

**MINUTES
CITY OF ORMOND BEACH
CITY COMMISSION
DOWNTOWN MURAL PROJECT WORKSHOP**

April 18, 2017

5:30 p.m.

City Commission Chambers

I. CALL TO ORDER

Mayor Bill Partington called the meeting to order at 5:45 p.m.

Present were Mayor Bill Partington, Commissioners Dwight Selby, Troy Kent, Rick Boehm, and Rob Littleton, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director Ted MacLeod, City Attorney Randy Hayes, Planning Director Ric Goss, and Julia Truilo, Executive Director of Ormond Beach MainStreet.

Mayor Partington apologized for anyone who was waiting for the workshop to start. He explained that the start time of the workshop was delayed by 15 minutes due to the Commission's attendance at a funeral service for Ms. Joyce Ebbets, who previously served on the City Commission and had been active in the community.

Ms. Joyce Shanahan, City Manager, stated that staff was not looking for any consensus from the Commission that day regarding the proposed pilot mural project, but wanted to provide them with some general information and gage whether or not the Commission had any interest in the idea. She explained that the project was being brought forth by Ormond Beach MainStreet ("MainStreet").

II. DOWNTOWN MURAL PROJECT

Ms. Julia Truilo, Executive Director of Ormond Beach MainStreet ("MainStreet") stated that she was thrilled to be there. She explained that MainStreet had been thinking about murals and had wanted to do something with them for a long time. She noted that she believed that they had finally discovered a way to move forward that would give the downtown area some very well-constructed and thought-out public art projects.

Ms. Truilo provided a dictionary definition of a mural as follows:

"a piece of artwork – usually large – painted or applied to a wall where the architectural elements of a given space are harmoniously incorporate into the picture."

Ms. Truilo further explained that murals added a visual element to the city's downtown, added a point of interest, and would help create a sense of place for downtown Ormond Beach. She explained that a sense of place would be something that marked Ormond Beach as different and unusual. She suggested that murals could be utilized as landmarks to designate locations, and explained that visitors could invite others to meet them at such-and-such mural.

Ms. Truilo displayed photographs of the wings mural in Artisan Alley in Deland, Florida. She noted that the wings art was very simple and was located on a garage door. She stated that she took the photograph which was displayed that did not have a person or vehicle in it. She explained that the rest of the photographs were taken off of Facebook.

She noted that there were hundreds of photographs of the wings mural. She explained that that mural was an example of what art could be in an urban setting.

Ms. Truilo noted that there was often talk about making the downtown more walkable and encouraging visitors to stay downtown. She stated that public art was a way to encourage walking, looking, and sharing outdoor spaces. She noted that public art was also a way to encourage the type of visitors who were known to spend more time and money when they visited, explaining that visitors who were interested in art, history, and culture were known to spend more and stay longer at a destination. She stated that she had heard some concerns voiced to her after MainStreet began working on this project. She noted that the primary concern she heard was that the murals might be unregulated, could cost the city money, or could look terrible after a few years. She noted that they also did not want murals to be signs. She stated that she believed all of those issues could be addressed.

Ms. Truilo provided a textbook definition of a sign:

“A sign means any symbol, device, image, poster, flag, banner, billboard, design or directional sign used for advertising purposes, whether painted upon, attached to, erected on or otherwise maintained on any premises, containing any words, letters or parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which is visible from any public highway and is used to attract attention. Exposed electric discharge tubing, such as exposed neon tubing, shall be considered signage.”

Ms. Truilo explained that a mural was not a sign if it did not meet all five of the statutory criteria for a sign. She noted that the murals would meet two such criteria by being visible from the public highway and by attracting attention. She explained that they would not meet the other three criteria as they would not contain lettering related to advertising a product or service, have symbols related to what was inside the business, or trademarks, or advertise a product or the business where the mural was located. She noted that different cities had different rules regarding murals.

Ms. Truilo noted that in Orlando there were fewer restrictions, providing an example of a running store which had a mural of people running. She explained that the mural did not contain brands but was certainly an advertisement for what was inside that store. She noted that the murals proposed for the downtown would be avoiding that type of connection. She stated that several individuals had asked her about symbols or trademarks. She explained that one of the issues brought up was that if the murals would be about Ormond Beach history, there would possibly be a racing mural which might display cars with gas company logos on the car. She further explained that she felt that as long as a mural of that variety was not being put on a gas station, it would not be an advertisement.

Ms. Truilo stated that there were many successful mural programs all over Florida. She displayed photographs of murals in Deland. She noted that many of those shown had been painted by the same artist. She explained that the murals were historic in nature and all over town. She stated that their murals had been used for years as a centerpiece to their downtown tourism. She displayed photographs of murals in Palatka. She explained that Palatka had two themes for their murals, Palatka history and local flora

and fauna. She displayed photographs of murals in downtown Orlando. She noted that a mural of an underwater coral reef was a destination mural, and that individuals had even had wedding photographs taken there.

Commissioner Selby asked what the lettering on the upper corner of that mural said; whereby, Ms. Truilo replied that it read "ACE Rubber Stamp & Sign." She noted that that was the name of the building. She stated that Orlando allowed murals to be painted underneath the building's signs.

Ms. Truilo displayed photographs of murals in the Eau Gallie Arts District in Melbourne, Florida. She noted that they had many very successful murals. She displayed photographs of murals in Lake Placid, Florida. She noted that Lake Placid only had a population of 2,165, yet had 50 murals in their downtown. She stated that she could not imagine that there were any buildings in their downtown area that did not contain at least a piece of a mural. She displayed photographs of some other murals in Melbourne, Downtown Disney, and the Miami Design District, noting that murals came in different sizes and could cover different surfaces. She displayed photographs of murals that currently existed in Ormond Beach, including the tile pieces at Publix Supermarket in The Trails and the palm trees behind Miss Priss.

Ms. Truilo stated that the City of Ormond Beach created a downtown arts district in 2012, which was to be administered by MainStreet. She stated that MainStreet obtained a 501c(3) designation for the arts district. She explained that as they began to do projects which involved art they discovered that it was difficult to obtain funding through MainStreet, as its main purpose was not art.

Ms. Shanahan asked if the 501c(3) was called the MainStreet Arts District; whereby, Ms. Truilo replied that the legal name was the Ormond Beach Arts District, as the city had created in 2012. Ms. Truilo stated that she was looking to change it to something a little less mellifluous to do business as. She noted that MainStreet received the 501c(3) in the fall of 2016 and that the art district board had met several times. She stated that they had begun to try and find projects for the district. She stated that the 501c(3) also gave them an independent entity with an art knowledgeable board. She stated that that board could take on as a mission the vetting of the artists, murals, and the handling of the mural related paperwork.

Ms. Truilo explained that when they originally brought up the mural project, they had discussed containing it between the river and U.S. 1, in the river district. She noted that since she had put the proposal out, she had received inquiries about expanding it to the other side of the river. She stated that a volunteer from that side had offered her a surface just the previous evening. She noted that she would be comfortable having the project expanded to the entire downtown overlay. She explained that the original idea was to have it in a more contained space.

Ms. Truilo stated that one of the concerns that were raised was about the content of the murals. She explained that her experience in dealing with artists is that artists do not have a problem with following rules as long as the rules were known to them before they start the project. She noted her involvement with the sculpture projects at the Ormond Memorial Art Museum and how successful the project was; explaining that the artists had a clear idea of what was acceptable. She explained that all the murals for the project needed to be done by professional artists, as that would control the quality of the murals

and make sure that they were the very best for the district. She explained that the same regulations for the sculpture project would be used for the mural project.

Ms. Truilo explained that the murals would be funded by the building owner, or any retail merchant within the same footprint who does not own the property, but has obtained the permission of the building owner. She stated that there would be a clear understanding of who is responsible for the funding. She stated that the artist fees would vary and that a contract would need to be drawn up. She noted that every piece would need a maintenance plan with costs attached. She explained how MainStreet would take care of the entire process from beginning to end. She further explained that some of the most successful projects involved parking, as well as a marker with the artist's name and date. She stated that she thought Mainstreet would take on the creation, installation, and cost to add that to the project.

Ms. Truilo noted that mural projects are not inexpensive, and can run around \$10,000 by the time everything was finished. She further explained that it was a project that was going to take time. She explained that there are a lot of small details that needed to be worked out, but she wanted to let the Commission know that they were ready to move forward with the project. She explained that included in the Commission's packet were copies of a draft set of paperwork that would go out to anyone interested in creating a mural.

Ms. Shanahan explained that what she wanted from the Commission was some general ideas, or to see if they had any questions about the project.

Commissioner Kent stated that Ms. Truilo had a soothing voice and that her presentation was beautiful. He explained that he believed that Ms. Truilo had answered every question that he would have thought of, and noted that he was very pleased to see the maintenance piece of the project. He stated that he was excited that the project was in front of the Commission now, as before this Commission there was a Commission that tore down a mural that was located at the Surf Side Hotel which used to be the Quality Inn. He explained that the mural was of a huge parrot that thousands of citizens had petitioned to try to save. He noted that now the Commission was hearing about a mural project and noted that it was funny what 20 years could do. He stated that he was a "yes" for the project, and that he was in favor of expanding the district to the beachside. He explained that it seemed like MainStreet had everything covered, but noted that he trusted that Ms. Shanahan and Planning Director Ric Goss would make sure everything was covered.

Ms. Shanahan stated that the legal department was the biggest part of the project and asked City Attorney Randy Hayes if he had any questions or concerns

Mr. Randy Hayes, City Attorney, stated that the question for the Commission was what role they wanted the city to play in the project; whereby, Commissioner Kent replied that he did not want legal concerns to be an impediment to this project.

Mr. Hayes explained that there was always a window of risk and it depended on how much risk the Commission would want to expose themselves to. He explained that murals were similar to signs, and that there would need to be regulations in place that authorized that those murals were not considered signs. He further went on to explain that the regulations need to be content neutral. He stated the other part to consider was

how to bridge the partnership between the city and MainStreet to make the project happen.

Commissioner Selby stated that he loved the project. He explained that he was around when the parrot mural was there and noted that he did not like that it was removed. He explained that murals were all over and there was no reason why city would not be able to do them exceedingly well. He stated that MainStreet working on the arts district is perfect for the city and would help implement the project. He noted that he believed that the mural should come through the Commission. He explained that his reasoning for that belief was that the Commission would be responsible, even if it is delegated to another organization, and because doing so would create a public forum for citizens who were for or against the idea, and allow them to express their opinions about the project.

Commissioner Selby asked Ms. Truilo about maintenance and what was involved with maintaining a mural. He explained that he wanted to know who owned the rights to the art work; whereby, Ms. Truilo explained that in terms of ownership, one of the issues that came up with MainStreet was that they would like to own the reproduction rights. She further went on to explain that the building owner was the one who ultimately owned the art. She explained that the district needed to own the right to reproduce the art; for example, in post cards to be able to fund the district.

Commissioner Selby asked for clarification regarding whether the artist owned the artwork or not, and whether there was any objection to that.

Ms. Truilo responded by explaining that it was work for hire. She explained that an artist retained the right to prevent someone from changing their work at a certain level. She stated that if the work was not maintained, it would be able to be painted over. She explained that maintenance on murals was based off of what the artist painted and what the mural was created with. She explained that some murals were sealed and that a sealer would need to be applied every few years to keep the painting from fading. She further went on to explain how the sealer would also help with graffiti.

Ms. Truilo stated that there was a spot that was ready to be painted in the back of the AHC Safe & Lock Professional Locksmith building that faces City Hall. She explained that Mr. Bill Partington, the owner of the locksmith business, had allowed the surface to be used and that Mr. Bill Jones had agreed to fund the project.

Commissioner Littleton explained that he was fine with the project as long as the mural was not a sign and that city government did not determine the content.

Commissioner Boehm explained that his concerns were with maintenance and the enforcement if the murals were not maintained. He explained that he wondered if code enforcement had the ability to provide enforcement if the murals were not maintained. He stated that it would be a good idea if the murals would be approved by the Commission. He explained that this way the city did not maintain the project, MainStreet would, but that the Commission could enforce the codes regarding mural maintenance. He explained that he believed that would be a better means rather than having MainStreet have complete control of the project.

Mr. Hayes stated that the city could look more into the legal aspects of the enforceability of continued maintenance. He explained that in terms of private enforcement, the most effective way would be an arrangement between MainStreet, the property owner, and

the artist. He explained that that way it would be more of a private issue; whereby, Ms. Truilo stated that the paperwork that she had given out could be changed. She noted the question of maintenance enforcement.

Commissioner Boehm stated that he also believed that the murals should extend to the entire downtown area and should not be restricted to begin with. He stated that Ms. Truilo had proposed three murals in three years and noted that he believed that that was too limiting. He explained that it should have the capability of being amended. He stated that MainStreet should have the ability to decide whether to expand or amend the project after the first three murals were up. He further explained that if the project was a success, the way it was proposed right now, it would restrict the amount of murals and explained it could end up being unsuccessful if there were too many restrictions.

Commissioner Kent stated that he agreed with Commissioner Boehm. He explained that it seemed like there were already two murals that were ready to be created, noting that to put restrictions on the project would not make sense to him. He stated that he agreed with Commissioner Selby that a final decision about the murals would need to go through the Commission. He explained that he had believed that was something that was going to happen anyway.

Mayor Partington asked Ms. Truilo how the other districts dealt with mural projects; whereby, Ms. Truilo responded that it varies. She explained that the most successful districts have a two layer system in which they have a guidance committee that does most of the work and also an approval process.

Mayor Partington stated that he was on board with the project and liked the whole overlay idea. He explained that he believed it should go through the Commission as well.

Commissioner Selby addressed Commissioner Boehm, stating that maybe the program should be for three murals or three years, whichever comes first.

Ms. Shanahan asked Ms. Truilo about the 501c(3) and if it included the whole overlay district; whereby, Ms. Truilo responded that it was the whole district.

Mr. Ric Goss, Planning Director, asked Ms. Truilo if she would present a sketch to the Commission; whereby, Ms. Truilo responded that it would be a complete sketch, noting that it would be a representation of the actual artwork just in a miniature size.

Ms. Truilo stated that words and letters on a mural could be decorative and did not necessarily need to mean anything. She explained that most mural projects she has worked with had a limit to the text amount that was allowed on the murals.

Mayor Partington explained that he believed that murals created a sense of place in downtown areas. He stated that he had experienced a lot of positive interest from residents and believed that this was going to be successful.

Mr. Goss explained that a community he previously worked for had large chess pieces outside as an interactive public art display.

Mr. Hayes explained that he believed the challenge would be trying to understand where the risk window was at. He explained that if the Commission tried to regulate content, there would be a higher standard to hold it to if it was challenged. He stated that there

should not be an issue if the regulations were content neutral. He explained that he pointed this out, noting that you could end up with ten beautiful murals and then there could be one that did not fit what you they were looking for. He stated that there was a benefit to using MainStreet as the bridge to making the project operate. He explained that the Commission could create regulations in a generic sense. He stated that having a contractual arrangement between MainStreet, the property owner, and the artists would be the safest thing. He explained that the challenge would be incorporating the Commission having final oversight review. He stated that staff would find a way to make the project work, however the Commission desired.

Ms. Truilo suggested that with MainStreet acting as the intermediary, the city would be in a different spot as MainStreet would be arranging and purchasing art. She stated that MainStreet had already vetted the art by the time they would bring it to the city and would never allow a piece of art that would ruin the program. She explained that because MainStreet was a private entity, they did not need to accept art that they did not approve of.

Mr. Hayes stated that he believed that there was a benefit and safety in using MainStreet as the intermediary. He explained that the challenge would be fitting MainStreet oversight into that picture.

Mayor Partington stated that the Commission may never have to sign off on the project. He explained that it may be enough to have the Community Redevelopment Agency (CRA) approve the project; whereby, Ms. Shanahan noted that the Commission serves as the CRA board.

Mr. Hayes explained that there could be a number of different ways to proceed, depending on what level of participation the Commission would like to have in the project as a governing body, whether it would be as the Commission or the CRA. He stated that the city's ordinance could set up themes like history that would limit the city's scope of review. He explained that the Commission would not be regulating the content, more so whether the proposal mural fit into the stated theme in the ordinance. He explained that the rest would be enforceable through the contractual relationship with MainStreet.

Ms. Shanahan stated that she believed that Mayor Partington's point about having the project go through the CRA board was interesting. She explained that the Commission was the CRA board and asked if the project would be able to go through just the CRA board; whereby, Mr. Hayes stated that it would not matter what board the project goes to, explained that, as a governing body, they would not want to be in a position that was regulating content. He explained that there were different parts of districts that were set up to do that. He stated that there was a way to make it happen, but the challenge would how to fit in the level of participation that the Commission would want to have and in what kind of context. He stated that they would need to determine how the Commission would like to proceed with the project.

Ms. Shanahan asked Ms. Truilo about the murals in the presentation, and if the murals in Deland or Palatka were recently done.

Ms. Truilo replied that the wings in Deland were fairly recent and put up within the last five years. She stated that another mural in the presentation was also put up within the last five years as well. She stated that the larger murals in the presentation were much older.

Ms. Shanahan stated that the next question would be regarding where the Commission would go from here and what the next steps with the program were; whereby, Mr. Hayes replied that he believed the Commission had a general sense of where they would like to see the program go. He noted that if there were some points that need to be clarified, a meeting could be set up to do so. He explained that he believed there was good direction for the program.

Commissioner Boehm asked if there was a means for the city to sponsor a mural; whereby, Mr. Hayes responded that the answer to that question was both “yes” and “no.” He stated that there were exceptions to the first amendment in that the government could say pretty much whatever it wanted as long as it was government speech. He explained that if it was a bit of a hybrid, and if the government was going to deem it theirs but it was not really government speech, then the law was not as clear.

Commissioner Boehm stated that right now there was a restroom in Cassen Park that was being designed and rehabilitated. He stated that he thought that a mural could be painted on the wall that was facing the river, which could say “Welcome to Ormond Beach,” in a striking way. He stated that that mural would be the city’s because it would be painted on the city’s building and bathroom. He explained that the bathroom was concrete and plain, but the city could make it creative by painting the mural. He further went on to explain that it would make a great first impression to the citizens and visitors who would exit the docks and see it right away. He explained that he brought up that spot and asked if the city could be involved because he believed that it was the perfect spot for the city to have a mural.

Commissioner Selby explained that he came across the town of Plymouth, Wisconsin, online. He stated that the town had a number of historical murals. He explained that a lot of the murals had a lot of writing on them, and encouraged the Commission to take a look at them. He explained that one of the murals had information about the county fair written on it, and explained that almost a third of the mural had a banner with that text on it through it. He noted that it was not objectionable. Ms. Truilo stated that there was a set of wonderful murals in Gilroy, California, some of which had a lot of text in them. She explained that one large mural was of packing boxes which had labels on them with a lot of text.

Mayor Partington thanked Ms. Truilo for coming to present; whereby Ms. Truilo stated that MainStreet was excited about the program and willing to do whatever needed to be done.

III. ADJOURNMENT

The meeting was adjourned at 6:34 p.m.

Transcribed by: Colby Cilento and Courtney Culver