

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** The Honorable City Council

**FROM:** Mary K. Lindley, Director of Parks, Recreation, and Community Services 

**DATE:** November 21, 2006 (Meeting of December 6, 2006)

**SUBJECT:** Consider Art in Public Places Maintenance Requirements

**DISCUSSION**

At its meeting on November 15, the Council approved the water fountains proposed by the developers of the Village at Moorpark Shopping Center and the Grove Shopping Center as meeting their Art in Public Places obligation. Additionally, the Council asked staff to return with options for ensuring that Art in Public Places artwork, including water fountains, be well maintained and remain in good working order.

With regards to maintenance of Art in Public Places artwork, the Moorpark Municipal Code already includes maintenance obligations. In summary, Section 17.50.080 (Covenant for Maintenance) states that the applicant must record a maintenance covenant in a format approved by the City to provide for ongoing maintenance of the artwork. Additionally, Section 17.50.130 (Maintenance and ownership of Artwork) states the obligation to provide all maintenance necessary to preserve the artwork in good condition shall remain with the owner of the site. The Section goes on to state that maintenance of the artwork includes: preservation of the artwork in good working condition to the satisfaction of the City; protection of the artwork against physical defacement, mutilation or alteration; and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the City. Prior to the placement of the artwork, the applicant and owner of the site shall execute and record a covenant in a form approved by the City. If the owner fails to maintain the artwork, the City may declare it to be a public nuisance. Additionally, upon reasonable notice, the City may perform all necessary repairs and maintenance and the cost shall become a lien against the real property.

Without amending the Moorpark Municipal Code, the City can draft a maintenance covenant that includes language whereby the owner agrees to the requirements of City Codes, and secures a maintenance bond, for up to three years, in an amount equal to the cost of the artwork. Three years should provide sufficient time to determine that the artwork performs and operates as designed and properly withstands the elements, and that the property owner perform maintenance as required. The final language would be worked out by the City Attorney. As currently required, the covenant must be in place prior to the certificate of occupancy or the final building permit sign-off. In addition to the covenant, the project's Conditions of Approval would include a provision requiring the project applicant and property owner to agree to maintain artwork in good working order for up to the life of the project. The provisions in the Condition of Approval would be transferred to subsequent property owners, thereby ensuring that maintenance continues even if the property is sold. In this way, after the maintenance bond is released, the owner is still obligated to maintain the artwork for an additional nine years.

If on the other hand, the Council prefers to amend the Moorpark Municipal Code to require that project owners secure a maintenance bond, staff will prepare a code amendment at the earliest opportunity for Council action.

### **STAFF RECOMMENDATION**

Direct staff to prepare an Art in Public Places artwork maintenance covenant to include a maintenance bond requirement as outlined in the Agenda Report.