

**City of Missoula Public Art Committee**  
**March 18, 2014, 4:00 PM, City Council Chambers, 140 W. Pine**

Members present: Marilyn Marler, Kathi Olson, Linda Richards, Peter Lambros, Ted Hughes, Taag Peterson, Kia Liszak

Members absent: Doug Olson, Jeff Rolston-Klemmer

Others present: Heidi Bakula, Marty Rehbein, Ginny Merriam

**1. Call to Order and Roll Call**

**2. Public Comment – None**

**3. Approval of Minutes**

The minutes of January 21, 2014 were approved as corrected and the minutes of February 18, 2014 were approved as submitted.

**4. Discussion with City Representatives about Various Topics**

A. Use of Submittable.com

[History](#)

Marty Rehbein, City Clerk of the City of Missoula, stated that she reviewed the submittable.com website and liked it even though the Public Art Committee was and should be using the city's website for all art call information.

The main issue with submittable.com is that the city could not capture the information to add to its archived public record for public view; however, it could be used for accepting applications – although the information in the application would be saved in the Cloud. Also, if comments were submitted to submittable.com those comments would also be unavailable to the city for the historical archive or for the public. So this would not work very well.

Peter Lambros asked about using Drop Box. This was a way to collect all information, put it in one place, and the city could have access to it – plus it would be a backup copy. It would be the responsibility of the chairperson involved with the art call to be sure the documents get to Drop Box.

B. Facebook

[History](#)

Ginny Merriam, Public Information/Communication Director for the City of Missoula, discussed the request from PAC about having a stand alone Facebook page. She took PAC's request to the City Web Steering Team and they said no. The Public Art Committee is a committee directly associated and funded by the city and there was a danger of business being conducted on a stand alone Facebook page which would violate the public meeting law.

She further explained that the "News Flash" function could be used on the city webpage. This also would feed to the city's Facebook page. They could also use this feature to post information that was not art call related. This idea is also safe because this information can be captured for the public record plus the public can sign up to receive the news flash.

Ginny further added that another option would be to rework their current city board page in

the future to make it work better. The committee could work on the redesign themselves but they would have to be aware that city staff is limited by the constraints of the software. Not all is doable.

Comments from PAC members were that Notify Me is not easy to use, if they were to use it could a link be on the PAC board page, and PAC really wanted some flexibility for presentation and information for specific artists – sculptors, painters, etc.

Peter Lambros explained that PAC wanted to be able to figure out and fix what was lacking. He asked for an opportunity to appeal to the Web Steering Committee about a Facebook page. Ginny explained that many on the Web Steering Committee were interested in using Facebook more but city procedure and requirements did not allow them to have stand alone Facebook pages.

Kathi Olson was interested to get the art calls out to a greater number of artists besides just in Montana. The city has a database but it would be ideal to have a searchable database where one could identify people by the art they create – also the city's database did not contain all available artists. The state of Montana had a more sophisticated database with more fields to search and it would be ideal to use their database and the city's public art database.

Peter wondered if the committee could create its own searchable database. Marty stated that this could be accomplished by having any interested parties fill out a form and a database could be designed to be searchable.

Marilyn suggested that the committee could start promoting or lobbying for a centralized database with the state and other localities to be used in Montana. This could be discussed at another meeting.

#### C. Subgroup Meetings – When to “Notice” the Public

[History](#)

Marty Rehbein stated that by state constitution citizens have the right to be informed about public meetings and the right of participation with reasonable notice. Also the State of Montana has a more stringent requirement that errs on the side of having a public meeting. If citizens were not allowed to participate the remedy is for the decision to be undone and redone with public involvement.

Examples were discussed:

Edits and changes to an art call notice.

Marty stated that if the art call is deliberated on or amended, save it for a public meeting. A certain degree of editing for a proposal is allowable but there is always a chance of sharing decisions or advice.

A timeline change is not an issue on an art call. If a decision is being made on what art piece or artist will be used, that is substantive and requires a meeting.

Minutes should note the date, time, the list of attendees and a brief synopsis of what was decided. Never deviate from the agenda because a 48 hour notice is required on each action item, however you can talk about adding it to the next agenda.

## 5. Art Calls and Projects

### A. Silver Park

[History](#)

- Discuss Progress on Imagery for Site and Art Placement
- Discuss Progress on Exhibits of Relics
- Discuss Progress on Gathering of Images for Old Mill Site
- Discuss Progress on who is on the Selection Committee
- Discuss Overall Status of Art Call

Taag Peterson has been working on documenting the three sites identified for installation pieces. The photos and descriptions will be finalized for the art call and he will bring the photos associated with the relics to the next meeting. Kathi Olson added that she should have the graphics together for the next meeting.

Peter Lambros asked the committee to get the information into an art call structure, highlight the changes since the last draft, and email it to the group in order to have any changes brought to the next meeting.

Peter asked the committee about the discussion of who the art calls should go to, it had not been clear in the minutes from the last meeting. Was the relic/1% art call going to be different than the tribute piece? The Silvers were interested in local artists and students and alumni from the University of Chicago. Taag remembered a discussion of sending the art call to Montanans and students and alumni of the University of Chicago but did not realize the relics could be separate.

Peter suggested clarifying this with the intentions of what the Silver family wanted. Also if the art call were to be sent "locally" what did that mean, how would that be described? The committee discussed their thoughts.

Peter proposed tabling the discussion until the next meeting. He wanted to affirm with the Silver Foundation what they specifically have in mind. Doug also needs to be involved in the discussion since he is the head of the subgroup.

### B. Traffic Signal Boxes (TSB)

[History](#)

Kathi Olson reported that the art call has been posted. Recently the subcommittee met and decided to have one artist organizational meeting on April 3rd at 6pm. This would allow artists, who have not participated before to come, ask questions and visit with past TSB artists. Artist renderings are due on May 30<sup>th</sup>.

### C. Pineview

[History](#)

- Discuss Call Timing and Use of Submittable.com

Linda Richards explained that the art call submission date was updated to May 23rd. She asked that the whole committee participate in the selection of the TSB's and the art for Pineview Park.

## 6. Reports

- A. Protocol [History](#)
- B. Budget
  - Discuss Working Group's Conclusions of Reserves

This item was not discussed.

- C. Long Range Planning [History](#)
- D. Staffing [History](#)

Linda Richards received one applicant for the internship for credit position but felt the applicant was not qualified because of a poorly written letter. It may be easier to find someone in the summer or fall. They may still get some bites.

- E. Public Art Guide [History](#)
  - Update on status of any work required

Kathi Olson stated that she was working on selling advertising in the Public Art Guide. She had an idea for a cover but was still working on it. Peter Lambros challenged all members to come up with five perspective advertisers and email them to Peter. They need to maintain the advertising so there is not a shortfall after publishing. Any money made went back into production of the art guide.

## 7. Outreach and Relationships

- Web Development and Social Media

This was discussed earlier in the meeting.

## 8. Miscellaneous and Ongoing Business

- A. Mural on Nutritional Labs – Kia Liszak [History](#)

Kia had no new information yet.

- B. Update on Following up with Jess Moore – Kia Liszak [History](#)

Kia had no new information yet.

- C. Discuss Web Resources Sent by Ted on 11/12/13 [History](#)
  - Is there anything PAC wanted to act on yet?

Nothing was suggested.

## 9. Announcements, News and Upcoming Events

Kia Liszak said the Zootown Arts Community Center is having its 2<sup>nd</sup> annual fundraiser mini benefit show - all things miniature. There are sixty-five art pieces 6x6 or less and miniature versions of deserts and savory for dinner. Tickets can be purchased on their website.

Ted Hughes discussed giving PAC members a tour at the Missoula Art Museum on the following Tuesday at 2pm.

**10. Comments from Board Members**

**11. Adjournment**

Respectfully submitted,  
Heidi Bakula

## PURPOSE AND DUTIES OF THE PUBLIC ART COMMITTEE

**2.94.010 Purpose.** The purpose of this ordinance is to establish a public art program for City of Missoula funded capital improvement projects and to provide for the funding, selection, creation and maintenance of public art and establishing responsibilities relating to administering the City's public art program.

The City of Missoula recognizes and accepts responsibility for beautification of its public areas. The City Council has found that such enhancement adds greatly to the enhancement of the quality of life of Missoula's citizens, attracts tourism, and provides incentives to business to locate in the City, thereby expanding Missoula's economic base. (Ord. 3221 § 1, 2002)

**2.94.070 Duties and responsibilities of the Public Art Committee.** The Public Art Committee shall endeavor to develop a collection of public art that is of the highest quality, that will encompass a broad aesthetic range reflecting the City and the minds of its citizens, that will improve the quality of life in the area, that will be accessible to all individuals and be a source of pride to all residents. The Public Art Committee shall seek to develop this Percent for Art Program and the associated collection in such a way so that it is intimately integrated into the fabric of the City of Missoula and reflects a broad range of community input and involvement by artists and art professionals. The Public Art Committee is responsible for reviewing, advocating and developing public art projects in the public domain for the City of Missoula. It will develop a formal structure in which to create, develop and maintain public art as well as further public accessibility to the arts.

- A. Specifically, the Percent for Art Program objectives include:
- B. Develop a public art program that is unique to Missoula.
- C. Increase the understanding and enjoyment of public art by Missoula residents.
- D. Invite public participation in the interaction with public spaces.
- E. Provide unusual and challenging employment opportunities for artists.
- F. Encourage collaborations between artists and architects, and artists and engineers.
- G. Support artist participation on design teams for planning public projects.
- H. Encourage variety of art forms: temporary and permanent, object and event, single or dispersed locations.
- I. Spread commissions among a wide number of Artists and strive for overall diversity in style, scale and intent.

All Public Art Committee meetings shall be conducted in accordance with the Montana Open Meetings Law. (Ord. 3221 § 7, 2002)

# OFFICE OF THE CITY ATTORNEY

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## Legal Opinion 2013-023

**TO:** City Clerk Staff

**CC:** Mayor's Office, City Council, City Department Heads, and Legal Department Staff

**FROM:** Jim Nugent, City Attorney

**DATE:** November 19, 2013

**RE:** Committees and Subcommittees of public entity meeting to conduct the people's business shall perform their actions and deliberations openly in public meetings.

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### FACTS:

A city clerk staff member has inquired concerning Montana state law requirements that City public entity committees and subcommittees conducting the people's business perform their actions and deliberations openly in public meetings.

### ISSUE(S):

Do committees and subcommittees of city public entity boards, commissions, committees etc. conducting the people's business by making recommendations, advice and/or taking actions and engaging in deliberations have to comply with Montana's public participation laws?

### CONCLUSION(S):

Yes, committees and subcommittees of city public entities boards, commissions, committees, etc. that are conducting the people's business by making recommendations, advice and/or taking actions engaging in deliberations are required by Montana state law to comply with Montana's open meeting/public participation laws.

## **LEGAL DISCUSSION:**

City of Missoula established public bodies, boards, commissions, authorities, committees, etc. are created for a clear public and governmental purpose to perform specific tasks on behalf of the public. Therefore, their respective meetings as well as the meetings of their committees or subcommittees must be conducted openly as public meetings.

Montana's Constitution article II, sections 8 through 10 pertaining to public right of participation, right of privacy provide as follows:

**Section 8. RIGHT OF PARTICIPATION.** The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law. (emphasis added)

Article II, section 8 entitled "RIGHT OF PARTICIPATION" of Montana's Constitution provides that government must provide the public its Constitutional right to a reasonable opportunity to participate in government operations prior to final decisions being made. This includes the recommendations, advice and/or decisions made by public entity public body committees and subcommittees.

**Section 9. RIGHT TO KNOW.** No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure. (emphasis added)

Article II, Section 9 of Montana's Constitution provides a constitutional right to observe deliberations.

Title 2, chapter 3, part 2 MCA is entitled "OPEN MEETINGS". Sections 2-3-201 through 2-3-203 MCA provide:

**2-3-201. Legislative intent -- liberal construction.** The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed. (emphasis added)

**2-3-202. Meeting defined.** As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in [2-3-203](#), whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power. (emphasis added)

**2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions.** (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) The supreme court may close a meeting that involves judicial deliberations in an adversarial proceeding.

(6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section. (emphasis added)

It is important to note that subsection 2-3-202 (6) MCA quoted above expressly provides that committees and subcommittees of public bodies for the purpose of conducting their business, must conduct their business pursuant to Montana's public open meeting laws. Also, see section 7-1-4141 MCA of Montana municipal state law that also requires that public entity committees conduct all their meetings open to the public.

Also, sections 7-1-4141 through section 7-1-4143 MCA of Montana state municipal law provide the following with respect to public meeting, public participation and establishment of rules affording citizens a reasonable opportunity for public participation.

**7-1-4141. Public meeting required.** (1) All meetings of municipal governing bodies, boards, authorities, committees, or other entities created by a municipality shall be open to the public except as provided in 2-3-203. (emphasis added)

(2) Appropriate minutes shall be kept of all public meetings and shall be made available upon request to the public for inspection and copying. (emphasis added)

**7-1-4142. Public participation.** Each municipal governing body, committee, board, authority, or entity, in accordance with Article II, section 8, of the Montana constitution and Title 2, chapter 3, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public. (emphasis added)

**7-1-4143. Participation.** In any meeting required to be open to the public, the governing body, committee, board, authority, or entity shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision. (emphasis added)

It is important to note that section 7-1-4143 MCA of Montana's municipal statutes requires that any municipal public body, board, authority, committee "shall adopt rules for conducting the meeting affording citizens a reasonable opportunity to participate prior to final decisions being made."

**CONCLUSION(S):**

Yes, committees and subcommittees of city public entities boards, commissions, committees, etc. that are conducting the people's business by making recommendations, advice and/or taking actions engaging in deliberations are required by Montana state law to comply with Montana's open meeting/public participation laws.

OFFICE OF THE CITY ATTORNEY

/s/

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Jim Nugent, City Attorney

JN:tfa

# Public Meetings & Communication

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Marty Rehbein, City Clerk  
Ginny Merriam, Communications Director

# Using Submittable



Read-only



Download  
submissions for  
recordkeeping

# News Flash/Facebook



Public Art News  
Flash



Facebook/Social  
Media

# Meetings



- ❧ Constitutional rights
  - ❧ Right to participate, observe deliberations
  - ❧ Right to know
- ❧ State law
  - ❧ Open public meetings
    - ❧ Liberally construed
    - ❧ Meeting defined
      - ❧ Applies to committee or subcommittee appointed by a public body to conduct business w/i the jurisdiction of the group
    - ❧ 48 hour meeting notice
    - ❧ Opportunity for public participation/comment

# Working Boards



## Public Meeting

- Meeting/group has responsibility for any part of the Public Art Committee's MISSION and/or DUTIES

## Administering

- Scheduling meetings
- Determining agenda items
- “Keeping the wheels on the bus.”

# Conclusion



Committees and subcommittees (by whatever name you give them) that are conducting the public's business (your mission) by:

- ❧ Making recommendations
- ❧ Advising
- ❧ Taking actions
- ❧ Engaging in deliberations

must comply with Montana's open meeting/public participation laws.

# Public Meetings & Communication

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Marty Rehbein, City Clerk  
Ginny Merriam, Communications Director

# Using Submittable



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# News Flash/Facebook



Public Art News  
Flash



Facebook/Social  
Media

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