

MAYOR AND COUNCIL AGENDA

Attachment C



NO. 9B

DEPT.: Recreation and Parks
STAFF CONTACT: Betty Wisda

DATE PREPARED: Sept. 26, 2007
FOR MEETING OF: Oct. 8, 2007

SUBJECT: Rejection of Artist Proposal Rockville Town Square Art Project #3 –
Concave Wall Niche at Corner of North Washington Street and Beall Avenue

RECOMMENDATION: The Cultural Arts Commission and staff recommend that the Mayor and Council reverse the approval of the \$25,000 art commission to William Cochran for "Cornerstone," a trompe l'oeil painting with historic scenes of Rockville. The recommendation to reject the proposed artwork is based on the fact that the artist refused to enter into the City's standard public art contract.

The Cultural Arts Commission and staff also recommend that a new call for entries be distributed to local and regional artists for this project.

DISCUSSION: William Cochran proposed a trompe l'oeil painting depicting Rockville's history, artifacts, and community for the concave wall niche at the corner of North Washington Street and Beall Avenue for Rockville Town Square Art Project #3.

History: In the summer of 2005, the Rockville Town Square Call for Entries was distributed to more than 1,500 local, regional and national artists for nine projects. Thirty-eight artists submitted applications for consideration for this site (Project #3). In fall of 2005, the Artist Nomination Committee selected three finalists to create site-specific art proposals. The committee consisted of Jerry Callistein, Ken Lechter, and Tamar Maravilla, Cultural Arts Commissioners; Sue Pierce and Nancy Regelin, Art in Town Center Task Force; Jonathan Roth, Rockville resident; Brian Spencer, developer representative; and June Linowitz, art expert.

In late March of 2006, the Artist Nomination Committee unanimously recommended that the Mayor and Council award the \$25,000 art commission to William Cochran for his proposed tromp l'oeil painting with historic scenes of Rockville. At their April 19, 2006 meeting, the Cultural Arts Commission unanimously concurred with the Artist Nomination Committee's recommendation.

On June 12, 2006, the Mayor and Council approved an award of \$25,000 to William Cochran for the trompe l'oeil painting representing the people and institutions that built Rockville as a diverse community.

Following the Mayor and Council award, contract negotiations began between William Cochran and the City of Rockville. After reviewing the City's standard Art in Public Places contract, the artist objected to the reproduction rights clause and proposed alternate language.

The City and the artist reached an impasse over the artist's alternate contract language limiting the City's rights to use reproductions of the artwork. The City's standard public art contract gives the artist full ownership of the copyright for the artwork and gives the City reproduction rights, which allows for the image to be used on items such as brochures, calendars, postcards, tee shirts or other promotional items, which the City typically either gives away or sells for a price designed to cover costs, as opposed to generating significant profits.

Mr. Cochran proposed the following alternate language: "The image may be used in City publications, provided that any and all such reproductions made by the City or its assigns are non-commercial in purpose and use, and are not sold or offered for sale in any form or venue without written permission of the artist, and that these rights are exercised in a reasonable manner."

The City Attorney's office advised that the City's use of reproduction rights for the purposes listed above could be deemed commercial. Despite the staff's best efforts over the past several months to craft language relative to reproduction rights that would be acceptable to both the City and Mr. Cochran, agreement was never reached.

At their June 13th meeting, the Cultural Arts Commission recommended that the Mayor and Council reverse the approval of the \$25,000 art commission to William Cochran. The Cultural Arts Commission also recommended that a new call for entries be distributed to local and regional artists for this project.

Public Notification and Engagement: The Rockville Town Square Call for Entries appeared in the "Focus on the Arts" insert of the *Rockville Reports* May 2005 issue. Residents were encouraged to view and comment on the finalists' models that were on display at Rockville City Hall in April and May of 2006. A photograph and a description of each art proposal appeared in the "Focus on the Arts" insert of the *Rockville Reports* May 2006 issue. The same information was posted on the City's website with the opportunity for residents to send e-mails with comments.

Fiscal Impact: The budget for Rockville Town Square Art Project #3 is \$25,000. This amount is included in the total budget of \$500,00 for the Rockville Town Square Art Projects that is funded from three sources in the Capital Improvements Program: \$247,000 in Town Square project; \$107,245 in the Art in Public Places project; and \$145,755 in the Art in Public Architecture project.

Neighborhood: This artwork is intended to enhance the visual environment of the vibrant downtown. The artwork was selected by a committee with neighborhood representatives participating.

Boards and Commissions Review: The Cultural Arts Commission has been involved with the Rockville Town Square Art Project #3 throughout the entire selections process.

On April 19, 2006, the Cultural Arts Commission reviewed the trompe l'oeil painting and recommended that the Mayor and Council award the \$25,000 art commission to William Cochran.

The Cultural Arts Commission received updates regarding the contract negotiations between the City and William Cochran at their monthly meetings.

At their June 13th meeting, the Cultural Arts Commission recommended that the Mayor and Council

reverse the approval of the \$25,000 art commission to William Cochran for "Cornerstone", a trompe l'oeil painting with historic scenes of Rockville. The Cultural Arts Commission and staff also recommend that a new call for entries be distributed to local and regional artists for this project.

Next Steps: Upon approval of these recommendations, staff will notify William Cochran of the Mayor and Council's decision. Staff will prepare a call for entries to be distributed to local and regional artists in November 2007.

PREPARED BY:

Betty Wisda 9/27/07
Betty Wisda, Arts Programs Supervisor Date

APPROVED BY:

Burt Hall 9.27.07
Burt Hall, Director of Recreation and Parks Date

Cathy Tucker Parrish 10/3/07
Catherine Tuck Parrish, Deputy City Manager Date

Scott Ullery 10/3/07
Scott Ullery, City Manager Date

LIST OF ATTACHMENTS:

none