAL ART?

The following are generally considered examples of the Visual Art the Arts Commission will focus on:

Primary Focus

- Two Dimensional
- Three Dimensional
- Mixed Media
- Kinetic
- Film & Video
- Computer Generated
- Installation
- Functional

Secondary Focus

- Events & Festivals
- Education

Examples of Visual Art

The following are examples of Visual Art and their budgets in other cities
Art in Public Places Programs:

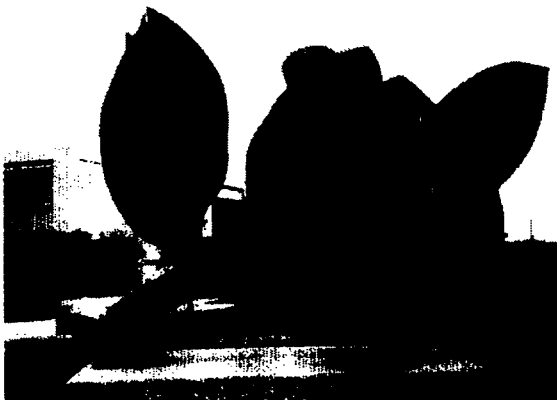
The following examples are courtesy of the Miami-Dade Art in Public Places permanent collection. Estimated budgets are highlighted in red---please note, these are only estimates, not exact figures for their current worth. Because these pieces are site specific and will always remain part of the Miami-Dade Art in Public Places permanent collection, they do not have an accurate estimate of what the pieces are worth today. As well, there are no comparables to base the current cost/worth estimates of these pieces.

Carlos Alves

"La Palma," "Ventana Solar,"
& "Portón de Sentimientos" 1994
Ceramic tile & mixed media
Calle Ocho (Eighth Street) Metrorail Station
\$65,000



A Miami ceramist, Carlos Alves used found objects and broken tiles to create three unique installations at the Eighth Street Metromover Station. On the south side of the station, "La Palma" (The Palm) rises from ground level to the top of the station. Alves references the poetry of Jose Marti in which the royal palm represents freedom. On the north side, "Portón de Sentimientos" (Gates of Sentiments) symbolizes the gateway to Calle Ocho. Using recycled ceramics and items embedded in clay and collected from Calle Ocho merchants, "Ventana Solar" (Solar Window) represents a Cuban colonial window.



Karel Appel

"Tulip" 1984
Aluminum, painted
West Dade Solid Waste Transfer Station
\$40,000

Hand-painted by the artist in bright hues, "Tulip" is Appel's first large-scale sculpture. This abstracted tulip is fabricated in aluminum, painted in vivid colors, and located at the Solid Waste Transfer Station on a grassy knoll. Appel

began his artistic career in The Netherlands, was the founder of COBRA, an art movement based on color and a precursor of Pop Art, and now works out of New York.

Roberto Behar & Rosario Marquardt

"M" 1996

Concrete, stucco & clock



Riverwalk Metromover Station

\$90,000

Designed as an entranceway to the station, the 45-foot-tall "M" integrates the street with the lofty eight-story station, creating an intimate scale. The monumental structure, commissioned for Miami's centennial, is located on the historical riverfront site where Julia Tuttle's homestead once stood and serves as a tribute to and celebration of Miami.

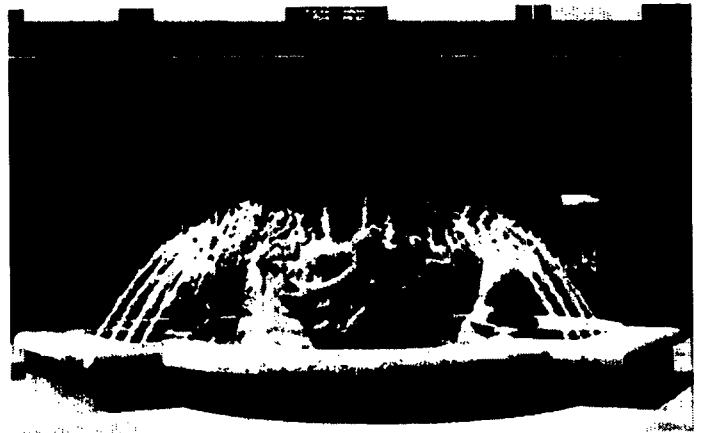
Alexander Stirling Calder (after)

Delights and Terrors of the Sea,
1983

Cast stone Vizcaya Metrorail Station
\$60,000

In 1915, James Deering
commissioned renowned sculptor

Alexander Stirling Calder (1870 - 1945) to create a major installation for Villa Vizcaya. Calder created a series of mythical mermaids and mermen to adorn the villa's Great Stone Barge that lies a few feet off shore in Biscayne Bay.



For the entrance to the Vizcaya Metrorail Station, contemporary artist Mark Jeffries replicated Calder's sculptures in cast stone. Using special molds, each replica was formed with a sand-based aggregate and then resculpted by Jeffries to sharpen timeworn features. The Calder sculptures were integrated into a modern fountain. Alexander Stirling Calder was the father of Alexander "Sandy" Calder, known for inventing the mobile and as a pioneer of Kinetic art.

Rockne Krebs

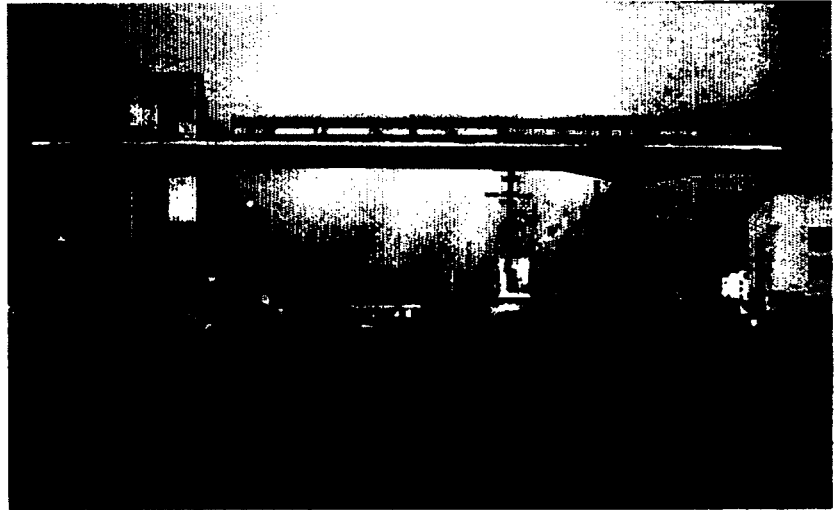
The Miami Line

Neon

Location: Spanning the
Miami River, Downtown
Miami

1984 and 1988

*1984 \$49, 740 and 1988
\$17,000. Maintenance of this
piece is at least \$12,000 a year*



The Miami Line is a 1540-foot-
long neon sculpture spanning
the Miami River created by
Washington-based artist

Rockne Krebs. Since its creation, The Miami Line has become a signature element of the downtown Miami skyline and has been featured in countless photographs. Stated Krebs, "the Miami Line was conceived as a means to generate visual drama and create an identifying element which is unique to Miami by simply enhancing what is already present."

Krebs created the first phase of The Miami Line in 1984. It was 300 feet long. Due to its great popularity, the piece was greatly expanded in 1988.

Gary Moore, Gerald Marston & WRT Inc.

"Ninth Street Pedestrian Mall" 1995

Rustic terrazzo, dyed concrete unit pavers,
bronze inserts & landscaping.

Historic Overtown, Downtown Miami
\$60,000

The Ninth Street Pedestrian Mall, an innovative collaborative infrastructure project, spans Ninth Street from First to Third Avenues, and the Metrorail guideway from 8th to 10th Streets. The main plaza is constructed of rustic terrazzo in vibrant oranges, yellows, blues and greens, punctuated with casual clusters of seating, whimsical light poles and commemorative bronze medallions celebrating the history and heritage of the Overtown Community. Concrete block pavers in a pattern inspired by African Kente textile weavings create a colorful rail plaza. Future planned additions to the mall include streetscapes for the historic Overtown Folklife Village, a multi-use performance plaza for the Lyric Theater, basketball courts and a sculptural Overtown Tower.



Edward Ruscha
"Words Without
Thoughts Never to
Heaven Go" 1985-
1989
Acrylic on Canvas
Main Library,
Downtown Miami
\$280,000 (*amount
includes lunettes and
main piece in
rotunda*)



Edward Ruscha is best known for his exploration of the meaning and power of words. In this, his first public art commission, Ruscha took a quote from Shakespeare's Hamlet, "Words Without Thoughts Never To Heaven Go," floated each word separately on a sky-like ground, and installed the 360° mural in a California artist continuous frieze in the first floor rotunda.

In a second phase of the commission, Ruscha designed sixty related lunettes (moon-shaped paintings) for placement throughout the library's two floors. The backgrounds of the lunettes are painted black, white, and gray, contributing to a unifying theme reflecting the spirit of black ink printed on white paper. These works contain provocative and whimsical bits of language, serving to stimulate library users' thoughts about the nature of language and linguistics.



John Andrew Smith
Martin Luther King, Jr., 1982
Sheet Copper, Bronze
Dimensions: 104 x 29 ½ x 58
Location: Martin Luther King Park, 32nd Avenue
& NW 62nd Street
\$10,000

Miami artist John Andrew Smith created the 10-foot-tall bronze and copper statue of Martin Luther King, Jr. for the park of the same name. Stated the artist, "The statue of the slain civil rights leader and Nobel Peace Prize Winner was originally commissioned as a life-sized replica of Dr. King. As time progressed, it seemed as if the sculpture would be twice the size of life."



Beryl Solla
Top Ten Things, 1994
Ceramic mural
St. Agnes Rainbow
Village
\$11,000

Top Ten Things is a handmade ceramic tile mural created by artist Beryl Solla for the St. Agnes - Rainbow Village Family Development Center located at 321 NW 20th Street, Miami. Children and adults from the local community participated in making ceramic shapes for the mural. Their artwork, along with the artist's large ceramic shapes of toys and tools, work together to address the issues of community learning, play and joy. The finished mural is an arch six feet wide by eighteen feet tall.

Beryl Solla has worked on large-scale public art and community-based art projects for over ten years. She has always felt that Public Art projects should be community-based and reflect the needs, interests and history of the community in which it is placed. She strives to engage the community in her sculpture either conceptually or directly

Elyn Zimmerman

"Keystone Island"

1989

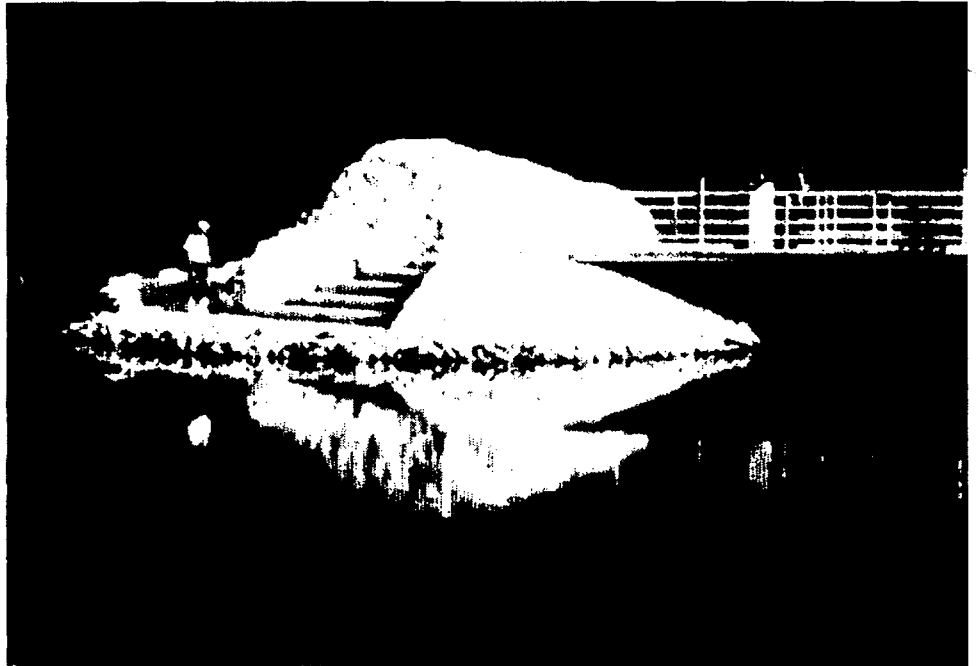
Cut keystone,
concrete, metal and
natural pond

North Dade Justice
Center

\$262,527

This environmental
artwork creates a
contemplative area
where people can relax
and enjoy the natural
wildlife of South
Florida. Utilizing
indigenous coral

keystone, the artist created "Keystone Island" as a link between heavily traveled US1 and a natural mangrove habitat. Zimmerman is inspired by Zen gardens and tantric principles.



Web Site

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Tampa Public Art

The following art examples of Art in Public Places in the Tampa area.

Robert Calvo

Arcade, 1990

Steel, Wood

Two bridges, 5' x 35'

Al Lopez Park

Calvo's artwork, a set of two cor-ten steel and wood pedestrian bridges within the grounds of Al Lopez Park, serve to emphasize a particular part of the park demarcated by two creeks. The bridges serve as portals or gateways for the pedestrians utilizing the site, evoking both a sense of place and the passage of time.



Connie Lloveras *Ybor City Streetscape,* 2000

Granite and paving stones
123 tobacco-shaped leaves
of variable dimensions
7th Avenue, Ybor City
Photo: Copyright 2000 Steven
Traves

These depictions of tobacco leaves, scattered along the Seventh Avenue streetscape, serve to integrate the economic and cultural history of Ybor City. Each leaf contains a quote from long time resident Ferdie Pacheco.

**John Rogers,
Great Ball of Pliers
2003**

Powder coated galvanized steel, aluminum,
safety-red pliers, diachronic glass, and cables
3806 E. 26th Avenue and 40th St.



Artist Concept:

Great Ball of Pliers is a three frequency geodesic sphere constructed from 270 steel struts connected by 96 red safety pliers. At 24' high & 14' in diameter, the sculpture serves as a symbolic marker placed at the corner of East 26th Ave. and 40th Street, for the Department of Public Works (DPW) yard. My objective was for the sculpture to be humorous, fun, and mysterious while implying deeper meanings.

Starting in late 2001, and ending in 2003, this project was two years in the making and included three different design phases & reviews. The initial concept was to explore ideas using equipment that

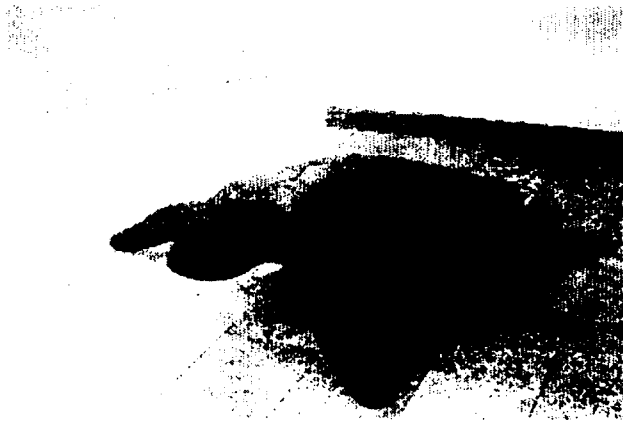
the DPW uses, such as traffic cones or street barriers, and assembling them in a sculptural way. When for various reasons these were abandoned, the search began for an image that relates the processes of the DPW and visually acknowledges their role in the interconnection between mechanical infrastructures that create the fabric of our society.

While exploring these ideas it occurred to me that the geodesic form is a perfect symbol to represent these interconnections (by connecting three different size triangles the sphere is born). I felt that using pliers as the triangle hubs was a good way to represent the hand of man. Pliers are, after all, a universal symbol of assembly and construction.

There are other visual and metaphorical layers to the *Great Ball of Pliers*. First, due to the supporting framework, there is the illusion of movement for the drive-by viewer—as though the sphere is rotating in its cradle. The sphere is supported by a central stanchion via cables that also help to form a network of supports for triangular pieces of cyan diachromatic glass. Arranged in a circular pattern, the glass reflects moving colors created by the passing sun and makes every view different for the passers-by. I liked the idea of the sphere surrounding, protecting and supporting a material that represents illumination.

Temporary Lending Program

This is an example of a piece of art that is on loan to the City of Boynton Beach. The Arts Commission recommends that they will expand on this program.



Rick Beau Lieu's turtle bronze sculpture in the City of Boynton Beach lobby.

Call to Artists Procedure and Artist Selection Methods

Art Jury Committee/Panel

A jury is selected by canvassing art professionals that will make up a credible panel for the purpose of judging art for the Art in Public Places Program. The panel will consist of curators, architects, artists, teachers, photographers, writers and other art professionals who have established notoriety and National or International accomplishments. The Arts Commission recommends in the case of a Call to Artists for a developer project that a City Representative, CRA Representative and a developer representative become members of the Jury Panel. This jury will be selected and managed by the Arts Commission. Once a Call to Artist is initiated and proposals are collected, the Art Jury Committee will receive the applications from the Arts Commission and narrow down the candidates to the designated number. The Arts Commission will then send a letter to each candidate to alert him or her of the next step (outlined in "Call to Artists"). The candidates will then meet the next level of criteria and submit materials for final judging. The Art Jury Committee will receive this material, review it and set up a one on one interview with the artists to have them present the project. The Art Jury Committee will select a finalist and present the finalist to the Arts Commission. The Arts Commission will announce the finalist, have the selected artist, and project officially made known.

ARTWORK SELECTION

A. Selection Criteria for Artists

General criteria to consider in selecting artists for public or private projects should include:

1. The aesthetic and technical quality and originality of the artist's previous work as evidenced by slides and other supporting materials;
2. The artist's previous experience with public art projects of a similar scale and scope;
3. The artist's demonstrated ability to execute and complete a project in a timely and professional manner;
4. The artist's ability to communicate ideas verbally and visually, and work effectively in a team environment;
5. The appropriateness of the artist's proposal to the particular project and its probability of successful completion;
6. A wide variety of nationally known artists as well as local artists.

B. Selection Criteria for Artwork

General criteria for the Commission or Developer to consider in selecting artwork for public or private projects should include:

1. Quality: artwork demonstrates originality, artistic excellence, and quality;

2. **Media:** all visual forms and media may be considered, subject to the selection jury or the Arts Commission;
3. **Style:** artworks of all schools, styles, and tastes should be considered;
4. **Response to Site:** artworks and art places should be appropriate in scale, material, form, content, and value for the immediate, general, social, and physical environments with which they are to relate;
5. **Team Approach:** encourage the early involvement of the artist as a member of the project design team of architect, engineer, landscape architect, etc.;
6. **Durability:** consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, excessive maintenance and repair costs;
7. **Elements of Design:** consider that public art, in addition to meeting aesthetic requirements, may also serve to establish focal points, terminate areas, modify, enhance, or define specific spaces or establish identity;
8. **Public Liability:** artworks and art places should be examined for unsafe conditions or factors that may bear on public liability;
9. **Diversity:** strive for diversity of style, scale, media, artists, community values, forms of expression, and equitable distribution of artworks throughout the City.

C. Selection Methods

Artworks for private projects may be selected in a variety of methods. In addition to advertising of projects, the planned Art in Public Places Program Artist Registry will be a resource for the review and direct selection of an artist or artwork. Selection methods may include but are not limited to:

1. **Open Competition:** The project is advertised locally, regionally, nationally or internationally and through the planned artist data bank. Interested artists may submit materials for review, which include slides, letter of interest, resume and supplementary materials such as reviews, articles, books or brochures.
2. **Limited Invitational:** A selected number of artists are invited to submit materials for review. Artist finalists may be selected to submit detailed models for the project for which they will be paid a fee.
3. **Invitation:** One artist is invited to submit materials for review, and may be commissioned to create a detailed proposal.
4. **Direct purchase:** An existing work is purchased for a specific project.

ARTIST SELECTION METHODS

Private Development Process

1. Public Art Developers Guide received upon contact with Planning Department;
2. Arts Commission contacted;
3. Public Art fees paid to receive building permit;
4. Pre-Design consultation with Arts Commission member(s);
5. Artwork site/artwork selected;
6. Art in Public Places application submitted;
7. Review/approvals of artwork site and artwork (Arts Commission and appropriate city staff);
8. Artist/artwork commissioned/donated/purchased;
9. Artwork installed;
10. City notified of completion/Certificate of Occupancy application;
11. Application for return of refundable portion of public art fee.

Commissioned Art Procedure

City or Developer meets with Arts Commission to review the project and its specs. This is where we get the following information and evaluate the proposed project. It is a fact finding and information sharing session. The Project Manager or developer will give information about their intent and scope of the project. The Arts Commission will provide feedback on the art participation in the project. The Arts Commission member present at the meeting will bring the following information back to the Art Commission meeting for discussion:

- Description of the project
- Target Market for Project
- Specs of the Project
- Timeframe
- Budget for the project

The Arts Commission will prepare the projects criteria, evaluate whether the project will need to incorporate art as a purchase or commission. If a commission is determined then the Arts Commission will initiate a "Call to Artists".

A "**Call to Artists**" is a process in which artists locally, nationally or internationally can submit via application process their credentials and materials to determine eligibility for the project. They are competing for the award to produce the Art in Public Places project.

The Arts Commission prepares project criteria and determines the scope of the Call to Artists contest. A database will be managed, of artists, organizations and associations in which the Call to Artists can be executed. The Arts Commission will determine the scope of the project and whether the Call to Artist should be limited to local artists or opened to national and/or international artists. The Arts Commission will then define the project and prepare a document that details the project. The criteria will depend upon the level of scope of artists the Arts Commission wants to "Call". The preliminary "Call to Artists" information should include:

- Project title
- Project goals/budget
- Artist Eligibility
- Criteria Guidelines
- Application Process
- Selection Process
- Submission guidelines and mailing instructions
- Entry deadlines dates
- Finalists Responsibilities

Once this information is determined, the Arts Commission will contract a design firm to produce graphics for the initial "Call to Artist" information. The first release is designed to get an initial interest and awareness in the project.

*This is demonstrated by Article labeled "Call to Artist" interest info in the Research Document.

The information can be distributed through mailings, posted on the Arts Commission web site, through news releases targeted towards existing associations, organizations and publications. The interested parties reply to the mailer requesting a Preliminary Submission Form. The article in the Research Document is an example of a preliminary "Call to Artists". This information can be obtained by either mailing the info to the artist or by downloading a pdf from the Arts Commission web site. This is step two of the art selection process. The forms are completed by the Artist and submitted by the deadline.

The applications are reviewed by the Art Jury Panel, which narrows down the candidates to the designated number. The Arts Commission will then send a letter to each candidate to alert him or her of the next step. This step will require a complete proposal for the project meeting all of the projects criteria. In addition, the artist will be required to create a maquette or mock up of the project. The artists are paid a fee to create a maquette or mock up of the project. The information that will be required in this proposal is:

- How the artists work relates to the site and the design addresses the site needs
- How the artwork meets the criteria for the project
- What interests the artist about the project
- Proposed materials samples

- Itemized budget estimates including liability insurance during the contract period.
- Specific maintenance requirements
- Timeline of development, fabrication and installation

The Art Jury panel sets up a one-on-one interview with the artists to have them present the project proposal. The Art Jury Panel will select a finalist and present the finalist to the Arts Commission. The Art Commission will release the finalist and have the selected artist and project officially announced. The Artist then is contracted to do the project and the project is processed through the technical review board and permit process.

Legal Recommendations

Contracting with Artists

The City shall develop a standard form for contracting with artists. The scope of work, schedule and payment schedule shall be adapted for each project. The Arts Commission together with the City Attorney and the Finance Director shall negotiate each contract. The City Manager and the City Commission must approve final contracts.

The Arts Commission will select the art. The City will determine the process for the expenditure of the funds.

Artists' Fees

Artists shall be paid for all creative work requested by the Arts Commission. Artist fees are defined as the payment by the City or developer to the artist for professional services exclusive of other project costs such as materials and other labor, studio, overhead, travel and per diem expenses. The following factors are intended as guidelines for determining the artist's fee:

- Scope of work and length of artist's involvement
- Project budget-fee ranges (usually based on a percentage of the total artwork budget)
- Artist's experience and professional standing
- Fee scale for similar scopes of work on comparable projects (The Arts Commission could develop flexible scale recommendations based upon similar projects)

Outline Contract

Outlined below are the various sections, which are typically included on an artist contract. Those, which are considered "boilerplate", will not be discussed in any detail; the City will have its own version of these sections.

Header:

The header provides basic information used for administrative purposes, such as the project name and number, contract number, funding source and expiration date of the contract.

Title:

Title describes the type of contract, centered and highlighted in some manner. Some typical examples, with a brief description of the agreements, are:

- **Sited Artwork Commission Agreement:** for the fabrication and installation of permanent artworks being located at a specific location(s).

- **Portable Works Purchase Agreement:** for the creation of portable artworks, such as a painting, sculpture, glass or ceramics, of a sufficient monetary amount requiring a contract.
- **Agreement for Design Services:** for services resulting in an artwork proposal, construction documents for an artwork, an art plan, or some other design not resulting in an artwork product within the terms of this agreement (a Sited Artwork Commission Agreement might follow).
- **Agreement for Collaborative Design Services:** for an artist's work on a design team project, again resulting in an art plan or artwork proposal, but no final artwork created within the terms of this agreement.

Contents of Agreement:

Names the various parts of the contract: Scope of work, Compensation Terms, Standard Terms (boilerplate) and attachments.

Term of Agreement:

Provides the expiration date of the contract. Allow time after completion of the scope of work for any other deliverables to be submitted and other administrative details which may have to be handled prior to closing out a contract.

Scope of Work:

This section should be as complete as possible. It spells out the artist's obligations and the expectations for his/her work. It is not simply a description of the artwork/services the agency is purchasing, but an outline for the work the artist is performing. It gives the Who, What, Where, Why and How of the work the artist will execute and that is being purchased.

Here are descriptions for scope of work for two commonly written types of agreements:

- **Design Services:** In this type of contract, it will be specified with whom the artist will be working (with other departments, designers, community members), what the artist will be producing, where the artist will perform the work (are they traveling to your jurisdiction, is the a residency?), for what purpose (to develop an art plan, to design artwork, etc.) and what schedule will he/she follow.
- **Artwork Commission:** This is often a fabrication contract; sometimes it includes design development and fabrication.
 - Specify whether this is a sited, site-integrated, portable work or other type of artwork, and what aspect of the site is part of the artwork, defining the type of artwork will help to define the extent to which the Visual Artist Rights Act (VARA) applies to this artwork should it, or its site. need to be modified.
 - Include a detailed description of the artwork. If you want to include very specific aspects of how the work will be performed, and what the final product will be, consider requiring specifications, which can be an attachment.
 - Specify other work the artist is to perform. Do you want the artist to give a lecture, attend dedications, etc? Do you expect the artist to install in addition

- to fabricate the work? Will someone else install the artwork? Will the artist be expected to coordinate someone else's work?
- In order to complete the work, the artist may need to consult with conservators or others.
 - In addition to the artwork, you will want the artist to provide detailed maintenance instructions. Other documentation about the artwork may be important for your files, such as descriptions, statements, and photographs and slides.

Anything unusual can be included in the scope of work section. The more that is anticipated and included, the more beneficial the contract will be for all parties involved. The following clauses are typically included in commission contracts:

- A. Description of Artwork
- B. Consultation with Conservator
- C. Travel to jurisdiction in which work will be performed]
- D. Time of Completion
- E. Artwork Documentation and Maintenance Instructions
- F. Acknowledgement

Public Information:

This section says that the Arts Commission shall be solely responsible for coordinating public information materials and activities related to the dedication of the artwork. It is intended to prevent conflicting information from being provided by different sources.

Compensation Reimbursement:

This section spells out the total compensation that the artist will receive for the completion of all the tasks outlined in the scope of work, including any reimbursement for travel or taxes, if applicable.

Schedule for Partial Payments of Compensation:

Here the compensation is divided into several payments for which the artist invoices the City. Receipt of payment is contingent upon the artist providing various deliverables or meeting milestones, which are spelled out for each payment increment. Some examples of items considered deliverables are: fabrication drawings, specifications, budgets, schedules, proof of insurance or actual parts of the artwork. The expectation is that the artist has performed the work, purchased materials, or become obligated to pay for orders placed prior to paying him/her prior to submitting the invoice, so that the City is not extending credit to the artist.

Process for Payment of Compensation:

This section essentially says that the artist needs to submit an invoice documenting work performed in order to receive payment.

Process for Reimbursement of Expenses:

Generally, an artist is responsible for all expenses. Occasionally, funds are set aside for travel on a design services contract.

Process for Payment of Taxes:

This section affirms that the artist is responsible for paying and submitting all taxes.

The City may include boilerplate sections such as the following modeled directly on contracts in use elsewhere in the City:

- Artist is Independent Contractor
- No claim by Artist's Employees, Contractors or Other Parties Allowed.
- No assignment of Work Without Authorization
- City Authorized to Review Work in Progress

Use of Subcontractors: If the artist engages subcontractors or other trades to aid in the execution of the contract, the artist shall be responsible for the payment of such work done by these subcontractors and shall secure evidence of payment by waiver of lien by these subcontractors.

The following sections pertain to considerations as outlined in the Visual Artists' Rights Act. The City may wish to extend these rights in a limited fashion to artworks that are not necessarily covered in the legislation:

Artists' Rights: After final acceptance of the artwork by the City, the following artists' rights shall be guaranteed:

- Maintenance of public artworks shall be the responsibility of the City or developer or property association and not the artist. The responsible party shall make reasonable efforts to maintain the artwork in good repair. The responsible party shall attempt to consult the artist on major repairs.
- The artwork shall not be altered, modified, removed, or relocated from a site integral to the concept for the work without first consulting with the artist, if reasonably possible. If a work, nevertheless, has been significantly altered, the artist shall have the right to disclaim authorship.
- Copyright of the artwork shall belong to the creator(s), but the City or developer or property association shall be granted in the contract the right to make two-dimensional reproductions for non-commercial purposes.

Copyright:

City's Right to Reproduce Images: typically, the artist retains copyright, while the City keeps the right to reproduce images for educational or, as defined for the Arts Commission, municipal purposes. This allows the City or Arts Commission to publish images in a newsletter or distribute images of the artwork or artwork proposal to the press.

City Records Regarding Artwork:

This section says that records regarding the artwork and its creator will be kept on file. It is the artist's responsibility to keep the agency informed as to his/her whereabouts, in case the City and/or Arts Commission need to contact them about changes to their artwork.

Artist's Identification Label:

Should changes occur to an artwork, and should the artist feel his/her artwork has been compromised to the extent that their reputation will be damaged by association with the artwork, they can request that this label (or plaque) be removed, thereby removing his/her name as the creator of the (now damaged) art.

Artwork Changes:

This section discusses how to handle changes to or removal of the artwork by outlining a process. Here, issues of artists' rights are dealt with contractually. If the City feels it necessary to modify the rights accorded to an artist in the VARA legislation language, this section may be an appropriate place to do so.

Material Changes After Acceptance:

This section outlines a process to follow in the event an artwork is removed or modified. It provides for notification to the artists in the event changes are made, or need to be made, to an artwork, and offers options should modifications occur. A statement is made that the City or property owner's association retains the right to maintain its properties, and in doing so may impact the artwork. A special clause is added if an artwork is to be installed in a building. It asks that the artist to acknowledge that the artwork may need to be removed.

Ownership: The City or developer shall request an archival copy of the drawings or plans that represent the artwork for future conservation of the work, or for public display and interpretation through the portable works collection. The City or developer retains ownership of the accepted artwork.

Maintenance/Repairs and Restoration: The City or developer or property association shall make reasonable efforts to maintain the artwork in good repair after final approval by the City. The Arts Commission will provide ongoing oversight of and recommendations for maintenance of the art. The responsible party shall make every effort to consult with the artist on significant restoration and repairs that differ from those suggested in the artist's maintenance recommendation. The artist shall notify the responsible party of any change of address.

Alteration, Removal, Relocation or Deaccession: The contract with the artist shall provide that the party retaining ownership of the artwork, i.e. the developer, property association or the Arts Commission, as representative of the City, at its sole discretion, may remove, relocate or deacquisition the work of art, however, prior consultation with the artist, if available, shall, as much as possible, be sought.

The City may wish to include the following boilerplate sections:

- Risk Loss
- Indemnification
- Insurance:
 - The City's Risk Manager may wish to require that contracted artists and contractors have commercial general legal liability (cgi) insurance and automobile insurance. The limits vary according to the artwork and complexity and location of installation.
 - The City, at its discretion, may place an annually renewed, blanket policy, which covers artists only for the project for which they are contracted to perform for the City. It could be offered as an option to artists at a cost; for an artist who has many public commissions, it is more practical for the artist to carry his/her own policy that covers all the work he/she performs.
 - The coverage typically required by the contract is commercial liability insurance for the following:
 - Premises/Operations Liability
 - Products/Completed Operations
 - Personal/Advertising Injury
 - Contractual Liability
 - Independent Contractors Liability
 - Stop Gap/Employers Contingent Liability
 - Explosion, Collapse or Underground (XCU)
 - Fire Damage
 - The policy typically provides the following minimum coverage: Bodily Injury and Property Damage at 1,000,000 per occurrence, 1,000,000 annual aggregate.
 - Personal Liability (Errors and Omissions) is generally required only for consultants, not usually for artists who are fabricating and installing. On the other hand, because artists are usually delivering products on site, business automobile liability including coverage for owned, non-owned, leased or hired vehicles, providing the 1,000,000 per accident minimum coverage, is required.

Artists' Warranties:

This section defines a one-year guarantee on workshop and materials

Addresses for Notices and other Deliverables:

Waiver of Artists' Rights Upon Failure to Provide Current Address to City Of Boynton Beach. This section emphasizes the need for artists to keep the City informed as to their whereabouts in order to maximize their ability to keep their VARA rights intact. It provides not only the artist's address and phone numbers, but also that of the City and/or Arts Commission.

Collection Management:

Again, this section puts the artist on notice regarding the contract's handling of their VARA rights. Here is specified the City's rights to maintain and manage its collection

and its properties and forewarns the artist about the potentiality of artwork modification or removal.

Credit:

This section requires that the artist provide appropriate credit to the Arts Commission and/or the City on any and all publicity materials generated for the artwork using language determined by the Arts Commission.

The City may wish to include the following boilerplate sections using language developed by the City's Contract Division.

- Definition of Arts Commission
- Audit
- Compliance With Laws and Regulations
 - General Requirement
 - Licenses and Similar Authorizations
 - Taxes
 - Use of Recycled Content Paper
 - Americans with Disabilities Act.
- Women and Minority Business Enterprise Requirements
 - General
 - Non-discrimination
 - Record Keeping
 - Affirmation Efforts to Utilize WMBE's
 - Sanctions for Violation
- Nondiscrimination and Affirmative Action
 - General
- Non-Discrimination in Benefits
 - Compliance with relevant Municipal Codes
 - Remedies for Violation for Municipal Codes identified above
- Contractual Relationship
- Involvement of Former City Employees
- No Conflict of Interest
- Executory Agreement
- Binding Effect
- Applicable Law: Venue
- Remedies Cumulative
- Captions
- Invalidity of Particular Provisions
- No Waiver
- Extra Work
- Key Persons
- Disputes
- Termination:
 - For Cause

- For Reasons Beyond Control of Parties
- For Public Convenience
- Notice
- Default

Termination conditions: The artist's services may be terminated under the following conditions:

- By mutual consent of the parties.
- For the convenience of the City or developer, provided that the terminating party notifies the artist in writing of its intent to terminate, at least 30 days before the date of termination.
- For cause, by either party where the other party fails in any material way to perform its obligations under the contract. Termination for cause is subject to the condition that the terminating party notifies the other party of the intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to cure the default within 30 days of receiving the notice.
- In the event the contract is terminated, the City or developer shall reimburse the artist for work performed and expenses incurred before the termination date.

Arbitration: In the event of a dispute between the artist and the City or developer concerning the terms of the contractual agreement, the parties shall endeavor to arrive at a mutually acceptable solution. If they are unable to do so, either party may request that a mutually acceptable arbitrator familiar with artwork and construction settle the dispute. The cost of the arbitration process shall be borne equally. Any decision made as a result of such arbitration shall be binding and enforceable in a court of law pursuant to Florida Arbitration Code.

- Modification or Amendment
- Entire Agreement

Signature section:

The artist/contractor and the designated signatory for the City sign and date the contract. In addition to signature and date, the artist is asked to supply address, phone number and tax number (Social Security or Federal Tax ID number). The artist signs first and returns all copies for signature by an officer of the City. A fully executed copy is then returned to the artist.

Other Program Considerations & Recommendations

The Arts Commission recommends adapting policies from the Seattle Arts Curriculum 101 and customizing them to fit The City of Boynton Beach's Art in Public Places Program. The Arts Commission has reviewed the following areas and has detailed references to them in the Art Commission Reference Document. Some of these policies are to cover the following subjects:

Artwork Maintenance

The Art Commission recommends that the maintenance cost of artwork be the responsibility of the property management where the art is located. If the Art is located within a private development whether publicly displayed or not, it will be the responsibility of the Property Association Management to maintain of the piece. If it is on City property then the City is responsible for its maintenance cost.

The Arts Commission recommends that before the maintenance begins that the Arts Commission reviews the Art and instruction is given for the maintenance to preserve the artistic license of the piece. See Reference Document.

Artwork Decommissioning

The Art Commission recommends that once every 4 years an evaluation of the Art in Public Places Art is conducted to determine the Arts value to the City and community. If it is determined that a piece should be removed, then the Arts Commission will make recommendations for its decommissioning and replacement. See Reference Document.

Art Record Keeping

The Arts Commission recommends that detailed records be kept of the Art in Public Places collection. These records are essential to creating a cultural history maintaining the artistic integrity and as a resource to the financial statement the collection contribute to the City's budget. Information on how and what records are necessary are detailed in the Reference Document.

Art in Public Places Administration

The Arts Commission recommends that the City appoint or hire a manager to assist with the administration necessary to run an Art in Public Places Program. Such duties would involve records keeping, such as registration, maintenance, renovation, insurance, etc., documentation and communication for the Arts Commission, collect and update contact lists for artists registry, publications, organizations, associations, grant writing, communication between city staff and Arts Communication where scheduling, meeting and procedures are concerned for implementation of projects. Another possibility to explore is to advertise unpaid/paid/work-study internships with local college art departments to assist with the administration of the program.

Gifts, Memorials, Donations and Policies and Issues

The Arts Commission recommends that policies for Gifts, Memorials and Donations be established to address these situations. Much information regarding these policies and issues are outlined in detailed in the Reference Document.

Grants and other Fundraising Programs

The Arts Commission recommends that it will seek out grants that apply to the Arts in Public Places Program. The Arts Commission will begin to identify these grant sources and present them for application. In addition it will create alternative fundraising programs such as art unveilings and show events, special art exhibits and other events.

Getting the Word Out

Education is vital to the success of any public art project, whether it's a small portable artwork or a grandiose design team memorial. Communities are defined broadly to include schools, neighborhood businesses, community groups, arts organizations, scholars, media, administrators and artists themselves. Communities of every type are affected by an artwork both positively and negatively, and the more they know about a particular work, the more likely they are to understand and appreciate it.

The most successful projects are those where a community has been invested from the start, beginning by explaining some of the parameters, which are important to a particular site or situation. Educating the community on the Arts Commission, its purpose and the projects that make up the City's Art in Public Places Program is key to gain the community's support. The Arts Commission will connect the artist with the community to assist in this education process. In turn, the artist involved in the city's projects will learn enormous amounts of background information to solve problems and challenges when designing and creating artwork both technically and aesthetically. This will compliment the overall site or situation. The final result will enable the community to understand, appreciate and enjoy the artwork, while enhancing their environment.

Following is a list of suggested education ideas that the Art Commission will consider for The Art in Public Places projects. Though the list appears daunting, think collaboration with related partners and City departments whenever possible. Once we begin the program with a few ideas and build up opportunities, it will make a positive difference for each artwork, the program and most importantly to the community over the years.

Resources

Develop simple individual fact sheets about artworks for the facility where public art exists---include photographs if possible and key information listing artist name(s), title, funding, jury, completion date, media, dimensions, location, background, description, artist's statement about the featured artwork and artist's biography. We will work with graphic designers to create brochures highlighting the programs artwork. Produce walking tour maps of artworks, possibly tapping into pre-existing neighborhood maps or city bus maps consequently saving time and funds; provide catalogs for special exhibitions or portable artworks, publish books about the collection. Develop a CD--ROM highlighting the collection including sound and video. By collaborating with organizations and associations locally, nationally or internationally the Arts Commission can get the word out on its Art in Public Places Program. In addition, through lists of artists, publications and web sites, the Arts Commission can promote the program.

Web Site

The Arts Commission recommends hiring an agency to develop and create a web site for the Art in Public Places Program. It will detail the program with updates listing upcoming calls for artists, deadlines, updates on projects, dedications, new information of interest to artists, workshop listings, etc. It can also provide downloadable information to execute the art projects. The site will link to (and from) other City's web sites as well as other pertinent local, national and international sites.

Tours

The Arts Commission recommends developing tours to promote the Art in Public Places Program. Walking, guided, bus, trolley tours for all areas of the community will promote education of the process and program.

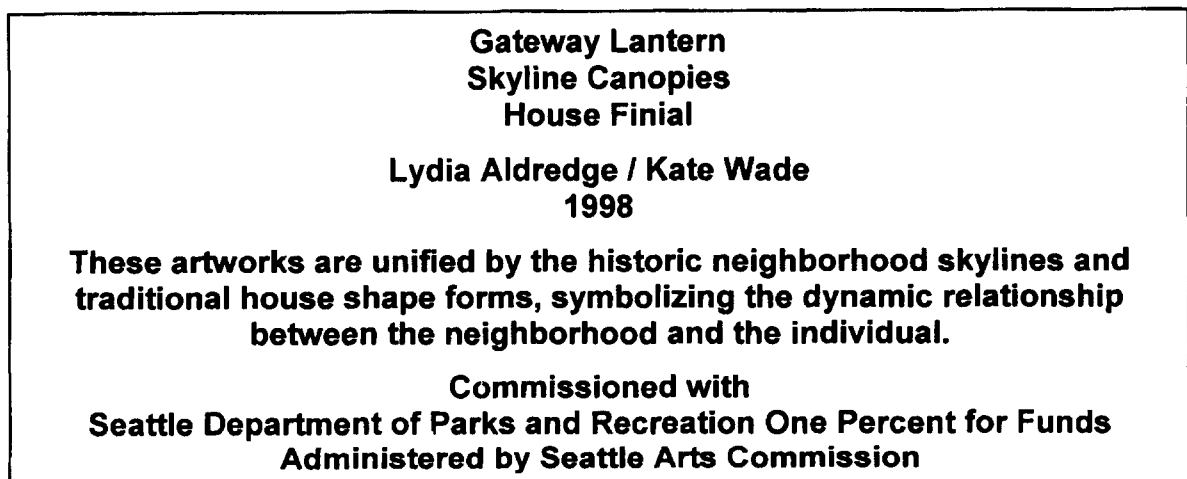
Slide Talks

Create custom shows based on themes or the community's interest – e.g. streetscapes, environment, historic, recycled material, selected mediums, or portable artwork. Audiences for slide talks include community centers, library, schools, senior centers, city departments, individual groups of all ages and special interests, tourists, convention centers and concierges.

Plaques

Artwork plaques generally have standard information including title of work, artist's name, date, medium, funding source, and city officials. A brief informative statement about the artist's intent could enhance the appreciation for this work in a simple, unassuming way to help educate visitors with little additional effort and minimal cost. See example below. Additionally, non-traditional materials can be used for plaques to draw attention to the information and enhance the artwork itself.

SAMPLE PLAQUE:



Schools

The Arts Commission recommends interacting with schools for the Arts in Public Places Program. We will educate them about the public art collection, offers tours, host workshops, offer school credit for interaction and volunteer work with the Art in Public Places Program. We also will encourage artists to collaborate with students on the execution of their art pieces.

Museums

Investigate possibilities with your local art, science, and history museums to search for possible collaboration opportunities. Using artists to creatively help investigate themes and mediums can stretch and bridge projects, saving money for participating agencies. For example, connect artists' work represented in museums exhibitions with their work represented in public art. Joint teacher workshop and student field trips could correspond both in the museum and out in public.

Media and Public Relations

The Arts Commission recommends that it will work with City departments and outside agencies to develop press releases for print, TV, radio, and online. PR will attract reporters interested in featuring art, community, schools, technology, architecture, nature, business, etc. through neighborhood newspapers, newsletters, galleries, café, coffee or Internet cafes, artist studios, and clubs, public relations should target new audiences in regions, ethnicity, and art mediums.

Workshops

Provide a variety of opportunities for artists, teachers, administrators, and special groups to learn about the diverse field of public art.

Events

The Arts Commission recommends promoting the Art in Public Places Program thought events. Events such as V.I.P., unveilings, "Meet the Artist", dedications, tours and fundraising will be coordinate with city departments and outside agencies.

Marketing Reproductions

The Arts Commission proposes to explore marketing artwork images through postcard, books, calendars, bookmarks, CD's, magnets, pins, t-shirt, posters, computer games, screen savers, decks of cards, miniature models, tourist paraphernalia, and more. We will research copyright regulations and artist's rights before considering this venture.

Q AND A

Answers to typical questions pertaining to this DRAFT

Why assess a Public Art (impact) Fee as opposed to proposing incentives?

- The recommended 1% fee is the monetary value that the Art Commission is recommending to the City Commission that will put a respectable viable program in place for the City of Boynton Beach. This has been researched and discussed with individuals in Art programs throughout the US. We considered Cities with the same growth situation and population size Boynton. The Arts Commission must rely on the staff to recommend or design an incentive program equivalent to this value. The Arts Commission is open to specific suggestions for an equivalent incentive program.

How is the money spent?

- The 1% Public Art Fee funds would be dedicated at 70% to the construction of art in a given project and 30% (or .3%) to run the Arts in Public Places program. In addition the Arts Commission recommends taking a percentage from the 30% to go towards an endowment program.

Does the Arts Commission address the architectural look?

- Our ordinance states that the Arts Commission is to advise the City Commission on matters that are related to the Arts, to develop a plan and programs to promote and support Art in Public Places. We also state in the definition of Public Art that a building itself could conceivably be considered Art should the architectural design incorporate built-in artistic elements within the structure. The Arts Commission does not consider architecture alone as a function of art. We do, however, recognize that architects and designers can produce art. Generally, architectural enhancements are considered noncompliant with Arts Commission criteria. The intent is Public Art is freestanding and owned by the community.

Can't an architect be an artist?

- Artists typically create Art. Of course designers and architects CAN create art. The Arts Commission is receptive to the broadest definitions of art and encourages imaginative interpretations of media and materials, which might be used for permanent or temporary installation, decorative or functional purpose. The Arts Commission will still be involved to assure the project contains art as opposed to enhanced design elements.

Is this only about commercial development or does it include residential?

- Fees are calculated for residential and commercial development only on amounts exceeding the \$250,000 threshold. The Arts Commission chose to include residential construction that meets these criteria because these property owners will benefit in the long run and should bear some of the burden; property values increase as city amenities increase. Also, based on our discussions, we prefer to capture a larger market, and not to simply target non-residential development projects. Note: fees are calculated on amounts in excess of \$250,000 [e.g. A residential project with construction costs of \$260,000 would be assessed for 1% of \$10,000.]

When is the Public Art Fee collected?

- The majority of Public Art Programs collect the Public Art Fee at the time of permitting. It is essential for this to be resolved in compliance with city systems and procedures. However so that the Art in the project does not obstruct Certificate of Occupancy the Arts Commission endorsed the City's Planning & Zoning recommendation to allow the Developer post 110% surety for work which may be more prudently put in place subsequent to building construction with a required completion deadline of 60 - 90 days.

Who will attend the pre-application meetings?

- Initially an Arts Commission Advisory Board member will have to attend until a full-time staff liaison, person/consultant is hired, and who would then take on this role. We recognize that a staff person or a sub contractor would have to be hired to manage the Art in Public Places Program. The funds to support this position will come from the 30% administrative portion of the collected Public Art Fee.

Have you considered an endowment program?

- Yes, this was an excellent suggestion by the CRA Director. The Advisory Board approved setting a percentage of the 1% to be set-aside in perpetuity for the City of Boynton Beach's Public Art Program.

What about small businesses?

- This program is designed to regard all businesses and developers similarly. A one percent fee for a small project such as Winchester Commons at \$556,200 would have set \$3,893 for public art within their project and only \$1,668 would have gone to the Art Fund. In a larger project, such as the magnitude of Waterside at \$56

million, that same 1% would have designated \$392,000 to art in their project and only \$168,000 to the Art Fund.

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- Initially an Arts Commission Advisory Board member will have to attend until a full-time staff liaison, person/consultant is hired, and who would then take on this role. We recognize that a staff person or a sub contractor would have to be hired to manage the Art in Public Places Program. The funds to support this position will come from the .30% (or 30%) administrative portion of the 1% collected Public Art Fee.

Have you considered an endowment program?

- Yes, this was an excellent suggestion by the CRA Director. The Advisory Board approved setting a percentage of the 30% of the 1% Art Fee to be set-aside in perpetuity for the City of Boynton Beach's Public Art Program.

What about small businesses?

- This program is designed to regard all businesses and developers similarly. But would only apply to those individuals that are permitting a construction project. A one percent fee for a small project such as Winchester Commons at \$556,200 would have set (70%) or \$3,893 for public art within their project and only (30%) or \$1,668 would have gone to the Art Fund. In a larger project, such as the magnitude of Waterside at \$56 million, that same 1% would have designated (70%) or \$392,000 to art in their project and only (30%) or \$168,000 to the Art Fund.

What are requirements for the Art Projects??

- Specific criteria must be met: the art project must meet standards that are appropriate to the Public, the City of Boynton Beach and the Development itself. Qualified Public Artists are selected through a Call to Artists process and contracted to meet the projects criteria and specifics. The Art must meet the similar codes and requirements that architectural structures meet. Contracts with artists include the proposal of the art project, mockups, specs, materials, construction, installation, budget, timing, maintenance recommendations and records. The Arts Commission will work with the Planning Department as each project is permitted according to Florida code.