



Legislation Text

File #: #16-0219, Version: 1

PREPARED BY: ELIZABETH DUNN **DATE OF MEETING:** 06/20/16

SUBJECT:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING DEFERRAL OF THE PUBLIC ART REQUIREMENT, UNTIL JANUARY 31, 2017, FOR COMMERCIAL AND INDUSTRIAL PROJECTS AS SET FORTH IN CHAPTER 17.63, "ART IN PUBLIC PLACES", OF THE SAN PABLO MUNICIPAL CODE

CITY MANAGER RECOMMENDATION

Adopt Resolution

COMPLIANCE STATEMENTS

The *Public Art Memorial and Community Murals* Program was an adopted policy item under the FY 2013-15 Council Priority Workplan, effective September 1, 2014, when Chapter 17.63 of the San Pablo Municipal Code, "Art in Public Places" was adopted. The Policy Item, which includes implementation of the program, is also an adopted policy item under the FY 2015-17 Council Priority Workplan, effective July 1, 2015.

CEQA Compliance Statement

The extension of the effective date of the ordinance is not a project under CEQA.

BACKGROUND

On May 18, 2015, the City Council adopted the new Zoning Ordinance. The Zoning Ordinance included Chapter 17.63, "Art in Public Places" (see Attachment 2). The purpose of this new Chapter in the Municipal Code was to create a process for including public art in new commercial and industrial projects with a value of \$200,000 or more, or alterations or repairs with a value of \$200,000 or more if the alteration or repair of the commercial or industrial structure increases the floor area or intensifies the use. Applicants who do not want to place public art on their site have the option to contribute 1% of the valuation to the City's public arts fund earmarked for the City's public mural program or provide the public art at an alternative site. The Zoning Ordinance, including Chapter 17.63, "Art in Public Places," became effective 30 days after approval, which was June 18, 2015.

Proposed Deferral of Implementation of Chapter 17.63, "Art in Public Places"

The City of San Pablo has been following a court case filed against the City of Oakland's similar public art ordinance. In order to reduce possible liability to the City, a deferral of the fee is recommended. This will be the third extension of implementation of the Art in Public Places Ordinance. The table below summarizes the history of the adoption of the Art in Public Places Ordinance and approved and requested extensions:

Adoption and Extension of Section 17.63 of the San Pablo Municipal Code,
Art in Public Places section of the Zoning Ordinance

Date	Action	Extension Date
May 18, 2015 Council Agenda #15-2028	Adoption of the Art in Public Places (APP) Ordinance. Effective June 18, 2015.	
July 6, 2015 Council Agenda #15-0302	Extension of the APP - allowed staff to put together forms, such as the art permit application, and outreach to applicants.	January 31, 2016
November 16, 2015 Council Agenda #15-0501	Extension of the APP - lawsuit filed against the City of Oakland for the adoption of that City's Public Art Ordinance. Wait to see how the lawsuit progresses through the U.S. District Court.	July 31, 2016
June 20, 2016	Extension of the APP - lawsuit expected to be heard by the U.S. District Court in September 2016. Wait for the outcome of the decision of the U.S. District Court and how this decision may impact the collection of the City of San Pablo building permit fee or on-site art requirement.	January 1, 2017

It is recommended that the City Council authorize an extension of the deferral of the implementation of Chapter 17.63,"Art in Public Places," by an additional six months, to January 31, 2017.

FISCAL IMPACT

Deferring implementation of Chapter 17.63,"Art in Public Places" means the City will forego public art or an in-lieu fee for projects that submit building plans until after February 1, 2017.