

Public testimony is only allowed at the discretion of the Presiding Officer or by a majority vote of the Council. Those involved with the proposed mural have been notified of the work session.

The City Attorney will be in attendance at the work session. This topic was referred to the City Attorney's office for clarification of questions on art installations on public property and how and when regulations may apply.

History of City Art & the PAC:

The PAC was formed by resolution in January, 2006, however, the PAC did not develop art policy until 2008 and bylaws establishing its purpose, responsibilities and functions until 2009. The PAC's purpose is to "enhance the cultural and aesthetic quality of life in Forest Grove by service to preserve, promote, and develop public access to the arts." The PAC passed a policy in 2008 entitled *City of Forest Grove's Public Arts Commission Art Collection Management Policy*, which states that "The Public Arts Commission will make acquisition decisions in consultation with appropriate Boards, Commissions, stakeholders and professionals" and which has guided the purchase and installation of art pieces throughout Forest Grove.

The PAC's responsibilities include promoting arts through education and demonstration; encouraging connections and building relationships with individuals, groups, and organizations that bring the arts to the local community; pursuing the procurement of public art and responding to offers of art donations; and advising the Council on various arts-related issues. A few of the issues the PAC advises the Council on include "using public art to enhance existing development in public parks and other public lands and in public structures" and "make recommendations regarding policies and programs that would enhance and encourage the planning, placement and maintenance of public displays of art in locations open to the public within the community."

The PAC has utilized various processes to obtain city art. It has raised funds, facilitated discussions between the City and non-profits, placed calls for art, developed art criteria, and made art selections. For example, the PAC raised funds and approved the Sun Dial at Thatcher Park which was a specific proposal by the Ford Family Foundation (this also went to the Recreation Commission for approval). Another example is the PAC raised funds, developed criteria, placed a public call for art, and selected the Tres Novem to be built in Lincoln Park (this also went to the Recreation Commission) and decorative benches to be placed in certain locations around town. Another example is the painting on the Fire Station that was a joint project between the Firefighters and the Public Arts Commission.

History of Forest Glen Park Mural:

The mural currently on the basketball/ handball court wall was an Eagle Scout project from 2015. The current mural is an American flag on one side and the outline of the state of Oregon on the other. The Recreation Commission reviewed the project as part of a list of 7 other proposed park projects. The Commission would consider the projects and if no questions or concerns came up, the Commission would give the scout(s) direction to proceed with the project(s).

The 2015 mural replaced a mural composed of students' handprints that was done in April-May, 2006. The 2006 mural was part of a larger project in the park that involved a group of students from the Business Management Program at Forest Grove High School. The students also planted trees, built a picnic table, painted back boards and poles, repainted the court lines, provided park clean up, and

used their hands to paint handprints on the wall. The overall effort was considered a deferred maintenance effort for the park.

LEGAL ANALYSIS:

The following legal analysis was provided by the City Attorney's office.

Under state and federal law, if the City allows members of the public to paint murals of their choosing on city property ("private speech"), the City risks losing its ability to regulate future murals based on the content of the murals.¹ For example, if the City allows members of the public to paint this mural as private speech on city property, it may be forced to allow another group to paint a different mural in the future, even if the City does not agree with that future mural's message. An analogous situation is public comment during council meetings. By opening up the time to some speakers, the City must allow all speakers the same time, regardless of what the speakers are saying. As another example, another Oregon city is currently dealing with a similar issue. In this city, a mayor-appointed committee is raising money by selling bricks at a city park. Members of the public are welcome to purchase a brick with their chosen inscription. Most bricks are inscribed with the names of the donor or a donor business. Recently, a member of the public purchased a brick with a potentially controversial political message with which that city does not necessarily agree. The city is in a difficult position because it may have opened up city property to private speech.

To avoid these issues, if the mural in question sends a message the City agrees with and wants to adopt as its own message, the City may commission the students to paint the mural on the City's behalf. By doing so, the mural becomes "government speech" rather than private speech on city property. As government speech, the mural would not open the City up to having to allow future murals that send messages the City does not agree with. The government cannot be forced to use its own voice when it does not agree with the message.

From a legal perspective, in order for the mural to represent the City's speech, rather than private speech on city property, the City should exercise control over the mural project. The City will want to be clear that it is using its own voice in painting the mural and to ensure the mural meets the legal standard for "government speech." The natural process for exerting that control is through the PAC, which has handled similar art installations for the City in the past, and which already has the structure and processes in place to handle the mural project.

STAFF RECOMMENDATION:

Staff recommends discussion at the work session include a clarification of the process, timeline, and scope for the proposed mural. Potential options below are intended to generate discussion during the work session.

Potential Options:

- Refer proposal to the PAC and request the PAC develop written criteria for murals on public property for Council approval. The written criteria should include a definition of the term "mural", requirements for submission (i.e., alignment with established city goals and objectives),

¹ This analysis only applies to murals located on public property. Murals located on private property are not subject to the same legal analysis.

opportunities for the PAC to give input and require modifications, state duration and ownership terms, explain funding opportunities, and a process for final approval. Once the PAC establishes such a process, it may apply the written criteria to the social justice mural proposal.

- Refer proposal to the PAC and request it consider if the mural aligns with established city goals and objectives and make a recommendation to the Council requesting the project sponsors paint the mural on the City's behalf. If the PAC recommends approval, the PAC should also provide for how long the mural shall remain on City property and clarify that the project sponsors are painting the mural at the City's request and the City will own the mural going forward.
- Place proposal on Council agenda for discussion. The Council may consider if the mural aligns with the established city goals and objectives. If the Council selects this course of action, the City recommends the Council request the City Attorney's office draft the resolution requesting the project sponsors paint the mural on the City's behalf.

ATTACHMENT(s):

- Forest Glen Park Mural Memo (provided by mural proposers)
- PAC Bylaws

Project Name: Social Justice Mural

Organization: Pacific University

Contacts: Seema Khatecherian, Karsen Buck

E-mail address: [REDACTED]

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I. Introduction:

A. About Us

Karsen Buck and Seema Khatcherian are current Seniors at Pacific University. Both are from California but have lived in Forest Grove for the past two years in a house about a mile from the current mural site. Karsen Buck is majoring in Applied Sustainability for Environmental Science with minors in Spanish and Philosophy. Seema is double majoring in Anthropology and Applied Sustainability. Both Karsen and Seema are deeply passionate about issues of social injustice and uplifting every member of a community.

B. Description of the Project:

This mural would be located at Forest Glen Park on the handball court Wall in Forest Grove. This Social Justice mural will incorporate imagery which helps to celebrate BIPOC and encourage the community to think deeper about the issues currently occurring in our country. We plan to have community members of color help brainstorm ideas (as well as help in painting the mural) so that we are

including the local community's input in this project. Volunteers are welcome to sign up for an online volunteer sheet and kids are welcome. Furthermore, we intend to hire a black muralist from the Portland Area, Jamaali Arts, to help us draft a mural design that incorporates elements the community wishes to see in a professionally designed format.

C. Concepts in Mural Design

The following are ideas that will likely be included in some context in the

- BIPOC Flag and an American flag (BIPOC flag is a very important symbol of intersectionality and holds messages of standing with other marginalized groups)
- Four fists of varying skin tones (for equal representation of all skin tones)
- Images of farm laborers (acknowledges the farmworkers in and around the FG area)
 - Three sisters crop guild incorporated
- Land acknowledgement with ALL different tribes in the FG area

D. Action items

(What we need/want to see from the council)

We would like the council to consider our request to paint the mural in the same fashion the Boy Scout mural was approved. This would be in keeping with the process that was in place when our group initially approached the city.

The Council and the Commissions can then embark on an ongoing policy process that would allow for greater oversight and review moving into the future.

E. Name of organizations that will partner or collaborate with this project:

Pacific University, Students for Environmental Activism Club (SEA), Diversity, Equity, & Inclusion Office (DEI), Association for Latinx and Ally Students (ALAS), City of Forest Grove

F. How this project will benefit the residents of Forest Grove:

The mural will cultivate a sense of acceptance/support for POC in this community and/or those who drive through this community. Furthermore, it will challenge individuals to reevaluate their deeply rooted beliefs and understand that this is indeed a diverse community.

G. Anticipated Volunteers:

If the mural is approved we will then create volunteer sheets (through google forms) that we can send out to different groups (including the forest grove city

Facebook page, ALAS, forest grove progressive Facebook page, any other groups/people we are recommended to share to, etc.) Due to the COVID-19 virus, we will be limiting the number of volunteers to for each mural work session (there should be at least 4 different time slots/days where we will work on the mural)

H. Concerns:

The two major concerns regarding the mural process would be the timeline and safety. We would like to get this mural started and painted before the rainy season as otherwise, we will encounter significant challenges regarding the painting of the mural. In regards to safety, we are concerned that volunteers may not respect boundaries regarding the current virus pandemic. However, we can mitigate that by providing masks and hand sanitizer (something we accounted for in our budgeting) and setting boundaries that volunteers are required to wear masks.

I. COVID Safety precautions:

We will limit volunteer numbers to 10 per mural work session (there will be at least 4 work sessions). We will also provide hand sanitizer and masks in case individuals do not bring their own or we have walk-up volunteers.

II. Projected Budget:

	PAC mini Grant	SEA	DEI	Other
Personal (explain) Head muralist + Designer	\$450			
Marketing & Publicity				
Materials + Supplies	\$50			
In-kind contributions				Parents/Go-fund me
Total = \$1000 confirmed (\$1300 we think will be the total after fundraising)	\$500	\$200	\$300	\$300

Supplies:	Cost:	Total Cost of item:	Total cost:
Primer	\$80 x 3 for primer	\$240	
Scrapers	scrapers \$9 x 6	\$60	
Roller pads	3 packages (each package contains 3), \$10 each	\$30	
Paint pans	15 pans (\$2 each)	\$30	
Ladder (to borrow)	From Emily	\$0	
Paint	\$80 x 5 for paint	\$400	
Hand sanitizer/masks for volunteers	\$40	\$40	
Design from Jamalli	\$450	\$450	
Other/Misc:	\$300	Other = \$300	

			Total = \$1,550
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III. Estimated Calendar/Timeline:

Sept.						
Sunday	Mon.	Tues.	Wed.	Thurs.	Fri.	Saturday
		1	2	3 PAC Grant due	4	5
6	7 Meeting with ALAS regarding mural content	8 Deadline for Memo	9	10 Meeting with Jamaali @11:30 am	11	12
13	14 City Work Session (5:30 pm)	15 Contact Emily if she is willing to help with Wall prep.	16 Pacific meeting regarding work session @11:30 am	17	18	19 Wall prep for mural?
20	21	22	23	24 Estimated date for finalized mural design	25	26 Wall prep/start outline
27	28	29	30	1	2	3

To be added: Date outlining the mural, and 2-3 days for painting it.

October						
Sunday	Mon.	Tues.	Wed.	Thurs.	Fri.	Saturday
RAINY SEASON BEGINS				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

IV. Photos: Pre Social Justice Mural







Back of Mural:

