

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development

THROUGH: Laurie B. Jester, Planning Manager

BY: Eric Haaland, Associate Planner
Austin Chavira, Planning Intern

DATE: July 10, 2019

SUBJECT: Consideration to Approve Amendments to the Municipal Code and Local Coastal Program (LCP) to Refine the Sign Code related to Art Murals.

RECOMMENDATION:

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **ADOPT** the draft Resolution (Attached) recommending to the City Council approval of Municipal Code and Local Coastal Program (LCP) Amendments to refine the sign code related to art murals.

BACKGROUND:

On June 18, 2019, the City Council reviewed a Public Art program regarding murals (Attached). A result of that consideration was Council direction that the Community Development Department process a Zoning Code Amendment to reinforce that qualifying murals are not regulated as commercial and other identification signs. The Planning Commission must provide a recommendation to the City Council for such an Amendment.

DISCUSSION:

In its program review, the City Council approved acceptable uses for the Public Art Trust Fund to develop and execute murals in public facilities and private businesses throughout the City of Manhattan Beach. It was discussed that murals typically differ from signs regulated by the Sign Code (Chapter 10.72 of the Zoning Code), in that they do not convey commercial messages, and have not previously been within City control. Past practice has included informal Planning review to confirm that proposed murals are not signs. As murals become more involved in a City review process, it is important to clarify how they are not subject to Zoning regulation.

The June 18th City Council staff report included sample mural Code language from the City of Hermosa Beach and a recommendation that this language, or similar, be incorporated into a Code amendment. Similar language that is simplified, more tailored to Manhattan Beach and provides a cross-reference to standards established by the City Council is recommended. This provides more flexibility for unique designs and artwork, and for the standards to evolve as the desires of the community change.

Planning staff discussed this concept with the Cultural Arts Manager and he was in support of the approach.

The process for review of murals is outlined in the City Council staff report and this process, or similar, will also be part of the standards established by the City Council. Generally, Planning staff will review the mural proposal, for public and private murals on both public and private properties, and determine if it is a mural or a sign. If it is determined to be a mural then the Cultural Arts Division staff will present the proposal to the Cultural Arts Commission which will review the mural and make a recommendation to the City Council, which will make the final decision.

The proposed Zoning Amendment below would add a definition for “Mural” to existing Sign Code definitions reinforcing how qualifying murals would not be considered signs, and refer to City Council (non-zoning) standards for murals. Additionally, it should be noted that a mural may also have a component that is considered a sign, and examples of murals and signs are included as an attachment to this report (Attachment).

Amend MBMC Section 10.72.030 and LCP Section A.72.030 (Sign Code Definitions) to add a “Mural” definition reading as follows, with all other portions of Sections 10.72.030/A.72.030 remaining in effect without amendment:

“Mural” means art work, in conformance with standards established by the City Council, that does not identify or promote any business, product, or service, or otherwise meet the definition of a “sign” pursuant to this Chapter.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

PUBLIC INPUT:

The overall City mural program was discussed at City Council and Cultural Arts Commission meetings on September 19, 2017, and June 18, 2019, and September 24, 2018, respectively. An article on the mural program was published in the Beach Reporter September 27, 2017.

A ¼ page advertisements for the subject Sign Code Amendment notice was published in the Beach Reporter June 27, 2019. The staff report and attachments, have been made available at the Manhattan Beach County Library, the Police Department and at the Community Development Department. The staff report and attachments are also posted on the City’s website.

No public comments in response to the project notice have been received at the time of writing of this report.

CONCLUSION:

Staff recommends that the Planning Commission conduct the public hearing, accept testimony, and adopt a draft resolution recommending to the City Council approval of Municipal Code and Local Coastal Program (LCP) Amendments to refine the sign code related to art murals. The City Council will also provide direction to staff if a cost recovery fee will be required for review of murals.

Attachments:

- A. Draft Resolution PC 19-XX
- B. City Council Report dated, June 18, 2019- (Excluding Attachments)
- C. MBMC 10.72.030 Sign Code Definitions
- D. Mural and Sign Examples

cc. California Coastal Commission

THIS PAGE
INTENTIONALLY
LEFT BLANK

RESOLUTION NO. PC 19-_____

**A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO
MUNICIPAL CODE SECTIONS 10.72.030 AND LCP SECTION A.72.030 TO REFINE
THE SIGN CODE RELATED TO ART MURALS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY FIND AND
RESOLVE AS FOLLOWS:**

Section 1. The Planning Commission hereby makes the following findings:

A. On July 10, 2019 the Planning Commission conducted a duly noticed public hearing and reviewed proposed text amendments to Chapter 10.72 of the Municipal Code (MBMC), part of the City's Zoning Ordinance, and text amendments to Chapter A.72 of the Local Coastal Program (LCP) to refine the sign code related to art murals and other provisions.

B. The Planning Commission public hearing for July 10, 2019 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

C. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, *et seq.*

D. The proposed text amendments are exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, *et seq.*, ("CEQA")) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Therefore, the Planning Commission finds that the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

E. The proposed text amendments are consistent with the General Plan Goals and Policies:

Community Resources Element Goal CR-2: Enhance cultural arts programs in the community.

G. The proposed text amendments are consistent with the following Local Coastal Program Policy:

II. Coastal Locating and Planning New Development Policy- Policy II.1: Control Development within the Manhattan Beach coastal zone.

Section 2. The Planning Commission hereby recommends that the City Council amend MBMC Section 10.72.030 and LCP Section A.72.030 (Sign Code Definitions) to add a "Mural" definition reading substantially as follows:

"Mural" means art work in conformance with standards established by the City Council, that does not identify or promote any business, product, or service, or otherwise meet the definition of a "sign" pursuant to this Chapter.

Section 3. The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language and format changes to the MBMC and the LCP to achieve internal consistency as required.

Section 4. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

(votes and signatures on next page)

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting of **July 10, 2019** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Anne McIntosh
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary



STAFF REPORT

1400 Highland Avenue | Manhattan Beach, CA 90266
Phone (310) 802-5000 | FAX (310) 802-5051 | www.citymb.info

Agenda Date: 6/18/2019

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Mark Leyman, Parks and Recreation Director
Martin Betz, Cultural Arts Manager

SUBJECT:

Approval and Disbursement of Funds from the Public Art Trust Fund for the Installation of Eight Murals in Manhattan Beach (Parks and Recreation Director Leyman).

- a) **APPROVE**
- b) **DISBURSE FUNDS**

RECOMMENDATION:

Staff recommends approval and disbursement of funds from the Public Art Trust Fund for the installation of eight murals in Manhattan Beach.

FISCAL IMPLICATIONS:

Consistent with City Council direction at the September 19, 2017 meeting, City Council appropriated \$150,000 to install murals throughout the City. Locations and estimated costs for the murals are as follows:

1. Parking Garage Civic Center Entrance - \$8,500
2. Ramp into Parking Structure - \$27,000,
3. Elevator Structure in Civic Center Parking Lot - \$19,000
4. Joslyn Community Center East Wall - \$20,000
5. Metlox Plaza - \$16,000
6. North Side of Racquetball facility, Marine Ave Park - \$30,000
7. Skate Spot, Marine Ave Park - \$15,000
8. Low wall in Lot 6, Highland Ave. - \$10,000

The total cost of the eight murals is estimated at \$145,500.

The current allocated balance of the Public Art Trust Fund, including \$150,000 for *Murals in Manhattan Beach* (MB Murals) funding, is \$716,058. The unallocated balance as of May 2, 2019, is \$1,306,453. Expiration dates for unallocated funds are as follows: December 31, 2022: \$8,889; December 31, 2023: \$1,040,320; December 31, 2024: \$257,242.

BACKGROUND:

On September 19, 2017, City Council approved acceptable uses for the Public Art Trust Fund, which includes this item. One hundred fifty thousand dollars was appropriated to develop and execute murals in facilities and private businesses throughout the City of Manhattan Beach. In response, the Cultural Arts Commission created a Roster of Pre-Qualified Artists to be part of the MB Murals project. The purpose of the roster is to streamline the artist selection process for a range of upcoming mural projects. Artists chosen for inclusion in the roster will be eligible to be considered for future public art mural projects in Manhattan Beach. Inclusion in the final roster will be for a period of three years.

At the September 24th, 2018, meeting of the Cultural Arts Commission eight locations in the City were chosen; five in City facilities and four private business locations.

DISCUSSION:

The following three sections describe: (A) mural locations within City facilities, (B) public-private partnership mural projects, (C) proposed mural ordinance language and (D) the application process murals. Designs of each artwork or representative works are provided in the attachment.

A. Projects proposed for municipal facilities:

1. Parking Garage in Civic Center, Bo Bridges

Bo Bridges is a world-renowned artist photographer who owns a gallery located in Manhattan Beach. From diving the depths of the oceans to hanging out of a helicopter door, Bo is constantly pushing the boundaries of his work in order to share new perspectives with the world.

2. Ramp into Parking Structure, Civic Center, Bo Bridges

3. Elevator Structure, Northeast End Civic Center Lot, Joanna Garel

Actress, artist and former model, Joanna Garel spent 20 years living in Manhattan Beach and currently resides in Redondo Beach. Her paintings are influenced by her Southern California lifestyle as a surfer.

4. Joslyn Community Center, East Entry, Charles Bragg

Charles Bragg is a well-known Manhattan Beach's artist. He is a sculptor, printmaker, and illustrator. Depicting and conserving the Earth's ecosystems became his purpose in art and in life. He took his camera from the mountain tops to coral reefs throughout the world to photograph the ordinary and the extraordinary to combine the images into animated compositions of places, things and animals.

5. Marine Ave. Skate Spot, East Wall, Josh Barnes

Hermosa Beach artist, Josh Barnes is best known for his "live paintings," one of which he created at the opening of the Skate Spot (on skateboards).

B. Projects proposed as public-private partnerships:

6. Metlox Plaza, South of Fountain, Kelsey Montague

Kelsey Montague is a street artist whose work went viral when Taylor Swift posed in front of her angel wing mural in New York. For the past two years, Montague has been traveling the world creating large-scale, interactive murals.

7. North Side of Racquetball Facility, Marine Ave. Park, Trek Kelly

Trek Thunder Kelly is a California based artist and adventurer. He has painted large scale murals in California and other parts of the country.

8. Lot 6, Highland Ave., Kid Wiseman

San Diego based artist known for community based youth participation projects (two in Manhattan Beach schools)

The timeline for the execution of the two-year Murals in Manhattan Beach project is as follows:

By December 2019

- Install the civic center ramp (wrap) mural by Bo Bridges
- Install the civic center garage (wrap) mural by Bo Bridges
- Install the civic center parking elevator shaft mural by Joanna Garel
- Install the Metlox Plaza mural by Kelsey Montague
- Install the Skate Spot mural; by Josh Barnes
- Install Lot 6 mural by Kid Wiseman

By July 2020

- Install Marine Ave Park mural by Trek Kelley
- Install Joslyn Center (Wrap) mural by Charles Bragg

C. Mural Ordinance Language:

In order to promote and facilitate the addition of murals to the civic landscape, staff recommends the following language from Hermosa Beach's Ordinance be added to the Manhattan Beach Municipal Code, Chapter 10.72 - SIGN CODE:

Under Definitions:

"Mural: An original one-of-a-kind image that contains only a non-commercial message defined as a message or image that does not include any branded, registered, or trademarked words, icons, or logos and is not used to advertise a business, service or product offered for sale, or to create a revenue stream as a result of its visible placement to the public. The original one-of-a-kind image is painted or applied to the exterior wall of a building or structure, and does not contain changeable or moveable elements or changeable illumination, including flashing or sequential lighting, or any other elements."

Under exemptions to the standard sign regulations, add the following exemption for murals (Attachment):

“Murals approved by the Cultural Arts Commission may be permitted. In its review the commission may waive specific provisions of this chapter relating to total sign area, coverage, height, type and style.”

Please note that the Cultural Arts Commission has the authority to approve murals under this proposed second paragraph. Unless directed otherwise by the City Council, the above definition and the above language (or similar language) will be incorporated into a draft Mural Ordinance that will be presented to the Planning Commission and will return to the City Council for approval.

D. Mural Application process:

- Initial mural installation request/inquiry submitted to the Community Development Department.
- Community Development will review the mural artwork to determine if the project is considered a mural or sign, per the City’s sign ordinance.
- If the mural artwork meets the requirements, Community Development will refer applicant to the Cultural Arts Division. The Cultural Arts Division will prepare a presentation to the Cultural Arts Commission, to include a determination of the murals appropriateness in its scope and location.
- The Cultural Arts Commission will make a recommendation to approve or deny the mural. If approved, Community Development will issue a permit to move forward with the mural. If denied, the applicant may appeal the decision to the City Council.
- Once the mural is approved, an agreement must be signed by the artist and property owner addressing graffiti removal, maintenance, and term.
- Permit fee paid.

E. Public /Private mural agreement (murals developed on private property in collaboration with murals in Manhattan Beach program).

- The Cultural Arts Commission will make a recommendation to approve or deny the mural. If approved, Community Development will issue a permit to move forward with the mural. If denied, the applicant may appeal the decision to the City Council.
- Mural will remain unaltered for a minimum of two years.
- Maintenance and damage repair are the responsibility of the owner.
- Murals shall not include electrical or moving components.
- Mural artist must be chosen from City of Manhattan Beach mural artist roster.

PUBLIC OUTREACH:

The program was discussed at the joint City Council Commission meeting on September 19, 2017. It was also discussed at the September 24, 2018, meeting of the Cultural Arts Commission. A Request for Proposal for mural artists was published on the City website and promoted in local Newspapers in March of 2018. An article on the mural program was published in the Beach Reporter September 27, 2017.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a

significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Proposed Additions to Chapter 10.72
2. Mural Artists and Locations

THIS PAGE
INTENTIONALLY
LEFT BLANK

Chapter 10.72 - SIGN CODE*

10.72.030 - Definitions.

"Abandoned sign" means any sign or structure which: identifies a use which has not occupied the site on which it is located for a period of ninety (90) days, does not clearly identify any land use for a period of ninety (90) days, or has been in a state of disrepair or poor condition for a period of thirty (30) days.

"Area of sign" shall be determined by the outer edge of the frame of the sign. Each face of a multiple-faced sign shall be counted as part of the sign area. In cases where individual letters, words or other sign displays are attached to a building, the sign area shall be determined by not more than by two (2) rectangles, of at least six-inch (6") width, drawn around the entire copy or grouping of letters, words or other sign display.

"Awning/canopy sign" means sign copy printed on an awning or canopy of any material, projecting out from a building wall.

"Billboard" means any outdoor, off-site sign or advertising device.

"Changeable copy sign" means any sign with copy which can be changed or altered to advertise products, services or messages to the public.

"Corner side wall sign" means sign located on a side building wall, perpendicular to the front wall sign.

"Corner tenant" means any tenant space located at an end of a building and thus having perpendicular exterior walls, regardless of street frontage.

"Construction sign" means any construction sign on a construction site indicating names and other information about individuals or businesses directly involved in the project on the site.

"Directional sign" means a non-official sign designed to guide or direct pedestrian or vehicular traffic.

Frontage, Building. "Building frontage" means the width of a structure measured from the outer wall.

Frontage, Property. "Property frontage" means the width of a property measured from one (1) property line to the other along the longest street frontage.

Frontage, Tenant. "Tenant frontage" means the width of a tenant space measured from one (1) side wall to the other along the front exterior wall.

"Gasoline price sign" means signs located on-site, identifying company name and prices/grades of vehicle fuels for sale.

"Height of monument or pole sign" means the vertical distance measured from the public sidewalk or street grade nearest to the base of the sign, to the highest point of the sign structure.

"Illuminated sign" means any sign using an artificial source of light, including neon, to enhance the visibility of the sign, including internally and externally lighted, reflective, glowing or radiating signs.

"Monument sign" means a free-standing, ground mounted sign that does not exceed six feet (6') in height.

"Off-premises sign" means any sign identifying a name, product or service which is not located up on the site that it occupies.

"On-premises sign" means any sign indicating a name, product or service incidental to a permitted use on the property where the sign is located.

"Pedestrian sign" means a small non-illuminated sign suspended under an awning or canopy or attached to a building by a decorative holder, oriented toward pedestrian traffic, to identify a business.

"Pole sign" means any free-standing sign exceeding six feet (6') in height excluding signs specified as exempt in this chapter.

"Portable sign" means any unattached sign which can be readily moved or relocated.

"Project" means a developed site with defined and recognized boundaries.

"Projecting sign" means any sign which projects or cantilevers out horizontally more than one foot (1') from a building or wall, or over the public right-of-way, excluding awning/canopy or pedestrian signs.

"Roof sign" means any sign located on or extending above the roof of a building.

"Sign" means any media, device, graphic depiction, illumination or display for the purpose of identifying, or attracting attention to business establishments or services, or promoting products, goods, services, or items for sale, rent or lease. Registered trademarks, with or without written text, shall be included in the definition of signage and shall be counted in the determination of total sign area. Should any uncertainty exist as to what elements constitute sign area, the determination shall be made by the Director of Community Development. The determination of the Director is appealable to the Planning Commission consistent with Section 10.01.070 (D).

"Sign program" means sign specifications for a multiple tenant site.

"Temporary sign" means any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a temporary period.

"Wall sign" means any sign attached to or painted on a wall, window, or parapet/mansard wall, of a business, parallel to the wall.

(§ 2, Ord. 1951, eff. July 4, 1996, as amended by § 4, Ord. 2007, eff. November 18, 1999, § 2, Ord. 2013, eff. June 15, 2000, § 2 (part), Ord. 2022, eff. February 16, 2001, § 2 (part), Ord. 2027, eff. May 3, 2001)

CITY HALL UPPER PARKING LOT



CITY HALL RAMP



CITY HALL UNDERGROUND PARKING LOT



JOSLYN CENTER



BASKIN - ROBBINS



HURLEY



MANHATTAN HOUSE



RIGHT TRIBE



SAND SPA



SKECHERS



THE KETTLE



**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JULY 10, 2019**

A. CALL MEETING TO ORDER

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 10th day of July, 2019, at the hour of 6:00 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

Chair Burkhalter called the meeting to order.

B. PLEDGE TO FLAG

C. ROLL CALL

Present: Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter
Absent: None
Others Present: Anne McIntosh, Community Development Director
Michael Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Austin Chavira, Planning Intern
Drew Teora, Recording Secretary (substitute)
Rosemary Lackow, Recording Secretary (remotely)

D. APPROVAL OF AGENDA

It was moved and seconded (Thompson/Morton) to approve the agenda with no changes; hearing no objections, it was so ordered.

E. AUDIENCE PARTICIPATION (3-minute limit) - None

F. APPROVAL OF THE MINUTES

07/10/19-1. Regular Meeting – June 12, 2019

It was moved and seconded (Thompson/Morton) to approve the minutes of June 12, 2019 as submitted; the motion was unanimously approved by voice vote.

G. PUBLIC HEARING

07/10/19-2 Consideration to Approve Amendments to the Municipal Code and Local Coastal Program (LCP) to Refine the Sign Code related to Art Murals

Chair Burkhalter announced the item and invited a staff report.

Community Development Director McIntosh introduced **Planning Intern Austin Chavira** who gave a brief staff report as an overview, with the aid of slides. **Mr. Chavira** showed examples of murals, both existing on private commercial buildings, as well as murals proposed at various City structures as part of a public mural program. He briefly commented on mural standards and procedures, current/proposed and went over the wording of a proposed definition of “mural”. **Mr. Chavira** concluded that Staff recommends to: conduct a public hearing, accept testimony and adopt the draft Resolution, recommending the subject amendment to the City’s Sign Ordinance. A recommendation, once adopted, will be scheduled for hearing and final approval in the future by the City Council.

The Commission discussed the subject amendment, commenting on a number of topics including the examples of murals provided, the purpose of the amendment, mural review procedures and the respective roles of the

Planning Commission and Cultural Arts Commission, and whether the City might be able to address potentially offensive displays. **Community Development Director McIntosh** responded to questions and comments from the Commission as follows:

- 1) **Mural examples:** With the exception of the Skecher's mosaic, which was reviewed by the Cultural Arts Commission due to a use permit condition, many of the murals shown as examples have not had City review, but all would meet the proposed definition of a "mural". Two murals (Hurley in Hermosa Beach and Manhattan House) are both a mural and a sign in that the business name is included along with a graphic. In such cases, staff applies the sign regulations but only to the portion that is the "sign" (the name of the business is boxed out and counted towards signage). No action will be taken retroactively for those existing murals that did not have prior City review.
- 2) **Amendment purpose:** The main purpose of the proposed code change is to give staff clear guidance as to what constitutes a "sign" vs. a "mural". The broader policy goal is to encourage murals with minimal regulations.
- 3) **Review procedures/Commission roles:** Currently, Community Development Staff looks at proposed murals on private buildings to determine if it is a sign; if so, staff applies sign regulations, but if not a sign, no further review is required. Murals that are publicly funded, or regulated by a zoning permit condition, go to the Cultural Arts Commission for review and conformance with standards established by the City Council, and on to City Council for final approval. In the future, per a recent Parks and Recreation report to the City Council, a process would be established that gives authority to the Cultural Arts Commission for their review of all murals, both private and public.
- 4) **Sign Code Amendment:** The Planning Commission role in the current mural consideration process is limited to making the subject recommendation for amending the Sign Code (to define murals).
- 5) **Potentially offensive material:** As proposed, as long as a graphic is found to be a "mural" and not a "sign" it would not be regulated by the Sign Code. Staff does not regulate "content" in recognition of protections afforded by the First Amendment. Assistant City Attorney Estrada cautioned that the First Amendment right is a difficult issue; however, he believes that the City may have very little control over regulating a private graphic that is not funded by the City or connected to a City permit. In the case of City funded murals, however, the City Council has full discretion on content.
- 6) **Options:** The Commission could recommend that murals be prohibited if there is concern that good judgment will not be used by the community for content. Otherwise graphics/murals can only be regulated in a content-neutral way (i.e., by "time, place or manner"); for example, the code could limit the size of a mural but not the symbols or artwork.

Commissioner Morton stated that his preferred solution would be to allow murals, but to have some form of review, however **Director McIntosh** reiterated that, even with signs the City has no authority to regulate content. **Director McIntosh** affirmed **Commissioner Morton's** observation that, the City retains more flexibility by having a broader definition of "sign" (current status quo) as opposed to more narrowly defining it and carving out a specific definition for "mural" as proposed. She noted that there is a tradeoff in encouraging murals in that, although more murals may be installed with City review, there would be a risk that a mural could be viewed as offensive.

PUBLIC INPUT

Chair Burkhalter opened the public hearing and invited public input.

Susan Wieland, 225 39th Street, displayed a photo depicting a neighboring property where the owner has painted the upper/lower front building walls bright pink with a large "emoticon" of smiley faces at each level, facing the street. She finds this offensive, believing that the owner has done this to in retaliation, after she and neighbors reported the use of the building as an illegal short-term rental. She believes that this painting and graphic is a "sign" in that it is intended to send a particular message to the neighbors and the City. Since the graphic has been painted, the property has attracted much unwanted attention, activity, and traffic. She urges that this type of graphic not be allowed in the mural regulations, if at all possible.

Dina Doll, 204 39th Street, stated that after she reported the neighbor's property as an illegal rental, a City staff member visited the site and informed her that the City did not have the ability to regulate the house painting. She questioned whether, since the business required City review, why the graphic, which she feels is a sign, cannot also be reviewed and controlled by the City. While she likes the idea of encouraging more vibrant

murals, she feels this type of display should be able to be controlled by the City and she feels strongly that murals on residences should have strict overview by the City.

Carol Madonna, 208 39th Street, (two doors down from the short-term rental site), was very vocal in reporting illegal rentals to the City. She thinks this is a good example of the “broken window” concept – in that if this doesn’t get addressed properly, such activity could be repeated, becoming a serious problem. She urges that the City stand behind her and her neighbors against such displays.

Gregory Doll, lives three houses away from the painted house; urges that the City take action by adopting language that give the City regulatory authority to not allow graphics that are devoid of any artistic merit, or where art is being misused as a form of intimidation, or is offensive to the sensibilities of a community.

Commissioner Morton questioned whether, if by using the emoticon in the conduct of offering short-term rental services (via online or email e.g.) and, in attempting to stifle dissent, this calls attention to the rental service - could this graphic possibly be a “sign” which could be regulated? **Assistant City Attorney Estrada** noted that this issue, which relates to First Amendment rights, is difficult; he suggested that the Commission not take action tonight and allow Staff to research this further and provide more information.

Director McIntosh noted her concern also that the case on 39th Street was not advertised on the meeting agenda as being the subject of a public hearing tonight, and cautioned against continued discussion and speculation on the site. However, using the example of the Sand Spa business, she explained that the wording on the side of its building was determined to not be a sign because this image or wording was not used for advertising the spa.

Commissioner Thompson noted he is uncomfortable in taking action tonight. He would like more information, as suggested by the City Attorney, and especially if there are ways murals can be restricted in residential neighborhoods.

Commission Morton stated his agreement and he also does not want to give up any ability to regulate signs or murals until the Commission has a better understanding or clarification of the issues discussed.

Chair Burkhalter asked if there were any others wishing to provide input.

Barbara B., 114 39th Street, stated that she doesn’t think that residential areas should be compared to commercial areas, and if emojis are international signs – sometimes they are used instead of words, and words have meaning. If they proliferate, this could create big problems.

Chair Burkhalter closed the public hearing and invited Commission discussion.

COMMISSION DISCUSSION

Commissioner Thompson stated he has a lot of sympathy for the concerns expressed by the residents and would welcome input from the City Attorney on whether there is a mechanism to regulate murals including the one on 39th Street in both residential and commercial areas. He would like to continue this item tonight until more information can be provided.

Commissioner Fournier stated that he is not sure that the Planning Commission has the ability to help the residents who spoke tonight but is in support of them and if possible, having some type of review process for them to appeal their case. He would like information on how historically, murals in residential areas have been regulated in Manhattan Beach.

Director McIntosh informed that the City has never regulated murals in residential zones and clarified that the process for reviewing murals is still being developed with the Cultural Arts Commission.

Commissioner Ungoco suggested that two issues that were discussed at the Council meeting be brought into the Commission discussion, including: 1) whether a mural is “public” (i.e. is the mural oriented inward or outward?) and 2) whether the mural is designed to be permanent or temporary in the way it is attached or applied to a surface (e.g. wrap or scrim may be considered temporary).

Commissioner Morton iterated his concern that the city should not pull away or ease up on regulating murals until the city is aware of how the regulation process would occur and especially how residential areas might be affected. He is looking forward to receiving more information relevant to applying the code to both residential and commercial areas.

Chair Burkhalter stated he feels most importantly the amended code should address the mechanics of applying the code, and provide clear guidelines and/or methodology for staff to use in making determinations (i.e. sign vs mural?); and questioned why murals on private property should have to be brought before the Cultural Arts Commission (or any other City body); he strongly opposes regulating content by any City Commission.

COMMISSION ACTION

It was moved and seconded (Thompson/Morton) that the public hearing on the proposed **Amendments to the Municipal Code and Local Coastal Program (LCP) to Refine the Sign Code related to Art Murals** be reopened and continued to the Planning Commission meeting on August 28, 2019 with direction that Staff research and report on relevant First Amendment rights for graphic displays and regulation options.

Roll Call:

Ayes: Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter
Noes: None
Absent: None
Abstain: None

H. DIRECTOR'S ITEMS –

- 3920 Highland Avenue/El Porto mixed use building: plans not yet submitted

I. PLANNING COMMISSION ITEMS - None

J. TENTATIVE AGENDA – July 24, 2019

- 1843 11th Street: 3-Unit Apartment Building Use Permit

K. ADJOURNMENT TO – The meeting was adjourned at 6:52 p.m. to Wednesday, July 24, 2019 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

/s/Rosemary Lackow
ROSEMARY LACKOW
Recording Secretary

/s/Benjamin Burkhalter
BENJAMIN BURKHALTER
Chairperson

ATTEST:

/s/Anne McIntosh
ANNE MCINTOSH
Community Development Director