



Agenda Report

18-1560

Agenda Date: 12/3/2018

SUBJECT

Update on Utility Box Art Program

BACKGROUND

In 2012, the City of Santa Clara Cultural Commission began a pilot "Utility Box Art Program" to deter graffiti and add art to City owned utility boxes throughout the City. The program was paused in early 2018 after a complaint was received by the City from a community member about the subject matter on a utility box. At a joint dinner meeting of the Cultural Commission and City Council on September 11, 2018, the Cultural Commission and City Council discussed the Utility Box Art Program and it being reviewed by the City Attorney's Office. The Cultural Commission shared an interest in reinitiating the Program upon review by the City Attorney's Office, and once the program is revised in accordance with the City Attorney's Office's recommendations.

DISCUSSION

A representative from the City Attorney's Office will provide an update, based on the attached memorandum, to the Cultural Commission regarding the specific complaint received in early 2018, along with recommendations on how to proceed regarding the complaint, and other recommendations regarding the Utility Box Art Program. The Commission may discuss and consider changes to the Utility Box Art Program.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

PUBLIC CONTACT

Public contact was made by posting the Cultural Commission's agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

The following are recommendations from the City Attorney's attached memorandum:

1. The Commission should reconsider its prior recommendation to change the artwork. Instead the Commission may consider advising the artist of the concerns expressed by the member of the public and seek a response from the artist on whether he or she would like to remove the artwork, or modify it, or replace it with another. This decision lies solely with the artist.

2. If the City intends to continue with the Utility Box Art program, it is recommended that the program's guidelines and application be amended to include a defined theme(s).
3. The program's guidelines and application should require an artist who wishes to participate to sign an agreement waiving the artist's rights under applicable federal and state laws, as well as an acknowledgement of the City's right to alter, modify, and/or remove the artwork, and other contractual obligations as deemed appropriate by the City Attorney's Office.

Prepared by: Maureen Grzan-Pieracci

Reviewed by: Kimberly Castro, Recreation Manager

Approved by: James Teixeira, Director of Parks & Recreation