



Report to: General Committee

Date Report Authored: April 17, 2012

SUBJECT: Markham Public Art Policies
PREPARED BY: John Ryerson, Director of Culture

RECOMMENDATIONS:

1. THAT the staff report titled Markham Public Art Policies be received;
2. AND THAT the Public Art Policy – Markham Municipal Projects attached as Appendix A be approved;
3. AND THAT Council approve an allocation of up to one percent of construction cost of new municipal construction budgets and municipal renovation projects over one million dollars for the purpose of public art; including but not limited to new buildings, parks and open spaces, major street reconstruction/streetscape projects, new or major upgrades to bridges, fences, walls and barriers;
4. AND THAT the Public Art Policy - Private Sector, attached as Appendix B, be approved to encourage a contribution of up to one percent of new residential and non-residential construction projects from the private sector for Public Art;
5. AND THAT Council approve the creation of a Public Art Acquisition Reserve Fund that will receive cash contributions and fund projects in accordance with Markham Public Art Policies as identified and approved;
6. AND THAT Culture staff report back to Council annually on the activities in the fund;
7. AND THAT the cost to sustain the public art program be brought forward annually for inclusion during the capital budget process;
8. AND THAT the Public Art Policy – for both the voluntary Private Sector and the Municipal Projects be reviewed in three years with a report back to Council on outcomes of the program;
9. AND THAT staff be authorized and directed to do all things necessary to give effect to these resolutions.

1. PURPOSE:

- Recognize the importance of public art to celebrate and honour our culture, history, people, artistic/design excellence, events and locations.
- Establish a “Public Art Policy – Markham Municipal Projects” and a “Public Art Policy – Private Sector”.
- Establish a reserve fund in support of the Public Art Policy to receive contributions for public art from donors, sponsors and others.

2. BACKGROUND:

Council created a Culture Department to bring focus and direction to the development of art and culture. A public art program is a key element in building a strong public realm for Markham.

A successful public art program requires strong advocacy and leadership by municipal Council.

The 2003 Public Art Policy Framework brought forward recommendations that included the creation of a Markham Public Art Advisory Committee, and the delivery of public art events designed to raise the awareness of public art in Markham. The Committee reviewed two recent private sector proposals initiated by developers and provided advice to the projects.

When an art work is created for a public place, it becomes part of the public realm. Public realm is defined as shared space used (free of charge) by the public, and it exists within both public and private spaces. Enhancement of the public realm is, therefore, the responsibility of both the public and private sectors.

Two policies were prepared to define the process for achieving public art in Markham and are presented in this report for approval:

A. Public Art Policy – Markham Municipal Projects

B. Public Art Policy – Private Sector

3. DISCUSSION:

VISION for Public Art in Markham:

Public Art brings value to the Municipality, provides unique perspective to sites and acts as a constant delight to residents and visitors to Markham. Public art contributes to our economic vibrancy. Public art impacts many aspects of community living. Public art enriches daily life through shared experiences and attracts people to share and shape their identity. Public art allows for the making of a culture.

Markham supports the display of art in public places and recognizes that public art contributes value through:

- Creating a sense of place and an identity for Markham and its neighbourhoods.
- Creating a landmark or a gateway.
- Bringing people together.
- Engaging people through thoughts and discussions.
- Reinforcing the brand of a creative city where people want to visit.
- Highlighting the importance of artists and creativity.
- Commemorating local citizens and/or histories as a theme.
- Public art becomes a visual marker, an identifier, a meeting place, the “branding” of a space

Markham Public Art Policies:

A) Public Art Policy – Markham Municipal Projects (Appendix A)

This Policy identifies eligibility criteria and principles to guide the selection and the management of projects. Council will allocate up to one percent of construction cost of new municipal construction budgets and municipal renovation projects over one million dollars for the purpose of public art; it includes

- all new building construction projects
- renovations over one million dollars
- all parks and open spaces projects
- major street reconstruction/streetscape projects
- New or major upgrades to bridges, fences, walls and barriers

Below ground services and paving projects are not eligible for contribution under these public art policies. However, Markham should assess the opportunity to commission a public art work when a community is inconvenienced by a major infrastructure project, such as streetscape revitalization and waterworks projects.

Allocations of more than one percent require Council approval.

Example of municipal project:

With a \$10 million construction budget, a public art contribution of 1.0 % or \$100,000 is added to the construction budget.

This is consistent with most North American cities that have a public art program and allows flexibility for the nature of the project and its opportunity for public art.

Placement of Municipal Projects:

The public art project should be publicly accessible and consideration given to locate projects in high traffic and high profile sites including:

- All major municipal buildings and sites, e.g. civic centre
- Parks and open spaces
- Streetscapes, right of ways
- New or major upgrades to bridges, fences, walls and barriers
- Gateways/municipal entrances

B) Public Art Policy – Private Sector (Appendix B)

This policy provides the framework for negotiating private sector contributions to the public art program. When included in private development, public art has the potential to increase the economic value of a building project: *the site is enhanced, the project is more attractive and the value of the property is increased through the art and the interest generated. Public art becomes iconic and attracts tenants.*

This policy creates a canvas for negotiations for public art projects within the private sector. The policy's goal is to obtain a contribution from the project owners up to one percent (1%) of construction cost, excluding land and servicing cost, as determined at the time of Building Permit for public art projects. Negotiations for public art will be initiated for projects by the Planning and Urban Design Department in consultation with the Culture Department. Although the policy is not a mandatory requirement, it does establish the importance Markham places on public art in development projects in Markham.

The Planning and Urban Design Department will develop negotiation guidelines for public art based on best practices that include:

- Appropriate supportive policies in the new Markham Official Plan
- Endorsing public art through Section 37 agreements and guidelines when developing Area and District Plans, Master Plans and Urban Design Guidelines.
- Indicating public art provision in site plans, and the plan for the location and the implementation of the public artwork as a negotiated term of site plan approval.

In the spring of 2011 Town staff presented the principles and benefits of public art programs to a Developers Round Table indicating that Council would be considering a policy. No issues were identified arising from the presentation.

All public art on Markham's property, regardless of the funding source, must follow the Public Art Policy. The Public Art Program is managed by the Culture Department. The Culture Department brings years of professional experience in art knowledge and expertise in acquisition, installation and preservation of works of art.

Five Available Options for the Private Sector for Markham's Public Art Program:

Notes:

- All contributors will be acknowledged on the site of the public art project.
- Contribution surpluses shall be administered through the Public Art Acquisitions Reserve Fund.

Option A: On-site contribution - Private Property

The applicant makes a financial contribution to Markham in trust for the commissioning of public art located on the site of the private property of the development project. The applicant uses the expertise of Markham to produce the work through the public art policy process. On-site public artworks remain in the ownership of the development, thus bringing direct benefits to that development. The maintenance and conservation costs of the art work remain with the owner. The placement of the public art that is on private property would be controlled in the site plan. The Culture Department would be responsible for managing the production on behalf of the developer following the Markham policy. If the public art is situated within the development area on the public right of way, the ownership, operating and maintenance obligations will be negotiated.

Option B: On-site contribution - Private Property

If a developer wants to undertake its own public art project on private property and not follow Markham's Public Art Policy; the project would require the input and agreement of the Culture Department for it to be considered a public art project for negotiated benefits. Public Art will be encouraged and the Culture Department will work cooperatively with the property owner to achieve mutual benefits.

Option C: Off-site contribution- Public Property

The applicant makes a financial contribution to the Markham Public Art Acquisition Reserve Fund. The resulting off-site public art project becomes municipal property and the project would be undertaken by Markham following the Public Art Policy. Acknowledgement of the contributors to the public artwork installed on the location will bring those benefits. The funds could be earmarked for a specific project in a specific location such as the Pan Am site or could be placed in the reserve for the undertaking of a major public art project. Site location is negotiated with Markham having final approval.

Option D: *Combination On/Off-site contribution- Combination Private and Public Property*

The applicant makes a financial contribution to Markham in trust for the commissioning of public art works to be located both on site and off site. Markham will execute the project.

Agreement with the Developer, and the Culture Department would occur on the placement of the public art which would be documented in their site plan application. The nature of the art work may require an operating or maintenance agreement to be negotiated.

Option E: *Donations of Artwork – Public Property*

Gifts of art to Markham can be accepted in compliance with the Public Art Policy – Municipal Projects as follows:

1. That under exceptional circumstances, donations and gifts of artworks may be accepted into the public art program only if recommended by the Varley Art Gallery's Art Acquisition Committee.
2. That when possible, the donor will make a financial contribution to cover the costs of conservation and maintenance of the work
3. That charitable income tax receipts issued under federal law, may be issued, where permitted and in accordance with Markham policy.

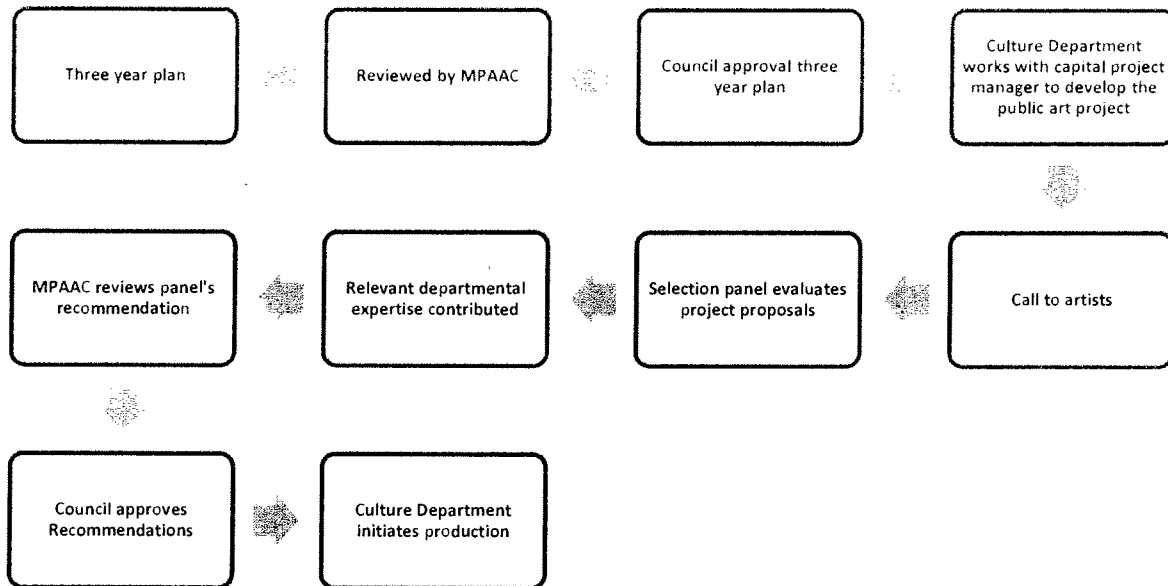
ROLES AND PROCESS:**1. Three Year Planning:**

Options, priorities and financial planning will be established to guide the program by developing a three year plan. Public art projects can take over a year to implement. The first three year plan, funded through a 2011 capital budget funds, will be submitted to Council in 2012. The plan will:

- Inventory the opportunities for site placement
- Identify the priority for the opportunities
- Identify the scope for each project and the resources required
- Define a work plan for implementation

Pending approval of the three year plan, new requests for individual public art projects will be brought forward to Council.

2. Flow Chart



3. Roles

- a) **Council** approves the public art policies and is Markham's primary advocate for public art. For municipal projects, Council approves the three year plan for priorities, sites, project scope and budget. Council approves the final recommendations and budgets for municipal projects. At various stages of approval of private sector developments, Council approves negotiated agreements that may contain sections related to the achievement of public art.
- b) **The Department of Culture** is responsible for the development and management of all public art projects in Markham. The Culture Department with its expertise and experience oversees the maintenance and conservation of the public art collection for the enjoyment of all. The department is responsible for the inventory of the public art collection based on the Varley Art Gallery's collection management professional standards. The Culture Department will work cooperatively with the Asset Management Department who is Markham's lead for the construction of new Markham facilities and other departments involved in undertaking major capital projects.
- c) The **Planning and Urban Design Department** promotes public art and opens negotiations to create public art opportunities in Markham

-
- d) The **Selection Panel** is responsible for the selection of the successful proposals for public art projects. The members of the Selection Panel bring an expertise in public art.
 - e) Markham's **Art Acquisition Committee** is a committee of the Varley McKay Art Foundation. The Art Acquisition Committee is led by the staff of the Varley Art Gallery of Markham and composed of experts in art. The collection policy provides the framework for the acquisitions of art through purchases and donations.
 - f) The **Markham Public Art Advisory Committee** oversees processes, and provides community input into the plan and stages of approval of public art projects. In the case of private sector projects, the role of Markham Public Art Advisory Committee will be to provide advice and feedback in discussing the recommended artworks that reflect high artistic standards.

4. FINANCIAL CONSIDERATIONS:

The annual cost to sustain the public art program (administration, production, maintenance and conservation costs based on the rolling three year plan) will be addressed annually for inclusion through the capital budget process. The first three-year plan will be completed in 2012.

The public art program received annual funding, topped up \$100,000 for several years and was topped up to \$150,000 in 2011. This funding is used to retain a consultant and other costs related to the development of the three-year plan, and also for a public art project to be developed for the Markham Museum site in 2012.

Establishing a Markham Public Art Acquisitions Reserve Fund:

The funding model for sustaining the public art program requires the creation of a reserve fund.

The Public Art Acquisition Reserve Fund will be established to receive cash contributions from the public and private sectors, from donors and sponsors to support the public art program. This fund will cover project costs for public art including call for artists, the construction project management, selection panel's costs, artist fees, site preparation, production and installation. The Fund will also be used for specific contributions for maintenance and conservation as determined at the time of contribution. Contributions to the Fund may be eligible for a charitable tax receipt. Charitable donations must be free and clear of conditions and restrictions imposed by the donors regarding the Markham's use of these funds for the public art program.

Art Acquisitions through donations should include a contribution for the maintenance and conservation/restoration of the work being donated – this will be negotiated as part of an acquisition agreement.

5. HUMAN RESOURCES:

While many cities have full time staff to support public art, at first, Markham's program will be managed by a consultant resource.

The public art consultant that was approved within the 2011 budget will be developing the first three-year plan. The Plan will be completed in 2012.

The Department of Culture is responsible for the administration of the public art program under the Community and Fire Services Commission.

6. ALIGNMENT WITH STRATEGIC PRIORITIES:

This report is based on the recommendations of the 2003 Framework for Public Art approved by Council and the Integrated Leisure Master Plan.

Public Art aligns with:

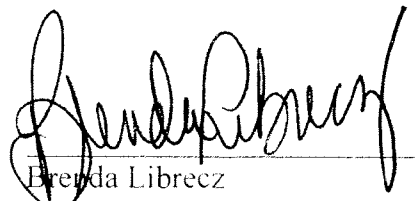
- Green Print, cultural vitality and sense of place goals.
- Markham 2020 for branding and talented community.
- A strong urban design strategy for Markham.
- The creation of a public realm strategy for Markham.

7. DEPARTMENTS CONSULTED AND AFFECTED:

Planning and Urban Design
Planning and Financial Services
Economic Development
Asset Management
Operations
Legal Services

RECOMMENDED**BY:**

John Ryerson
Director of Culture



Brenda Librecz
Commissioner, Community &
Fire Services

Attachment Appendices:

A. Public Art Policy – Markham Municipal Projects

B. Public Art Policy – Private Sector