August 26, 2020 at 2:00 P.M., Meeting called to order by Chair Indovina

In Attendance
Indovina
Arimoto-Mercer
Goulati
Luckett
Moss
Parsakian
Gable
Lucas

Staff Present
Dash
Minnaert
Cavalline

Agenda Items Covered in These Minutes

<table>
<thead>
<tr>
<th>Item</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. West Wing Roof Restoration</td>
<td>1-2</td>
</tr>
<tr>
<td>2. 513 Court Place Lighting Installation</td>
<td>2-3</td>
</tr>
<tr>
<td>3. Sheraden Healthy Active Living Center</td>
<td>3-4</td>
</tr>
</tbody>
</table>

A. Approval of Minutes
Roll call. Indovina asks Commissioners to review and comment on minutes from July 2020. Arimoto-Mercer motions to approve the minutes, seconded by Luckett. All ayes. Motion carries.

B. Items for Review
1. West Wing Roof Restoration - Phipps Conservatory - Conceptual/Final Review

Brad Clauss of Phipps Conservatory goes over the project, which is for the replacement of rafters and glass panels in the West Wing of the Conservatory. The project represents a change in materials while retaining the historic design. It is the most recent in a series of restorations at the conservatory, which all previously received Art Commission approval.

Parsakian asks if there was any thought of repurposing the glass. Clauss says that all the glazing of the last four cycles of restorations has been recycled. Most of the metal components are recycled if their condition allows. He says that the only thing they can’t salvage is the wood, due to it being so deteriorated. Parsakian asks how the glass is recycled. Clauss says he would have to verify with the recycling firm.

Indovina commends the overall project.

MOTION: Conceptual and Final Approval

MOVED BY: Luckett
2. **513 Court Place Lighting Installation - Clear Story - Final Review**

Pete Milo of Clear Story introduces the project, which is a lighting installation as part of a renovation of Pribanic & Pribanic’s downtown law office. He describes the lighting installation, which is integrated with a new perforated metal façade. An initial design for this project received Conceptual Approval in March 2018.

Moss asks why this project is coming to Art Commission, as it is on private property. Cavalline says that this project exists primarily on private property, but a portion of the façade extends over the public right-of-way. Indovina notes that their purview is technically only on the portion that encroaches into the right-of-way.

Goulatia asks if the way the lights change will be distracting, especially for traffic. She also asks if the lights will be twinkling, and if this will add to the distraction. She says it doesn’t appear to be a problem in the renderings. Milo says that given the speed and arrangement of the light changes, he doesn’t see it as being an issue. He says they have a video of the lights as they change. Goulatia says this would be helpful. [Discussion of Zoom screen-sharing; Milo emails video to Cavalline for putting on screen.]

Moss asks if they have done foot candle analysis, and specifically what is the light spill of light emitted out into the public. Milo says they are not finished with those calculations, but he imagines that it is probably only adding about ¾ foot candle. Moss says this is something that should be submitted so the foot candle output can be confirmed. He asks if the light would be projecting onto any other buildings or out across the street, and Milo says no, that it is direct view. Milo says that viewers will not actually look at the pixels, but rather at illuminated PVC elements.

Moss asks for clarification on Milo’s statement during the presentation that wiring would not be visible to pedestrians. Milo says that each panel is a self-contained string, and the perforations are a perfect grid, so the wiring will ride in the positive space on the backside of the panels. Moss asks how the wire is attached to the back of the panel. Milo says they are still working on that detail.

Arimoto-Mercer asks what the dimensions of the perforations are. Milo says each one is approximately 3/4” on each side of the triangle. Arimoto-Mercer asks what is directly across the street. Milo says it is the ramp coming down from the Boulevard of the Allies.

Luckett says this is a really interesting project in that a private citizen is working on enhancing the side of their building. Luckett says that for safety, it would be good to be able to see the progressions of the variations of the lighting scheme, noting that Clear Story has a good track record of taking safety into consideration. Milo says that the lighting will be safe, for instance it will be below levels that would have a harmful effect on someone with epilepsy.

Parsakian agrees that they need to see a video. He asks what the dimension of the overhang onto the public sidewalk is. Milo says it is two or three feet and says that there will be conventional down-lighting above the sidewalk. Eric Fisher of Fisher Architecture says that the measurement is marked on the drawings somewhere but it is definitely less than five feet.

Moss asks if there is a rendering that shows the street at an oblique angle. Fisher says there are multiple views on his website.

The video of the lighting scheme in motion is shown. Luckett asks if this is the lighting for daytime or evening. Milo says that is still outstanding. They are not designing a system that is meant to be viewed during the daytime, but if it happens to be viewable in daylight they may consider having it active then.

Arimoto-Mercer says it seems fairly subtle, but would be interested as to whether it was a traffic distraction to those going up the ramp. Moss says it doesn’t seem like it would be. Goulatia agrees that it is subtle and says it looks very nice. Moss and Arimoto-Mercer agree.
Parsakian asks where streetlights are in relation to the building and asks if it would wash out the effect at all. Milo says that they are clear of streetlights in this immediate location. Parsakian says he loves the project.

**MOTION: Final Approval**

MOVED BY: Goulatia  
SECONDED BY: Parsakian  
IN FAVOR: All  
OPPOSED: None  

3. Sheraden Healthy Active Living Center Additions - Department of Public Works - Conceptual/Final Review

Harvey Butts of DPW goes over the project, which is for renovations to the property, primarily to improve ADA access. The additions include accessible routes to the entrances, improved outdoor seating areas, lighting, landscaping, and a new storage shed.

Arimoto-Mercer refers to one of the slides and asks if a planting bed is shown. Butts says that it is a trellis. Arimoto-Mercer says she can see the trellis, but there is no planting bed where the plants on the trellis would take root. Butts says that he can see that a planting bed would be needed.

Arimoto-Mercer asked if they considered other colors for the roof. Butts says that they are trying to get it to match the muted red of the existing roof. Arimoto-Mercer says the red in the renderings is very bright and wonders what it would look like with another color. Butts says the rendering might be more red than they desired. He says the intent is to have it match. Arimoto-Mercer asks if it would be a cost-saving measure. Butts says no, that the intent is to have the same color so as to match, but the images rendered it much redder. Butts suggests it could be a more muted color. Arimoto-Mercer says if the intent is to match, it should match well, as currently it looks like an afterthought.

Goulatia asks if the new roof is attached to the existing roof. Butts says no. Goulatia says that in that case they could go with a contrasting color, but it definitely needs to complement what is there already. Butts asks if she means a complementary color like green. Goulatia says no. Butts says he understands.

Goulatia asks if the pillars are all aligned with the light pole. Butts says the light pole is slightly farther in than the columns that hold up the awning, and that those columns are also smaller. Goulatia clarifies her question as whether the pillars will all be in line with the light pole when you look at it from the street. Butts shows the relevant slide and says that the pole may be about two inches off, but are basically aligned. Goulatia asks if it is possible to make them aligned. Moss clarifies her concern as being the pergola columns set back further than the light pole, but says that since they are such different elements he doesn’t think they need to be aligned. Butts also notes that the light pole is a darker color although this does not show in the renderings.

Goulatia asks if the ADA ramp connects to the pergola area as well as to the upstairs of the building, and Butts says yes.

Luckett thanks Butts for this much-needed upgrade. She asks about the grey area in front and asks if it is a walkway. Butts says yes. Luckett asks if it is on grade with the light grey area. Butts says it is. Luckett asks if the parking closest to the building is diagonal. Butts says yes.

Parsakian asks about the materials. Butts says it is metal construction. Parsakian asks what color it will be painted. Butts says they have not decided that yet. Parsakian asks where the dumpster would be in the renderings. Butts says it will be moved to the other side of the parking lot from where it is in the current photographs. Parsakian asks if there will be a fence around it. Butts says they moved it so it would be less visible. Parsakian asks if they have a recycling dumpster and a refuse dumpster. Butts says they only have a refuse dumpster but they should probably add a recycling dumpster.
Goulatia asks if the dumpster will be facing the residential homes. Butts shows where it will be located, and says it will be partially obscured under trees.

Arimoto-Mercer asks to see the planting plan. She says that the planting plan is fairly generic and could be more inviting and a more sensory experience for the same budget. She says that the cotoneaster near a walking path can look very messy. She recommends the master gardener program at Phipps as a resource for more interesting plants for the same budget, or that some places may want to do it pro bono. She said there are also opportunities for sun beds where they could offer programming. Goulatia suggests fruits and vegetables to promote healthy living. Butts says the area out front is mostly concrete and the area to the side is at risk of being damaged by children playing. He says they wanted to make it low maintenance but that their point is well taken.

Parsakian asks if the building is accessed more from the front or back. Butts says more from the front, but those using ADA access, buses, or parking cars use the back.

Butts shows the lighting fixtures and benches. Indovina asks if the bench is different than the City standard. Butts says he thinks the bench is the City park standard. Parsakian asks if the bike rack will be replaced, and Butts says yes.

Moss suggests they see another application for the landscape plan. Goulatia asks about the roof. The Commissioners agree in preferring that the new roof match the existing roof. Indovina asks about the timeline. Butts says that the project is shovel-ready.

**MOTION:** Conceptual/Final Approval for the project as submitted, excluding the landscaping plan, with the understanding that the roof color of the addition should match the existing roof color. The Commission asks that the landscaping plan be resubmitted as a separate application.

MOVED BY: Moss
SECONDED BY: Arimoto-Mercer
IN FAVOR: All
OPPOSED: None

C. **Items For Discussion**

1. **Christopher Columbus Statue**

Chair Indovina notes that this has been the subject of a lot of discussion and that there have been questions about the process and the purview of the Art Commission, so Assistant City Solicitor Lorraine Mackler has been asked to give an overview of the position of the City on Chapter 175 of the code, relating to the Art Commission.

Goulatia asks to see the letter from the Art Commission to the Mayor, which is shared on the screen. Luckett asks to also see the letter from the Mayor, and the City’s press release. These are shown and are summarized by Indovina. [These three items are entered into the minutes as Attachment A.]

Indovina introduces Lorraine Mackler, Assistant City Solicitor. Mackler gives an outline of Art Commission purpose, purview, and process, defined in City Code Chapter 175, as determined by the City’s Law Department. [This outline in the form of an FAQ is entered into the minutes as Attachment B].

Goulatia asks to see Section 175 of the City Code. [Entered into the minutes as Attachment C.] It is put on screen. Moss says most of what Mackler said made sense to him, but his interpretation was that the Art Commission could take action on City-owned artwork independently of another agency or the Mayor. He did express concern, however, that because the Art Commission was recommending the Mayor not put forth a proposal for the statue at the same time, that the letter from the Art Commission to the Mayor indicated the Commission felt it had broader authority. Moss says correct. Mackler says a careful evaluation of the language of the City Code reveals that it is more limited than that. Mackler describes their methods of statutory interpretation, according to the Laws of Pennsylvania, and says that the whole Code needs to be taken in context.
Luckett asks Mackler to confirm that she is stating that legally the Art Commission is an advisory Commission to the Mayor, and not a separate entity. She asks to see language that gives the Mayor the authority to weigh in on Art Commission decisions and/or processes. She asks to see where the Mayor has the authority to make these decisions and where the Art Commission is advisory. She says that in regards to precedent, the Stephen Foster hearing included a statement by City Solicitor Rachel O’Neill, where the Art Commission was given authority to render that decision.

Mackler states that O’Neill advised the Commission in regards to Stephen Foster, and what Mackler is telling them today is not her own personal opinion but the legal opinion of the Law Department and the City of Pittsburgh. Luckett says that as a Commissioner they took an oath of accountability, and the Code has not changed since the Stephen Foster hearing, and asks to see the language where the Mayor has the authority to weigh in on these decisions. Goulatia quotes the City Code 175.04.

Mackler states that the City Code gives the Mayor all executive authority, including in the disposition of property, which includes artwork, and explains the City Code’s stance on the appointment of the Commissioners by the Mayor, and that they can be removed by the Mayor at will. Luckett says this requires consent of the City Council. Mackler says she is unsure of that. Luckett says that it says so in the Code, and that Mackler is saying misleading things. She states that the Commissioners need to be accountable. She quotes City Code 175.01 regarding the appointment of the Commission. She states when the Mayor wants to remove a Commissioner, he needs to go in front of Council and give the reason why. Mackler says this is not true as far as she knows, and maintains that the Mayor can remove members of a Commission at will, according to the separate section of the City Code that deals with Commissions. Luckett says that the Mayor needs to do this with the consent of City Council, and give the reason why.

Indovina says that the matter before the Commission right now is the Christopher Columbus statue. He says the question is whether the Commission can consider that matter on their own or at the Mayor’s behest. The Commission wrote a letter saying that they intended to consider it on their own, and the response from the Mayor also asked them to consider it, so at present the purview of discussion seems to be a moot point, although it can be and should be a separate discussion. He says the matter at hand is how they consider the Columbus statue.

Mackler asks if they would like a description of how a matter should come before the Commission. Arimoto-Mercer says that this is important because they were told that in essence their vote does not mean anything, and she says she believes that it does matter. Mackler says that she did not say that their vote does not matter, but they are now being asked by the Mayor to make a recommendation. She says that after the Commission makes the recommendation, it would go to the Mayor, who would make a decision. He would then bring that decision to the Art Commission for a ratifying 2/3 vote. She says they can make that recommendation in whatever manner they want, but a vote they take now would not affect a change, it would go through the Mayor and come back to them.

Arimoto-Mercer says that this means they cannot affect any change. Mackler says she disagrees and that the Mayor is looking to the Commission to help him make an initial decision, and that decision cannot be affected unless the Commission makes a ratifying vote. Arimoto-Mercer says this seems like a radical shift from the Stephen Foster proceedings.

Luckett says she agrees, and asks to see where it says that the Mayor has the authority to make decisions on public art. Mackler says that art is property and the Mayor is given all executive functions regarding property. Luckett says she doesn’t see this. Mackler asks if she has reviewed the entire Code. Luckett says she has. Luckett says Mackler is making a misleading statement. Mackler says she would be happy to explain how the Law Department’s opinion of this process is reached. Luckett says the Mayor’s letter references Chapter 175, and so Mackler’s statements are causing confusion. Mackler offers to answer any specific question.

Luckett says they need actual information from the City Constitution. Mackler says the City does not have a constitution. Luckett says she means the City Code or Charter. Mackler says there is a difference between that and a Constitution. Luckett says she is making an analogy. Luckett says the Commission will need to be shown where it says that the Mayor can make decisions about art, because she has not seen that. Mackler says that the municipal executive authority must be looked at
as a whole. Luckett says her understanding is that this is how abuse of power can happen, and this is the reason for the Art Commission being separate from the Mayor. Mackler says that the City’s position is that the Art Commission is linked to the Mayor as an art advisory group. Luckett says that they are not an art advisory group. Mackler says the City’s official position is that they are an art advisory group. Luckett asks to see this in the Code.

Mackler reads from City Code 175.03 and 175.04. Luckett asks her to read the entire section including the headings. Mackler reads the section, as follows:

175.03 - APPROVAL OF ACQUISITION AND PLACEMENT; EXCEPTIONS. Hereafter no work of art shall become the property of the city, by purchase, gift or otherwise, unless the work of art or the design of the same, together with a statement of the proposed location of the same, has first been submitted to and approved by the Art Commission, acting by a majority of all its appointed members. No work of art, until so approved, shall be erected or placed in, over or upon, or allowed to extend in, over or upon, any street, avenue, square, place, common, park, municipal building, or other public place, under the control of the City or any department or officer thereof. The Commission shall act in a similar capacity, with similar powers, in respect to the design of any municipal building, bridge, approach, lamp, ornamental gate, fence or other structure erected or to be erected upon land belonging to the city, or other public place under its control. However, this section shall not apply to bridges costing less than five hundred thousand dollars ($500,000.00), nor to buildings costing less than two hundred thousand dollars ($200,000.00).

175.04 - RELOCATION APPROVAL VOTE; EMERGENCY ACTION. No existing work of art in the possession of the City shall be removed, relocated or altered in any way without the similar approval of the Art Commission. Any work of art shall be removed, relocated or altered, in any way that may be ordered, by a vote passed, and approved in writing, by two-thirds (2/3) of all the members of the Commission, unless the work of art is attached to a portion of a building or other structure in process of demolition. In case the immediate removal or relocation of any existing work of art is deemed necessary by the proper authorities, the Commission shall, within forty-eight (48) hours after notice from them, approve or disapprove of the removal or relocation, and, in case of their failure to act within the period, they shall be deemed to have approved the action proposed.

Mackler explains the interpretation of these sections. Luckett asks where the Mayor is referred to in this.

Indovina asks if other City Commissions work in an advisory capacity or if they have final say over their decisions. Mackler says some do and some don’t, and the Art Commission does have final say, but they don’t have the ability to decide on items in the City’s collection unless the matter is submitted to them by the City. Luckett says she is making things up and asks where it says this. Mackler asks City staff to mute all commissioners so she can finish what she is saying. Indovina says to give Mackler time to finish her statements.

Mackler says she has been an attorney for thirty-five years and is bringing all of her expertise to this, and repeats that the opinion she is giving here is the opinion of the Law Department and the City. She says that she is not going to point out where it refers to the Mayor because the interpretation requires the Code to be looked at in its totality and in terms of Pennsylvania statutes as well. Their opinion is based on the way the Code is written now. She says if the Code is not suitable, it is possible to make changes to it. She says if they are looking for one sentence that gives this opinion clearly, it does not exist, because the opinion is based on the Code taken as a whole, and that this is the considered opinion of the City.

Goulatia says that the letter that went out from the Art Commission makes a recommendation and that the letter back from the Mayor asks them to consider it. She asks if that means they are able to vote today. Mackler says that no, the process as the City understands it is that the Mayor would like the Art Commission to make a recommendation and a report to him. The Mayor will then make a decision, and the Art Commission would ratify it or reject it. Goulatia asks how the Commission has the final say if the Mayor can reject their recommendation. Mackler says the process may have been interpreted differently before, but the way they understand it now is that the Mayor must make a
decision. Goulatia says if they make a recommendation and the Mayor rejects it, then nothing will happen. Mackler says it seems unlikely given that the Mayor asked for their recommendation, but if he makes a decision that they are unhappy with, they can reject it. Indovina says in that case it would stay as the status quo. Mackler says if the Mayor wants to maintain the status quo, he would not come back to the Art Commission. Goulatia asks what the point is of collecting information and holding a special hearing if their recommendation can be disregarded. Mackler says that this is an important decision that requires a lot of input, including the expertise of the Art Commission. Goulatia asks if the Mayor takes into consideration the amount of letters received regarding this matter, and the amount of signatures on online petitions. Mackler says the Mayor is asking for a report, and she can't imagine he would have asked for that if he didn’t want a thorough examination and would be taking all of this into account.

City Planning Director Andrew Dash says that the Mayor is asking the Commission to hold a public process and make a recommendation back to the Mayor, similar to what they did for the Stephen Foster statue. He notes that there are a lot of people who want to speak today. He says that the intention is for a similar process to be held as was for Stephen Foster, where the Commission gathers input, makes a recommendation to the Mayor, and if there is a decision to remove or alter the statue, then that decision would come back to the Commission. Goulatia says they can decide on a Special Hearing date today, so at least they can move forward. Dash agrees.

Moss says that it doesn’t seem they all have agreement on the legal process, but that it may be a moot point for the moment, and scheduling the Special Hearing would make sense. He says they can then make a decision after the Special Hearing, and how the City chooses to proceed with that decision is to some extent out of their hands. Indovina agrees that there is some confusion that should be cleared up later, but they have the matter before them and a responsibility to hear the public. He says it’s important that they schedule a separate public hearing on this matter so more people can weigh in on it. He says it is important for the Commission to be thorough and transparent and hear all sides. He believes they should begin this process, and asks if the Commission agrees.

Arimoto-Mercer says that the Commissioners asked the Law Department to weigh in, and it has taken a month or two to get that answer, which has been frustrating. She says that they were told by staff that they would get that answer sooner, and this is why this has been such a heated part of the discussion.

Goulatia reads a comment from the chat which is in favor of the removal and which asks why the process to remove the Stephen Foster statue is different from the process used to remove the Columbus statue.

Luckett concurs with Arimoto-Mercer and says they need to have transparency from the City of Pittsburgh in how they are dealing with this. She says all Commissioners need to have the same information. Goulatia concurs. Parsakian says that the public needs to know that they are forming a group to evaluate all City art.

Indovina asks if there has been any more correspondence received relating to the Columbus statue. Cavalline says that the cut-off time for correspondence for this hearing was yesterday at noon, the standard cut-off time that other City commissions use. Correspondence received after that time will be collected and passed on to the Commission, but was not in the packet published for today’s hearing. Goulatia asks for the exact numbers of people for or against the statue. Cavalline says that there were 162 emails supporting keeping the statue, and 132 emails supporting a removal or a review with the intent to remove.

Parsakian asks if they can hear public comment at this point. Cavalline says speakers can begin whenever the Commission is ready to hear them.

Moss asks if they can make a motion to schedule the Special Hearing.

**MOTION: Promptly schedule a special public hearing to address the question of potential action to the existing Christopher Columbus statue, within the next month if possible.**
Indovina opens the floor for speakers to give public comment on the Christopher Columbus statue, limited to three minutes per person. Speakers are asked to give their name, address, and affiliation if they are representing a group.

[Public comments are entered into these minutes as Attachment D.]

Following public comment, Indovina asks City Planning staff to schedule the Special Hearing expeditiously. He says it is his opinion that they make a recommendation after that hearing. He says it is important that they hear from the community and they can then make an informed decision.

Luckett says that with Stephen Foster they had a Special Hearing, and then at the next regular hearing they made a decision. Indovina says that is a reasonable precedent. Goulatia asks if they should decide on a timeline. Indovina says a week or two of public comment would be reasonable, with the hearing after that. Parsakian says the next regularly scheduled meeting is September 23, so this should happen before that. Luckett says they will all need to look at their schedules so as not to conflict with another City Commission and notes the Stephen Foster hearing was in the evening. Goulatia says this is a good plan so that people can attend who work during the day.

Dash says that staff can create a schedule based on the Stephen Foster process. He says there was an online survey in that process that collected comment for a 30-day period. Goulatia says it should be done before the next Commission meeting on the 23rd. Arimoto-Mercer says at the Stephen Foster hearing there were experts that gave information on the background and context, and asks if that can be done again. Luckett says they can do that, and it has been discussed with staff. Minnaert says that the City will put forward a few proposed dates to the Commissioners, and that staff will put together the experts to speak at the hearing, and set up the public engagement platform online to collect community input. Arimoto-Mercer asks if the online survey needs to be thirty days. Dash says no and that they can figure the length out, but that giving two to three weeks in advance of a meeting is recommended in the City’s engagement guide to make sure people have adequate notice.

Indovina suggests tabling other discussion items.

**MOTION: Table additional items for discussion on the agenda until the next hearing.**

MOVED BY: Indovina
SECONDED BY: Goulatia
IN FAVOR: All
OPPOSED: None

Luckett asks for an update for those discussion items to be sent to them. Minnaert says that she will.

D. Adjournment

**MOTION: Adjourn**

MOVED BY: Goulatia
SECONDED BY: Arimoto-Mercer
IN FAVOR: All
OPPOSED: None

The meeting adjourned at 5:54 P.M.