

**DRAFT**

**MEETING MINUTES  
SIOUX FALLS VISUAL ARTS COMMISSION**

**May 10, 2016**

**9:00 a.m.**

**Location: City Hall 1st Floor Commission Room, 224 W 9th Street, Sioux Falls SD 57104  
Sioux Falls SD 57104**

(Staff Liaison: Russ Sorenson: 367-8888)

**MEMBERS PRESENT:** Aleta Branson; Steve Brummond; Larry Crane; Larry Ling (Chair);  
**MEMBERS ABSENT:** Zach DeBoer (excused); Ivy Oland (excused); Sandra Pay (excused);  
**OTHERS PRESENT:** Danny Brown (Assistant City Attorney); Sue Quanbeck Etten (Director of Central Services)  
Russ Sorenson - VAC Staff Liaison (City Planning Office)

**ITEM 1. CALL TO ORDER & QUORUM DETERMINATION**

Commission Chairperson, Larry Ling, called the meeting to order at 9:02 a.m.

**ITEM 2. WELCOME & INTRODUCTIONS**

Chairperson, Larry Ling, welcomed the Commissioners and guests.

**ITEM 3. APPROVAL OF REGULAR AGENDA**

Chairperson, Larry Ling, asked if there were any changes to the agenda. Commissioners expressed no changes to the regular meeting agenda. Commissioner Larry Crane made a motion to approve the regular agenda as presented. Commissioner Steve Brummond seconded the motion. There were no further comments received. The motion to approve the regular agenda was unanimously approved.

**ITEM 4. REVIEW & ACTION on the April 19, 2016 Meeting Minutes**

Chairperson, Larry Ling, requested a motion to approve the April 19, 2016 meeting minutes. Commissioner Larry Ling made a motion to approve the meeting minutes presented. Commissioner Steve Brummond seconded the motion. There were no further comments received. The motion to approve the April 19, 2016 meeting minutes passed unanimously.

**ITEM 5. REVIEW & ACTION on City-Owned Sculpture Placements and Maintenance**

a) Sculpture/Artwork Placement Subcommittee Update(s) and Recommendation(s) on City-Owned Sculptures

1) *In Variete Concordia Sculpture:*

Russ Sorenson, staff liaison, referenced the information packet for In Variete Concordia sculpture that included: March 18, 2018 VAC meeting minutes; adopted city resolution #60-08; July 2013 RLA conservation survey assessment, treatment and maintenance recommendations; and 2014 RLA recommendations for removal and repair of the sculpture with preliminary costs received from the city's art conservation and maintenance consultant.

Sue Quanbeck Etten, Director of Central Services, Technology, Facilities Management, explained that Rosa Lowinger and Associates (RLA) is the city's consultant to conduct visual art inspection, assessment and maintenance for the city's artworks inventory consisting of 44 city-owned artworks. The RLA July 2013 conservation survey assessment, treatment and maintenance recommendations along with the 2014 RLA recommendations for removal and repair of the sculpture with preliminary costs were referenced to the Commissioners for their review.

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Danny Brown, Assistant City Attorney, explained the city owns *In Variete Concordia* sculpture and has the copy right to it. He also informed the Commissioners about the Visual Artists Rights Act of 1990 (VARA), 17 U.S.C. § 106A, a United States law granting certain rights to artists. VARA exclusively grants authors of works that fall under the protection of the Act, the following rights:

- right to claim authorship
- right to prevent the use of one's name on any work the author did not create
- right to prevent use of one's name on any work that has been distorted, mutilated, or modified in a way that would be prejudicial to the author's honor or reputation
- right to prevent distortion, mutilation, or modification that would prejudice the author's honor or reputation

Additionally, authors of works of "recognized stature" may prohibit intentional or grossly negligent destruction of a work. Exceptions to VARA require a waiver from the author in writing. To date, "recognized stature" has managed to elude a precise definition. One cannot simply change the artwork if the sculpture has "stature". "VARA allows authors to waive their rights. In most instances, the rights granted under VARA persist for the life of the author (or the last surviving author, for creators of joint works).

In 2015, the "*In Variegata Concordia*" sculpture was removed from the North Philips Avenue site for private development and is currently placed in city storage. The Visual Arts Commission needs to contemplate a recommendation for its future use. The artwork needs extensive repair based upon the city's art conservator consultant's assessment. The suggested treatment recommendations provided by the city's art conservator consultant are extensive and cost prohibitive, so relocation doesn't appear to be a viable option. It's possible the piece could be reworked. However, before that was to occur the City would seek the artist's input and consent. Email communication has been sent to the artist to inquire if he has any ideas of how the artwork could be reworked and if he would consent to that. No response has been received from the artist to date. As far as allowing the artist to simply have the artwork back, the City must follow surplus laws. If the artwork were to be surplus, it would ultimately have to be sold to the highest bidder.

The Commissioners discussed and considered the options indicated below for the *In Variete Concordia* sculpture:

- Request full waiver/release from the artist to rework the artwork and seek new location(s) for placement;
- Repair the sculpture to original condition - for an estimated cost that exceeds original sculpture price;
- Continue storage of the sculpture;
- Declare the sculpture as surplus property, incorporating the city's surplus process;

One commissioner commented that fixing the sculpture would not be a wise use of city funds, based upon the city's conservation consultant (RLA) survey assessment and repair recommendations and associated repair costs provided.

No further input from the public was received.

Commissioner Larry Crane made a motion to approve a two-step process to resolve this sculpture matter – 1) the City Attorney's Office reach out to the artist and request a full waiver/release be provided within thirty (30) days to authorize any future rework of the artwork and allow the City Of Sioux Falls to seek a new location for city placement; and 2) If the full waiver/release statement is not provided by the artist to the City Of Sioux Falls within thirty (30) days, then the City to declare the sculpture surplus and the city's surplus process followed. Commissioner Steve Brummond seconded the motion. The motion was unanimously approved.

- 2) Daughters of Peace – 2012 People's Choice Award;
- 3) Sunday with Jessie – 2015 People's Choice Award;

Russ Sorenson, staff liaison, recommended the Subcommittee meet to review placement locations and time schedules for the 2012 - *Daughters of Peace*; and 2015 – *Sunday with Jessie*; sculptures. Chairperson, Larry Ling, indicated the subcommittee would continue to meet soon to review potential site locations for those sculptures.

Russ Sorenson reported that recently the Sioux Falls Arts Council was successful to remove the two student sculptures located at the Horse Barn in Falls Park in preparation for placement of the "Farmer" Sculpture. The artist for the "Incomplete" sculpture authorized removal of the artwork from the Horse Barn Plaza area due to its dilapidated condition. The sculpture known as "Seven is Better than One" was relocated to an open space in the East Bank retail center area. Russ Sorenson mentioned that he is continuing to work with Parks and Recreation staff and Parks Board on placement for the "Farmer" at the Horse Barn in Falls Park. No further input from the public was received.

b) Update on 2016 Maintenance Program for City-owned Sculptures

Sue Quanbeck Etten, Director of Central Services, Technology, Facilities Management, explained that Rosa Lowinger and Associates is the city's contractor to conduct visual art inspection, assessment and maintenance for the city's artworks inventory consisting of 44 city-owned artworks. Since 2013, the City has an annual budget of \$25,000 for the maintenance program. The City initially entered into a three-year contract with RLA, with annual renewal available for up to an additional two years. One of the Commissioners inquired about RLA's 2016 work schedule and if the commissioners could be informed of their work sites so that they could meet them and observe their work. Sue and Russ acknowledged the request and will send out the information to the Commissioners when determined. This year RLA will be in Sioux Falls during the weeks for June 13<sup>th</sup> and 20<sup>th</sup>. Local conservation technicians have been hired by RLA to assist with this project.

Sue Quanbeck Etten also reminded the Commissioners about the interactive map depicting city-owned art locations, artwork name and current photographs. This map helps citizens find and appreciate outdoor sculptures and other artwork located on City property. Art and culture contribute to our quality of life and help define us as a community. The interactive map can be found at [www.siouxfalls.org/cityownedart](http://www.siouxfalls.org/cityownedart).

No further input from the public was received.

**ITEM 6. SIOUX FALLS ARTS COUNCIL UPDATES** - (Sandra Pay, Sioux Falls Arts Council representative)

- a) Cultural Plan Implementation
- b) 2016 Mayoral Arts Awards Program Event held April 28, 2016
- c) Other?

The Commissioners deferred this agenda item regarding Sioux Falls Arts Council updates until the next meeting. No further input from the public was received.

**ITEM 7. COMMISSION PROJECT UPDATES**

a) Public Art Integration Research Findings and Discussion

Commissioner Larry Crane explained that in his initial research he has found good examples of public art integration in the cities of Anchorage AK, Alexandria Virginia, and Minneapolis Minnesota. He indicated that he would like to continue on with his research and then establish a VAC subcommittee to develop a strategy that involves the city's capital improvement plan (CIP) process considers various types of developments. Several Commission members agreed this would be a worthwhile project for the VAC.

Russ Sorenson, staff liaison, also commented that if it was the desire of the Commissioners that he would continue to invite and schedule various city department leaders (Public Works, Parks & Recreation, Community Development, Planning, Finance, Library, Fire Rescue, etc.) to future VAC meetings to present their recommendations of possible CIP projects whereby public art elements could be incorporated. It was the consensus of the Commission to continue with that practice.

No further input from the public was received.

b) Website Updates - Completed

**ITEM 8. PUBLIC INPUT**

No public input was received.

**ITEM 9. ANNOUNCEMENTS**

**NEXT MEETING – Tuesday, June 21, 2016 at 9:00 a.m., Carnegie Town Hall, 235 W 10<sup>th</sup> Street.**

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**ITEM 10. ADJOURNMENT**

With no further business, the Visual Arts Commission meeting adjourned at 10:22 a.m.

HANDOUTS – May 10, 2016 Meeting

- o May 10, 2016 Agenda
- o April 19, 2016 Meeting Minutes
- o Sculpture Placements
- o Public Art Integration
- o 2016 Work Program