

Memorandum

TO: ARTS COMMISSION

FROM: Paul Krutko

**SUBJECT: APPROVAL OF AMENDMENTS TO
ARTS COMMISSION BYLAWS**

DATE: February 8, 2007

RECOMMENDATION

Approval of the recommended amendments to the *San José Arts Commission Bylaws*.

BACKGROUND

On September 11, 2002, the Arts Commission adopted its first set of Bylaws. Article XV outlines the review schedule and procedure for amending the Bylaws, as follows:

“These Bylaws shall be reviewed at least every two (2) years or as the need arises by a committee appointed by the Chair. These Bylaws may be amended by the Commission at any regular or special meeting by majority vote, provided that notice of such proposed amendment shall have been agendaized for a regular or special Commission meeting held at least four (4) weeks prior to the meeting at which the amendment is voted upon.”

On January 3, 2007, the Executive Committee reviewed the Bylaws and recommended amendments.

On January 10, 2007, the Arts Commission set the date of February 14, 2007 to take action on the recommended amendments.

ANALYSIS

The reasons for the proposed amendments (attached) are as follows:

1. Clarify that Bylaws are subject to applicable state law and City ordinances and policies.
Article I. Section 2
2. Revision of the nominating procedure for Arts Commission Chair and Vice Chair: said procedure revisions were adopted by the Arts Commission on January 10, 2007.
Article II. Section 2
Article VIII. Section 6

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3. Change in City Departmental structure: the Office of Cultural Affairs became a division of the Office of Economic Development on July 1, 2005.
Article IV. Section 1
4. Clarify membership on Executive Committee.
Article VIII. Section 8

PAUL KRUTKO
Chief Development Officer

Attachment

DRAFT SAN JOSE ARTS COMMISSION BYLAWS

Adopted by the San José Arts Commission on September 11, 2002;
revised on November 10, 2004

ARTICLE I. ORGANIZATION AND MEMBERSHIP

Section 1. The Arts Commission ("Commission") of the City of San José shall consist of thirteen (13) members to be appointed as specified in the San José Municipal Code. Terms of service under the Municipal Code are for three (3) years, or for the unexpired portion of a term when a member is appointed upon resignation of the incumbent. Members may serve a maximum of two (2) consecutive three-year terms. A member who is appointed to serve an unexpired term may be reappointed to serve for two (2) full three-year terms if the member served less than one and one-half years of the unexpired term.

Section 2. Subject to the requirements of all applicable state laws, and City of San José ordinances and policies, the Commission shall be governed by these Bylaws.

ARTICLE II. ELECTION AND OFFICERS

Section 1. The Commission shall, in regular session following the first day of May of every year, elect from their members a Chair and Vice-Chair. The term of office shall be for one (1) year. The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In case of the resignation or death of the Chair, the Vice-Chair shall perform such duties as are imposed on the Chair, until such time as the members shall elect a new Chair.

Section 2. It shall be the duty of the Elections Committee to announce the candidates for the offices of Chair and Vice-Chair to the Commission at its April meeting.

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ARTICLE III. REGULAR MEETINGS

Section 1. The Commission shall meet in regular session on the second Wednesday of each month unless it is a holiday, and at a time designated by the Commission. In such case, the same day in the following week shall be designated as the meeting date.

Section 2. At least seventy-two (72) hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law.

ARTICLE IV. SPECIAL MEETINGS

Section 1. Special meetings of the Commission and of its committees may be called by the Chair, the Director of the Office of Economic Development or his/her designee ("Director"), or upon the request of at least four (4) members of the Commission by delivering written notice to each member and to each person entitled by law to receive such notices. If a member has indicated in writing to the Director that email notice is sufficient notice for that member, the notice may be made by email. Notices to other persons or entities

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entitled by law to receive notices must be delivered personally or by mail and must be received at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted and shall be posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to members of the public. No other business shall be considered at such meetings by the Commission or committee.

Section 2. Such written notice may be dispensed with as to any member who at or prior to the time of the meeting files with the Director a written waiver of notice. Such waiver by a member may be given by telegram, email (at the email address specifically designated by the Director) or facsimile, in addition to mail or hand delivery. Such written notice may also be dispensed with as to any member who is actually present at the time the meeting convenes.

Section 3. If a special meeting is requested by at least four (4) members of the Commission, the Chair and/or the Director shall consider the urgency of the business to be transacted, and shall set a date and time for said special meeting that will allow timely consideration of the business to be transacted.

ARTICLE V. QUORUM FOR A MEETING

Section 1. Seven members shall constitute a quorum of the Commission and is necessary for a Commission meeting to be held and for the purpose of conducting business, provided that less than a quorum may adjourn.

ARTICLE VI. ABSENCE FROM MEETINGS--REAPPOINTMENT

Section 1. Commission Meetings. Attendance at the Commission shall be in conformance with the attendance regulations set forth in the San José Municipal Code Section 2.08.060, as it may be amended from time to time. A summary of the current provisions of the Municipal Code regarding absences from Commission meetings is as follows:

- A. A member of the Commission shall be deemed to have automatically resigned from office if the member has unexcused absences from either:
 - (1) Any three (3) consecutive regular meetings of the Commission; or
 - (2) More than twenty percent (20%) of the total number of regular meetings in any calendar year, or if the member was appointed to fill a vacancy, more than twenty percent (20%) of the meetings after the effective date of appointment of such member in the year of appointment.
- B. For purposes of this section, the following shall be considered an excused absence:
 - (1) An absence due to an illness of the member, or illness or death of a member's spouse, parent, child, brother or sister; or
 - (2) An absence because a member is away on authorized Commission business.
- C. As a courtesy, the Director shall attempt to notify any member after two (2) unexcused absences, reminding the member of the consequences of a third unexcused absence. As a courtesy, the Director shall also attempt to notify a member after three (3) unexcused absences, explaining the member's option to appear before the City Council for possible reappointment.
- D. Within a reasonable period, but not exceeding ten (10) days after a member has been deemed to have resigned pursuant to this section, the Director shall notify the City Clerk of the

vacancy and the City Clerk shall thereupon notify the member that the member is deemed to have resigned pursuant to this section. The City Clerk shall simultaneously notify the City Council that the vacancy exists as a result of the automatic resignation.

E. As used in this section, "regular meetings" means regularly scheduled meetings of the Commission and shall not include special meetings. For purposes of this section, adjourned regular meetings or continued regular meetings shall be considered special meetings.

F. For purposes of this section, a member shall be deemed absent from a meeting if the member fails to be in attendance at a regular meeting for at least one-half of the duration of the regular meeting.

G. A member whose seat has become vacant by virtue of the above provisions may be reappointed to his or her former office for the balance of the member's unexpired term if the City Council finds there was good excuse for the member's absence from meetings or finds that the reappointment will be in the best interests of the City.

H. In the event of a reappointment, the previous unexcused absences of the reappointed member shall not be considered in determining any future resignation of the member under this section.

Section 2. Committee Meetings. An excused absence from a committee meeting shall include all of the excused absences from a Commission meeting, as set forth in the Municipal Code.

A. By majority vote, the Commission may request that City Council remove from office any member who has three (3) unexcused absences from regularly scheduled committee meetings within any calendar year, or if the member was appointed to fill a vacancy, more than twenty percent (20%) of the committee meetings after the effective date of appointment of such member in the year of appointment.

B. In addition to the excused absences from a Commission meeting, a member's absence due to a work-related conflict of that member, that cannot reasonably be rescheduled, shall also be an excused absence from a committee meeting or other advisory body to the Commission.

C. As a courtesy, the committee chair shall attempt to notify any member after two (2) unexcused absences, reminding the member of the possible consequences of a third unexcused absence.

D. In the instance of Commission action to request that City Council remove a member from office due to unexcused committee meeting absences, the Commission Chair shall attempt to notify the member of the dates that the Commission and the City Council will consider the request; and explain the member's option to address the issue before the Commission and City Council.

ARTICLE VII. FUNCTION, POWERS AND DUTIES OF THE COMMISSION

Section 1. The Commission shall have the functions, powers, and duties established by City Council, which as of the date of these Bylaws are set forth in the Municipal Code Sections 2.08.850 and 22.10.010 and are set forth as an attachment to these Bylaws.

Section 2. Conflicts of interest must be reported by each Commissioner on an annual basis.

ARTICLE VIII. COMMITTEES, REVIEW PANELS AND ADVISORY BODIES

Section 1. Written policies and procedures for each of the programs managed by the Office of Cultural Affairs shall specify the duties, method of operation, number and composition of members, member qualifications, and member selection method, of committees, review panels and advisory bodies. In determining member composition of committees, review panels and advisory bodies, community representation should be considered a fundamental objective. Said program policies and procedures shall be reviewed by the appropriate committee and approved by the Commission and, as required, by the City Council.

Section 2. Methods of selection and appointment of committee, review panel and advisory body members shall be limited to:

- A. Direct appointment by the Chair, with recommendation from the Office of Cultural Affairs and in consultation with the Executive Committee;
- B. Staff selection from a pool of candidates pre-approved by the Commission (e.g., a "community member" to serve on the Festival, Parade and Celebration Grant Review Panel);
- C. Staff selection of stakeholders who meet definitions within Commission-approved policies and procedures of the program for which the committee, review panel and/or advisory body is empanelled (e.g., a "facility manager" to serve on the artist selection panel for public art within the facility).

Section 3. Community representation shall be included on all grant program review panels, through the appointment of at least one (1) Commissioner per panel.

Section 4. The selection and appointment of Commissioners to any committee, review panel or advisory body to the Commission shall be made by the Chair.

Section 5. Unless approved by a Commission action, the number of Commissioners appointed to serve on any committee, panel or advisory body to the Commission shall be less than a quorum of the Commission.

Section 6. There shall be an Elections Committee consisting of three (3) Commissioners serving by appointment of the Chair no later than the last day of February of each year. It shall be the duty of the Elections Committee to encourage, receive and announce candidacies for Chair and Vice-Chair of the Commission, for election to serve the following fiscal year.

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Section 7. There shall be a sufficient number of standing committees of the Commission, appointed by the Chair, to conduct the business necessary to prepare recommendations on arts and cultural programming, grants and agreements, facilities, public art, and other arts and cultural issues to City Council. The Commission Chair shall make every effort to assign each Commissioner to at least one (1) standing committee. The Commission Chair shall designate the chair of each standing committee, and shall serve as an ex-officio member of each committee. The titles, duties, purposes and number of members of the standing committees shall be set forth in the Commission Guidelines.

Section 8. The Executive Committee shall consist of the Commission Chair, Commission Vice-Chair, the chairs of the standing committees, and the immediate past Commission Chair as long as that person

remains a member of the Commission. In the absence of an immediate past Commission Chair, the Commission Chair shall appoint a Commissioner as a member at large to the Executive Committee.

Section 9. The time and date of the meetings of each committee shall be set by committee vote. At least seventy-two (72) hours before a regular meeting of any committee, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law.

Section 10. Liaisons to other City Commissions and/or Committees, as well as to outside agencies, shall be appointed by the Chair as the need arises. Liaisons shall report to the full Commission at the next regular Commission meeting following the liaison's meeting.

Section 11. Liaisons from other City Commissions and/or Committees shall be encouraged, and other City Commissions and/or Committees as well as outside agencies will be requested to appoint such liaisons if the Commission determines it is warranted.

ARTICLE IX. AGENDA FOR MEETINGS

Section 1. The agenda shall be prepared by the Director in consultation with the Chair and Vice-Chair, reviewed by the Executive Committee and distributed to Commissioners at least one (1) week prior to the regular meeting date. Except for emergency items (as defined in the Ralph M. Brown Act, California Govt. Code Section 54950 et seq.), all matters to be taken up by the Commission must be properly agendized.

ARTICLE X. COMMISSION POLICIES

Section 1. The Commission shall establish policies to be used by the Commission in making recommendations to the City Council and the Director. Policies shall be amended, revised, added or eliminated as needs change by order of the Commission. The purpose of the policies is to establish consistency in the actions of the Commission and the programs administered by the Director.

ARTICLE XI. PARLIAMENTARY PROCEDURE

Section 1. Robert's Rules of Order-Revised will govern proceedings of the Commission meetings.

ARTICLE XII. COMMISSION ACTION / REPRESENTATION

Section 1. A majority vote of at least a quorum shall be required to carry a motion, proposal or resolution. Under no circumstance is any member to take any action or make any statement committing the Commission as a whole unless given authority to do so by vote of the Commission. This does not preclude any Commissioner speaking as a private individual, as long as said Commissioner clearly states he/she is speaking as an individual and not as a representative of the Commission.

ARTICLE XIII. COMMUNICATIONS

Section 1. All items to be considered by the Commission should be received by the Director in writing at least ten (10) days prior to the scheduled date of the Commission meeting. Agendas are to be distributed by the Director no later than seven (7) calendar days in advance of regular meetings of the Commission and standing committees.

Section 2. All official written communications from the Commission must be sent out over the signature of the Chair or Vice-Chair of the Commission.

ARTICLE XIV. EXPENSE REIMBURSEMENT / OFFICIAL TRAVEL

Section 1. Subject to the appropriation of moneys therefore by the City Council, members may be paid or reimbursed for authorized expenses incurred by them in the performance of their functions, powers and duties. Members must seek prior authorization from the Chair and the Director before incurring any expenses for which they will seek reimbursement.

Section 2. Official travel undertaken by members on behalf of the City of San José is governed by City Council Policy 9-5, *Travel by Elected and Appointed City Officials*, and applicable provisions of the San José Municipal Code. Said travel must be authorized in advance by the Chair and as required by Policy 9-5 and the Municipal Code. Travel expense reimbursement is subject to appropriation of moneys.

ARTICLE XV. AMENDMENTS TO BYLAWS

Section 1. These Bylaws shall be reviewed at least every two (2) years or as the need arises by a committee appointed by the Chair. These Bylaws may be amended by the Commission at any regular or special meeting by majority vote, provided that notice of such proposed amendment shall have been agendized for a regular or special Commission meeting held at least four (4) weeks prior to the meeting at which the amendment is voted upon.

ATTACHMENT

Municipal Code Section 2.08.850 Functions, powers, and duties - In effect as of April 2002

The commission shall have the following nonexclusive functions, powers, and duties:

- A. Encourage the full artistic life of the city's culturally diverse community and the beautification of the city.
- B. Advise the council on all matters affecting the arts and the beauty of the city, including the development, organization and operation of municipal arts programs and facilities.
- C. Establish an effective liaison between the city and arts organizations, assess the needs of arts organizations and recommend to the council measures to promote the strength and cultural diversity of arts organizations.
- D. Advise the council on appropriate policies and procedures for the distribution of city funding for the arts and make recommendations to the council respecting grants and other funding to arts organizations.
- E. Advise the council in coordination with appropriate boards and commissions on all matters related to public art, including the acquisition and placement of works of art as well as the maintenance, removal, relocation or alteration of existing works of art in the city's possession, and perform all duties with respect to the Art in Public Places Program as provided in Title 22 of this Code.
- F. Examine every two years the condition of the city's works of art and report to the council with recommendations for their care, maintenance and improvement.
- G. Render advice and assistance in the fields of art, aesthetics and beautification to other city boards and commissions.
- H. Establish an effective liaison and cooperation between the city's arts programs and the programs of adjacent communities, the county, the region, the state and the nation.

Municipal Code Section 22.10.010 Duties of the commission - In effect as of April 2002

A. The arts commission shall develop, update and maintain an art in public places plan which shall incorporate each eligible construction project to be funded during the ensuing three-year period. The art in public places plan shall be developed in consultation with the appropriate city commissions and departments as well as with the redevelopment agency staff and advisory bodies.

B. The arts commission shall forward the art in public places plan as a recommendation to the city council and redevelopment agency board. The city council and redevelopment agency board may accept, reject, or modify the plan presented by the arts commission.

C. The arts commission, acting in accordance with the policies and procedures as may be established by resolution of the city council from time to time, shall make recommendations regarding the selection and placement of works of art in each eligible construction project, and shall make such recommendations to the city manager, the city council, redevelopment agency executive director, the redevelopment agency board, as appropriate.