

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.



AGENDA
OXNARD CITY COUNCIL
COMMUNITY SERVICES COMMITTEE
Council Chambers, 305 West Third Street
July 9, 2019
Regular Meeting - 6:00 to 7:15 PM

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of fifteen minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker cards will not be accepted after the beginning of the general public comment period. Based on the number of speaker cards submitted, the presiding officer may impose time limits per speaker. Typically, speakers are limited to two minutes, but shorter time may be established as deemed necessary. A person not able to address the legislative body at this time because the fifteen minutes expires may do so just prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager for administrative action or scheduled on a subsequent agenda for discussion.

C. REPORTS

1. Cultural & Community Services Department

SUBJECT: Response to Grand Jury Report Titled "Youth Sports and Public Liability." (10/10/5)

RECOMMENDATION: That the Community Services Committee recommends that the Mayor, the City Manager, and the Cultural and Community Services Director respond, on behalf of the City Council, to the Grand Jury Report titled "Youth Sports and Public Liability Report" dated April 14, 2019, in the form included as Attachment B.

Contact: Terrel Harrison, (805) 385-7994

2. Cultural & Community Services Department

SUBJECT: Authorization to Disburse and Appropriate Revenue from the Public Art Fund. (10/10/5)

RECOMMENDATION: That the Community Services Committee recommend the City Council:

1. Authorize the disbursement of Public Art Fund revenues in the amount of \$170,000 for the purpose of providing funding for a range of cultural activities by various cultural arts organizations and artists; and

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Staff Presentation / Committee Discussion / Public Comment)

2. Approve a one-time appropriation of revenue in the amount of \$170,000 from the Public Art Fund.

Contact: Terrel Harrison, (805) 385-7994

D. ITEMS FOR FUTURE AGENDAS

E. ADJOURNMENT



**COMMUNITY SERVICES COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.1.**

DATE: July 9, 2019

TO: Community Services Committee

FROM: Terrel Harrison, Cultural & Community Services Director, (805) 385-7994,
terrel.harrison@oxnard.org

SUBJECT: Response to Grand Jury Report Titled "Youth Sports and Public Liability." (10/10/5)

RECOMMENDATION

That the Community Services Committee recommends that the Mayor, the City Manager, and the Cultural and Community Services Director respond, on behalf of the City Council, to the Grand Jury Report titled "Youth Sports and Public Liability Report" dated April 14, 2019, in the form included as Attachment B.

BACKGROUND

On May 9, 2019, the City received the Ventura County Grand Jury 2018-2019 Final Report re: *Youth Sports and Public Liability* (the "Report"), which can be viewed at https://vcportal.ventura.org/GDJ/docs/reports/2018-19/GJReport_2018-19_YouthSportsAndPublicLiability.pdf. The report contains three conclusions and three recommendations of which the City is required to respond within 90 days of May 9, 2019.

In the Report, the Grand Jury concludes that cities and districts in Ventura County: (1) allow non-affiliated sports leagues to use their facilities to practice or play, but do not require proof of compliance with California law regarding protection against concussion-related injuries, and do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place; (2) do not require proof of adequate parental waivers and insurance coverage from non-affiliated sports leagues to protect against legal action that could jeopardize public monetary resources; and (3) are underinsured with respect to the type of coverage and coverage amounts to sufficiently protect them from litigation arising from the conduct of youth sports on city or district property.

The Grand Jury recommends that cities and districts in Ventura County: (1) require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries, and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play; (2) require proof of adequate parental waivers from participants and sufficient insurance coverage from non-affiliated sports leagues as a condition of the use of public facilities for practice or play; and (3) review their own insurance coverage to ensure that they are adequately protected with respect to potential claims arising from the conduct of youth sports on city or district property.

The City's proposed responses to the Grand Jury's conclusions and recommendations are as follows:

FINDINGS / CONCLUSIONS

- I (we) agree with the findings / conclusions numbered: C-01

C-01. The Grand Jury concluded that most cities and Districts in the County allow non-affiliated sports leagues to use their facilities to practice or play. However, they do not require proof of compliance with California law regarding protection against concussion-related injuries from these leagues. They also do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place. (FA-01, FA-02, FA-03)

Response: The City of Oxnard (“City”) allows non-affiliated sports leagues to use its facilities to practice and play. The City does not currently have a policy in place requiring non-affiliated leagues to provide proof of compliance with AB 2007.

- I (we) disagree wholly or partially with the Findings / Conclusions numbered: C-02, C-03

C-02. The Grand Jury concluded that cities and Districts do not require proof of adequate parental waivers and insurance coverage from non-affiliated sports leagues to protect against legal action that could jeopardize public monetary resources. (FA-04, FA-05)

Response- partially disagree: The City agrees, that the City generally does not require proof of parental waivers, and only requires general liability insurance from non-affiliated sports leagues that rent City sports fields for organized games. The City disagrees that these actions are necessary to protect against legal actions that could jeopardize the City’s monetary resources. The Government Claims Act (Cal. Gov. Code Sections 810 et seq.) immunizes the City from money damages arising out of certain policy decisions and activities. The City notes that the discretionary immunities provided by Government Code Sections 820.2 (immunity from policy decisions) and 818.2 (immunity from failure to adopt a law or enactment) would cover many types of claims arising out of the City’s decision to rent City sports fields to non-affiliated sports leagues. In addition, the immunity applicable to hazardous recreational activities (Cal. Gov. Code Section 831.7) applies to many types of body contact sports, including but not limited to, football, soccer and basketball, and would likely address concussion-related injuries arising out of those sports.

C-03. The Grand Jury concluded that cities and Districts are underinsured with respect to the type of coverage and coverage amounts to sufficiently protect them from litigation arising from the conduct of youth sports on city or district property. (FA-06)

Response- disagree. The City is adequately insured with respect to the type of coverage and coverage amounts to sufficiently protect itself from litigation arising from the conduct of youth sports on City property. The City operates a self-insurance program and has excess insurance above \$1 million, to a total of \$27 million. The City’s excess insurance covers sexual abuse, and the City has never had any claims as it relates to private operation of youth sports on City property. Notwithstanding the City’s adequate coverage, as previously stated, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City’s decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws.

RECOMMENDATIONS

- Recommendation number R-03 has been implemented.

R-03. The Grand Jury recommends that all cities and Districts review their own insurance coverage to ensure that they are adequately protected with respect to potential claims arising from the conduct of youth sports on city or district property. (C-03)

See response to item C-03

- Recommendation numbers R-01, R-02 have not yet been implemented, and will not be implemented in the future.

R-01. The Grand Jury recommends that all cities and Districts require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play. (C-01)

Response- This recommendation will not be implemented because it is not legally required by California or Federal law. The City merely permits sports facilities to affiliated and non-affiliated sports leagues. The City does not warrant the quality of the programs nor the competency of the individuals or organizations (including non-affiliated sports leagues) using city facilities. To the extent the City conducts its own, in-house, adult or youth amateur sports competitions, training, camps, or clubs it does and will continue to comply with the law regarding concussion-related sports injuries and child physical or sexual abuse prevention and reporting procedure for its employees. In addition, this recommendation is not reasonable in as much as it will cost additional unfunded staff time to verify non-affiliated sports leagues are in compliance with the relevant California and Federal laws. Should the City voluntarily undertake the duty to establish proof that non-affiliated sports leagues are in compliance with such laws, then the City may expose itself to more liability should it erroneously permit a non-compliant league or team to use a field. The current system places the responsibility on the individual, parents or guardians to determine whether an affiliated or non-affiliated sports league, team, coach or program is suitable for the individual or child.

R-02. The Grand Jury recommends that all cities and Districts require proof of adequate parental waivers from participants and sufficient insurance coverage from non-affiliated sports leagues as a condition of the use of public facilities for practice or play. (C-02)

Response- This recommendation, relating to evidence of insurance coverage, will not be implemented. As stated in the response to Conclusion C-02 and C-03, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City's decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws. The portion of this recommendation related to the City requiring proof of adequate parental waivers from participants will also not be implemented because the regulatory burden that this requirement would place on the City is not warranted in light of the Government Code immunities provided to cities in these matters.

As is normally the case, the City is required to respond within 90 days to certain findings and recommendations presented in the Grand Jury Report. Therefore, the City must respond to the Grand Jury no later than August 7, 2019.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Julie Estrada, Recreation Coordinator

ATTACHMENTS

1. Grand Jury Report Youth Sports & Public Liability
2. Response to Grand Jury- City of Oxnard - Youth Sports & Public Liability
3. Article from Liebert Cassidy Whitmore re AB 2007
4. Health & Safety Code 124235 (AB 2007)

county of ventura

Grand Jury
800 South Victoria Avenue
Ventura, CA 93009
(805) 477-1600
Fax: (805) 658-4523

grandjury.countyofventura.org

May 7, 2019

Confidential

Mayor Tim Flynn
City of Oxnard
300 West 3rd Street
Oxnard, CA 93030

Dear Mayor Flynn,

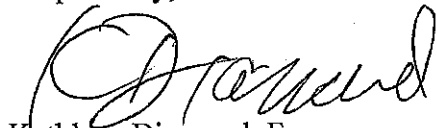
The Ventura County Grand Jury has completed the attached report titled *Public Liability and Youth Sports*. This copy of the report is being provided to you two days in advance of its public release, as required by California Penal Code §933.05 (f), which states: —

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Please check the last page of text of the report for the timing of your response, if any, as required by the Penal Code. Section 933.05 of the Penal Code is attached for your reference. Also attached is a form for your responses to Grand Jury findings/conclusions and recommendations.

Please keep in mind that this report must be kept confidential until its public release by the Grand Jury.

Respectfully,



Kathleen Diamond, Foreperson
2018-2019 Ventura County Grand Jury

Received
Office of the City Manager
2019 MAY - 9 PM 3: 56

California Penal Code Sections

Penal Code 933

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls.

Penal Code 933.05

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two (2) working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Amend 2-3



Grand Jury
800 South Victoria Avenue
Ventura, CA 93009
(805) 477-1600
Fax: (805) 658-4523

grandjury.countyofventura.org

Response to Grand Jury Report Form

Report Title: _____

Report Date: _____

Response by: _____ Title: _____

FINDINGS / CONCLUSIONS

- I (we) agree with the findings / conclusions numbered: _____
- I (we) disagree wholly or partially with the Findings / Conclusions numbered: _____

(Attach a statement specifying any portions of the Findings / Conclusions that are disputed; include an explanation of the reasons.)

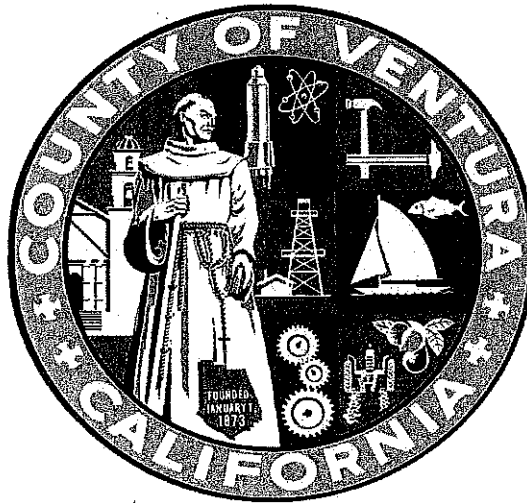
RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions and date completed.)
- Recommendations number _____ have not yet been implemented, but will be implemented in the future.
(Attach a time frame for the implementation.)
- Recommendations numbered _____ require further analysis.
- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.

Date: _____ Signed: _____

Number of pages attached: _____

Ventura County Grand Jury 2018 - 2019



Final Report

Youth Sports and Public Liability

April 17, 2019

This page intentionally blank

Youth Sports and Public Liability

Summary

Hundreds of minors in Ventura County (County) participate in activities organized by non-affiliated sports leagues. Non-affiliated sports leagues are those that are not regulated by a national governing body such as the American Youth Soccer Organization or Little League. The Grand Jury was concerned that these non-affiliated sports leagues may not be complying with certain laws pertaining to the protection of youth from physical or sexual abuse, or from concussion-related injuries when they practice or play sports on public property.

Parks and Recreation districts (Districts) as well as cities in the County need to ensure that youth participating in sports activities on city and district property are protected against child physical or sexual abuse and concussion-related injuries. Cities and Districts should also ensure that the public monetary resources they manage are adequately protected against litigation awards arising from allegations of child physical or sexual abuse and concussion-related injuries occurring during youth sports activities.

The Grand Jury concluded that most cities and Districts in the County allow non-affiliated sports leagues to use their facilities to practice or play. However, they do not require proof of compliance with California law regarding protection against concussion-related injuries from these leagues. They also do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place. Finally, the Grand Jury concluded that cities and Districts themselves are underinsured with respect to the conduct of youth sports on their properties.

The Grand Jury recommends that cities and Districts require proof of child protections against physical or sexual abuse and concussion-related injuries from sports leagues that are not affiliated with a national governing body, as a condition of allowing them to practice or play sports on city and district properties.

The Grand Jury also recommends that cities and Districts review their own insurance coverage and parental-waiver requirements to ensure that they are adequately protected with respect to claims arising from the conduct of youth sports on city and district properties.

Background

The federal Sexual Abuse and Safe Sports Authorization Act (SASSAA) requires that all adults who are authorized to interact with minors in national youth sports report suspected child sexual abuse to authorities. The SASSAA also mandates that national governing bodies develop training programs and enforce policies and procedures regarding child sexual abuse prevention. The SASSAA specifically applies to sports leagues with national governing bodies, but it does not apply to non-affiliated sports leagues. (Ref-01)

However, the California Youth Sports Concussion Protocols (AB 2007) requires that youth sports organizations comply with specified safety requirements regarding

concussions or other head injuries. A youth sports organization is defined as “an organization, business, nonprofit entity or local government agency that sponsors or conducts amateur sports competitions, training, campus, or clubs in which persons 17 years of age or younger participate.” This law applies to cities and Districts, as well as to non-affiliated sports leagues. (Ref-02)

The Grand Jury recommends that all cities and Districts require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play.

Methodology

The Grand Jury conducted internet research regarding federal and state legislation regulating youth sports organizations with respect to child physical or sexual abuse and concussion-related injuries. The Grand Jury also conducted interviews with the three Districts and the seven cities in the County regarding the requirements they place on non-affiliated sports leagues who use their facilities. The Grand Jury also requested documents that contain policies and procedures to ensure that non-affiliated sports leagues provide protection against child physical or sexual abuse and comply with concussion-related injury prevention laws. Finally, the Grand Jury requested information regarding the cities’ and Districts’ own liability insurance coverage with respect to youth sports activities conducted on their property.

Facts

- FA-01.** The Grand Jury found that all cities and Districts in the County, except the cities of Port Hueneme and Santa Paula, allow non-affiliated sports leagues to use city or district property for practice or play.
- FA-02.** The Grand Jury found that none of the cities or Districts in the County require proof of compliance with AB 2007 from non-affiliated sports leagues when permitting them to use city or district property for practice or play.
- FA-03.** The Grand Jury found that none of the cities or Districts in the County require proof from non-affiliated sports leagues that child physical or sexual abuse prevention training, reporting and enforcement policies are in place when permitting them to use city or district property for practice or play.
- FA-04.** The Grand Jury found that none of the cities or Districts require proof that parents have given permission for their child to play sports that could cause physical injury (parental waivers) are obtained by the non-affiliated sports leagues when permitting them to use city or district property for practice or play.
- FA-05.** The Grand Jury found that none of the cities or Districts require proof of liability insurance coverage specifically for child physical or sexual abuse or concussion-related injury claims from non-affiliated sports leagues when permitting them to use city or district property for practice or play.

FA-06. The Grand Jury found that city and district insurance programs varied greatly with respect to the types of insurance and coverage amounts. Most insurance programs were not specific to litigation arising from the conduct of youth sports on city or district property.

Conclusions

- C-01.** The Grand Jury concluded that most cities and Districts in the County allow non-affiliated sports leagues to use their facilities to practice or play. However, they do not require proof of compliance with California law regarding protection against concussion-related injuries from these leagues. They also do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place. (FA-01, FA-02, FA-03)
- C-02.** The Grand Jury concluded that cities and Districts do not require proof of adequate parental waivers and insurance coverage from non-affiliated sports leagues to protect against legal action that could jeopardize public monetary resources. (FA-04, FA-05)
- C-03.** The Grand Jury concluded that cities and Districts are underinsured with respect to the type of coverage and coverage amounts to sufficiently protect them from litigation arising from the conduct of youth sports on city or district property. (FA-06)

Recommendations

- R-01.** The Grand Jury recommends that all cities and Districts require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play. (C-01)
- R-02.** The Grand Jury recommends that all cities and Districts require proof of adequate parental waivers from participants and sufficient insurance coverage from non-affiliated sports leagues as a condition of the use of public facilities for practice or play. (C-02)
- R-03.** The Grand Jury recommends that all cities and Districts review their own insurance coverage to ensure that they are adequately protected with respect to potential claims arising from the conduct of youth sports on city or district property. (C-03)

Responses

Responses Required From:

City Council, City of Oxnard (C0-1, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Ventura (C-01, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Moorpark (C-01, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Fillmore (C-01, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Ojai (C-01, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Port Hueneme (C-01, C-02, C-03) (R-01, R-02, R-03)

City Council, City of Santa Paula (C-01, C-02, C-03) (R-01, R-02, R-03)

Board of Directors, Conejo Valley Recreation and Parks District (C-01, C-02, C-03)
(R-01, R-02, R-03)

Board of Directors, Pleasant Valley Recreation and Parks District (C-01, C-02,
C-03) (R-01, R-02, R-03)

Board of Directors, Rancho Simi Recreation and Parks District (C-01, C-02, C-03)
(R-01, R-02, R-03)

References

Ref-01. Protecting Young Victims From Sexual Abuse and Safe Sport
Authorization Act of 2017

<https://www.usyouthsoccer.org/protecting-young-victims-from-sexual-abuse-and-safe-sport-authorization-act-of-2017>

Accessed April 11, 2019

Ref-02. AB 2007

<https://www.lcwlegal.com/news/ab-2007-requires-youth-sports-organization-to-abide-by-specified-safety-requirements-regarding-concussions-and-other-head-injuries>

Accessed April 11, 2019

Glossary

<u>TERM</u>	<u>DEFINITION</u>
AB 2007	California Youth Sports Concussion Protocols, which requires youth sports organizations that offer athletic programs to comply with specified safety requirements regarding concussions or other head injuries
County	County of Ventura
Districts	Independent Parks and Recreation Districts
Grand Jury	2018-2019 Ventura County Grand Jury
Non-affiliated sports leagues	Youth sports leagues that are not organized or regulated by a national governing body such as American Youth Soccer Organization or Little League
Parental waiver	A document signed by a parent of a child giving permission for that child to participate in a sport that may cause physical injuries and waiving liability claims against a third party
SASSAA	Sexual Abuse and Safe Sports Authorization Act, federal law that requires that all adults who are authorized to interact with minors in national youth sports organizations report suspected child sexual abuse to authorities. This act also requires national governing bodies of organized sports leagues to develop and enforce policies and procedures to report and respond to child abuse or molestation claims.

Response to Grand Jury Report Form

Report Title: Youth Sports & Public Liability

Report Date: April 17, 2019

Response by: Alexander, Nguyen
Terrel Harrison

Title: City Manager
Title: Cultural & Community Services Director

FINDINGS / CONCLUSIONS

- I (we) agree with the findings / conclusions numbered: C-01

C-01. The Grand Jury concluded that most cities and Districts in the County allow non-affiliated sports leagues to use their facilities to practice or play. However, they do not require proof of compliance with California law regarding protection against concussion-related injuries from these leagues. They also do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place. (FA-01, FA-02, FA-03)

Response: The City of Oxnard ("City") allows non-affiliated sports leagues to use its facilities to practice and play. The City does not currently have a policy in place requiring non-affiliated leagues to provide proof of compliance with AB 2007.

- I (we) disagree wholly or partially with the Findings / Conclusions numbered: C-02, C-03 (Attach a statement specifying any portions of the Findings / Conclusions that are disputed; include an explanation of the reasons.)

C-02. The Grand Jury concluded that cities and Districts do not require proof of adequate parental waivers and insurance coverage from non-affiliated sports leagues to protect against legal action that could jeopardize public monetary resources. (FA-04, FA-05)

Response- partially disagree: We agree, that the City generally does not require proof of parental waivers, and only requires general liability insurance from non-affiliated sports leagues that rent City sports fields for organized games. We disagree that these actions are necessary to protect against legal actions that could jeopardize the City's monetary resources. The Government Claims Act (Cal. Gov. Code Sections 810 et seq.) immunizes the City from money damages arising out of certain policy decisions and activities. The City notes that the discretionary immunities provided by Government Code Sections 820.2 (immunity from policy decisions) and 818.2 (immunity from failure to adopt a law or enactment) would cover many types of claims arising out of the City's decision to rent City sports fields to non-affiliated sports leagues. In addition, the immunity applicable to hazardous recreational activities (Cal. Gov. Code Section 831.7) applies to many types of body contact sports, including but not limited to, football, soccer and basketball, and would likely address concussion-related injuries arising out of those sports.

C-03. The Grand Jury concluded that cities and Districts are underinsured with respect to the type of coverage and coverage amounts to sufficiently protect them from litigation arising from the conduct of youth sports on city or district property. (FA-06)

Response- disagree. The City is adequately insured with respect to the type of coverage and coverage amounts to sufficiently protect itself from litigation arising from the conduct of youth sports on City property. The City operates a self-insurance program and has excess insurance above \$1 million, to a total of \$27 million. The City's excess insurance covers sexual abuse, and the City has never had any claims as it relates to private operation of youth sports on City property. Notwithstanding the City's adequate coverage, as previously stated, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City's decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws.

RECOMMENDATIONS

- Recommendation number R-03 has been implemented.

R-03. The Grand Jury recommends that all cities and Districts review their own insurance coverage to ensure that they are adequately protected with respect to potential claims arising from the conduct of youth sports on city or district property. (C-03)

See response to item C-03

- Recommendation numbers R-01, R-02 have not yet been implemented, and will not be implemented in the future.

R-01. The Grand Jury recommends that all cities and Districts require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play. (C-01)

Response- This recommendation will not be implemented because it is not legally required by California or Federal law. The City merely permits sports facilities to affiliated and non-affiliated sports leagues. The City does not warrant the quality of the programs nor the competency of the individuals or organizations (including non-affiliated sports leagues) using city facilities. To the extent the City conducts its own, in-house, adult or youth amateur sports competitions, training, camps, or clubs it does and will continue to comply with the law regarding concussion-related sports injuries and child physical or sexual abuse prevention and reporting procedure for its employees. In addition, this recommendation is not reasonable in as much as it will cost additional unfunded staff time to verify non-affiliated sports leagues are in compliance with the relevant California and Federal laws. Should the City voluntarily undertake the duty to establish proof that non-affiliated sports leagues are in compliance with such laws, then the City may expose itself to more liability should it erroneously permit a non-compliant league or team to use a field. The current system places the responsibility on the individual,

parents or guardians to determine whether an affiliated or non-affiliated sports league, team, coach or program is suitable for the individual or child.

R-02. The Grand Jury recommends that all cities and Districts require proof of adequate parental waivers from participants and sufficient insurance coverage from non-affiliated sports leagues as a condition of the use of public facilities for practice or play. (C-02)

Response- This recommendation, relating to evidence of insurance coverage, will not be implemented. As stated in its response to Conclusion C-02 and C-03, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City's decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws. The portion of this recommendation related to the City requiring proof of adequate parental waivers from participants will also not be implemented because the regulatory burden that this requirement would place on the City is not warranted in light of the Government Code immunities provided to cities in these matters.

Date: _____

Signed: _____
Tim Flynn, Mayor

ATTEST:

Michelle Ascencion, City Clerk

Date: _____

Signed: _____
Alexander Nguyen, City Manager

Date: _____

Signed: _____
Terrel Harrison, Cultural & Community
Services Director

Number of pages attached: 0



AB 2007 – REQUIRES YOUTH SPORTS ORGANIZATION TO ABIDE BY SPECIFIED SAFETY REQUIREMENTS REGARDING CONCUSSIONS AND OTHER HEAD INJURIES

CATEGORY: PRIVATE EDUCATION

Date: Dec 8, 2016 09:52 AM

AB 2007 requires youth sports organizations that offer an athletic program in one of 27 sports to comply with specified safety requirements regarding concussions or other head injuries. A youth sports organization is defined as an organization, business, nonprofit entity or local government agency that sponsors or conducts amateur sports competitions, training, campus, or clubs in which persons 17 years of age or younger participate.

Under AB 2007, a youth sports organization must comply with all of the following requirements:

1. An athlete who is suspected of sustaining a concussion or other head injury in an athletic activity must be immediately removed from the athletic activity for the remainder of the day, and must not be permitted to return to any athletic activity until he or she is evaluated by a licensed health care provider, as defined. The youth sports organization must not allow the athlete to return to athletic activity until he or she receives written clearance to return from a licensed health care provider. If the licensed health care provider determines that the athlete sustained a concussion or other head injury, the athlete must also complete a

graduated “return-to-play” protocol that lasts no less than seven days under the supervision of a licensed health care provider.

2. A youth sports organization must notify the athlete’s parent or guardian at the time and date of the injury that he or she has been removed from athletic activity due to a suspected concussion, the symptoms observed, and any treatment provided to that athlete. This provision will only apply to athletes 17 years old or younger.
3. On a yearly basis, the youth sports organization must give a concussion and head injury information sheet to each athlete. The information sheet must then be signed and returned by the athlete and, if the athlete is 17 years of age or younger, must also be signed by the athlete’s parent or guardian. The information sheet must be signed and returned before the athlete commences participation in the program. A youth sports organization may send the information sheet to the athlete through an electronic medium.
4. On a yearly basis, the youth sports organization must offer concussion and head injury education, or related educational materials, or both, to each coach and administrator of the youth sports organization.
5. Each coach and administrator must successfully complete the concussion and head injury education offered pursuant to requirement (4) at least once, either online or in person, before supervising athletes.
6. The youth sports organization must identify procedures to ensure compliance with AB 2007’s educational requirements, removal and return-to-play protocols, and requirements for distribution of the information sheet.

These requirements will apply to all athletes regardless of age. A youth sports organization may implement stricter requirements.

(AB 2007 adds Article 2.5 commencing with Section 124235) to Chapter 4 of Part 2 of Division 106 of the Health and Safety Code).

© 2019 - Liebert Cassidy Whitmore.

State of California

HEALTH AND SAFETY CODE

Section 124235

124235. (a) A youth sports organization that elects to offer an athletic program shall comply with all of the following:

(1) An athlete who is suspected of sustaining a concussion or other head injury in an athletic activity shall be immediately removed from the athletic activity for the remainder of the day, and shall not be permitted to return to any athletic activity until he or she is evaluated by a licensed health care provider. The athlete shall not be permitted to return to athletic activity until he or she receives written clearance to return to athletic activity from a licensed health care provider. If the licensed health care provider determines that the athlete sustained a concussion or other head injury, the athlete shall also complete a graduated return-to-play protocol of no less than seven days in duration under the supervision of a licensed health care provider.

(2) If an athlete who is 17 years of age or younger has been removed from athletic activity due to a suspected concussion, the youth sports organization shall notify a parent or guardian of that athlete of the time and date of the injury, the symptoms observed, and any treatment provided to that athlete for the injury.

(3) On a yearly basis, the youth sports organization shall give a concussion and head injury information sheet to each athlete. The information sheet shall be signed and returned by the athlete and, if the athlete is 17 years of age or younger, shall also be signed by the athlete's parent or guardian, before the athlete initiates practice or competition. The information sheet may be sent and returned through an electronic medium including, but not necessarily limited to, fax or electronic mail.

(4) On a yearly basis, the youth sports organization shall offer concussion and head injury education, or related educational materials, or both, to each coach and administrator of the youth sports organization.

(5) Each coach and administrator shall be required to successfully complete the concussion and head injury education offered pursuant to paragraph (4) at least once, either online or in person, before supervising an athlete in an activity of the youth sports organization.

(6) The youth sports organization shall identify both of the following:

(A) Procedures to ensure compliance with the requirements for providing concussion and head injury education and a concussion and head injury information sheet, as contained in paragraphs (3) to (5), inclusive.

(B) Procedures to ensure compliance with the athlete removal provisions and the return-to-play protocol required pursuant to paragraph (1).

(b) As used in this article, all of the following shall apply:

(1) “Concussion and head injury education and educational materials” and a “concussion and head injury information sheet” shall, at a minimum, include information relating to all of the following:

- (A) Head injuries and their potential consequences.
- (B) The signs and symptoms of a concussion.
- (C) Best practices for removal of an athlete from an athletic activity after a suspected concussion.
- (D) Steps for returning an athlete to school and athletic activity after a concussion or head injury.

(2) “Licensed health care provider” means a licensed health care provider who is trained in the evaluation and management of concussions and is acting within the scope of his or her practice.

(3) “Youth sports organization” means an organization, business, nonprofit entity, or a local governmental agency that sponsors or conducts amateur sports competitions, training, camps, or clubs in which persons 17 years of age or younger participate in any of the following sports:

- (A) Baseball.
- (B) Basketball.
- (C) Bicycle motocross (BMX).
- (D) Boxing.
- (E) Competitive cheerleading.
- (F) Diving.
- (G) Equestrian activities.
- (H) Field hockey.
- (I) Football.
- (J) Full contact martial arts.
- (K) Gymnastics.
- (L) Ice hockey.
- (M) Lacrosse.
- (N) Parkour.
- (O) Rodeo.
- (P) Roller derby.
- (Q) Rugby.
- (R) Skateboarding.
- (S) Skiing.
- (T) Soccer.
- (U) Softball.
- (V) Surfing.
- (W) Swimming.
- (X) Synchronized swimming.
- (Y) Volleyball.
- (Z) Water polo.
- (AA) Wrestling.

(c) This section shall apply to all persons participating in the activities of a youth sports organization, irrespective of their ages. This section shall not be construed to prohibit a youth sports organization, or any other appropriate entity, from adopting and enforcing rules intended to provide a higher standard of safety for athletes than the standard established under this section.

(Added by Stats. 2016, Ch. 516, Sec. 1. (AB 2007) Effective January 1, 2017.)



**COMMUNITY SERVICES COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.2.**

DATE: July 9, 2019

TO: Community Services Committee

FROM: Terrel Harrison, Cultural & Community Services Director, (805) 385-7994,
terrel.harrison@oxnard.org

SUBJECT: Authorization to Disburse and Appropriate Revenue from the Public Art Fund. (10/10/5)

RECOMMENDATION

That the Community Services Committee recommend the City Council:

1. Authorize the disbursement of Public Art Fund revenues in the amount of \$170,000 for the purpose of providing funding for a range of cultural activities by various cultural arts organizations and artists; and
2. Approve a one-time appropriation of revenue in the amount of \$170,000 from the Public Art Fund.

BACKGROUND

Beginning in 2011, the City Council Cultural Arts Committee administered grants in support of the arts community in Oxnard. The funding for the grants comes from the Arts in Public Places Trust Fund, which is funded by the Public Art Program (Resolution No. 14,124). All new development (detailed in the resolution) is required to pay a public art fee of \$0.20 per square foot of roofed building area prior to issuance of a building permit. Public art fees, as well as monetary contributions from private sources, are deposited into the fund. This fund shall be used to acquire, purchase, install and maintain artwork on public property and to reimburse the City's costs to administer the Program. Disbursements from the fund may also be allocated to visual, performing or literary arts such as dance, voice, music or poetry.

In 2014, City Council Ordinance No. 2886 established the Cultural Arts Commission powers and duties. Division 11, Sec 2- 134(H), of the ordinance authorizes the Cultural Arts Commission (CAC) to "Recommend to the city council the distribution of revenues collected through fundraising, grants and public art funds consistent with the needs of the community, including solicitation and analysis of cultural arts grant proposals."

The process of selecting grant recipients has been through a Request for Proposal (RFP). For each cycle a RFP was developed by City staff and the CAC to establish the criteria for grant eligibility, categories of grant recipients, and ranges of potential grant awards. RFPs were issued in May 2012, July 2013, December 2014, April 2017, and April 2018. In 2018, grants were made available in the following categories:

Project Grants: For the creation by an individual artist (emerging, mid-career, or established) or group of Oxnard-based artists, for a specific art project.

Operating Fund Grants: To sustain the work of an arts organization without being tied to a specific project, but

to the artistic work/activities in general.

Funding Recommendation for 2019-20 Grant Cycle

For each cycle, the grant amount has been determined by staff based on the balance of the Arts in Public Places Trust Fund, taking into consideration potential future expenditure requests of the Fund. In previous grant cycles, the total grant amount has typically been approximately 70% of the available funds. The funding amounts for the last 3 years were \$150,000 (FY16-17), \$175,000 (FY17-18), and most recently \$170,000 (FY18-19).

The projected FY19-20 ending unassigned fund balance available is \$338,203. At the April 3, 2019 Cultural Arts Commission meeting, staff recommended a \$170,000 disbursement for this year's grant program, which is about 53% of the available funds. This amount, and percentage, is lower than what has been historically disbursed from the Public Art Fund. Staff's recommendation for a lower percentage was based on:

1. The funds deposited into this account are dependent upon development activity which is susceptible to fluctuations, so staff wanted to plan for building up a stronger reserve for either a larger project or a downturn in the economy.
2. The City Council prioritized the Downtown Vision Plan; therefore, staff believes it is important to have funds available for forthcoming recommendations.
3. The necessity of developing a reporting mechanism to ensure there are measurable outcomes to demonstrate the impact of the grants.

In consideration of the Commission's authority to recommend to the City Council the distribution of revenues, in accordance with Ordinance 2886, the Commission recommends that the City Council appropriate \$170,000 from the Public Art Fund to various Oxnard-based arts organizations and artists through the 2019/2020 Arts in Public Places Grant Program. The grants will support ongoing operations and cultural activities in the City of Oxnard.

Anticipated/approximate timeline for the 2019/2020 grant cycle is as follows:

Mid-September 2019: RFP available
Week of Sept. 23: Mandatory meetings for potential grantees
Thursday, Oct. 24: RFPs due to City
Week of Nov. 4: RFPs in hard copy delivered to evaluators
Week of Nov. 18: Evaluators' meetings
Dec. 4: Evaluators results presented to Cultural Arts Commission
January 2020: Recommendations presented to Council
February 2020: 2019/2020 grant awards disbursed

All applicants must be Oxnard-based (artists must be Oxnard residents; organizations must be based in Oxnard with a physical address). Government organizations and organizations that receive budgetary support from the City independent of this grant program are not eligible to apply.

As in previous grant cycles, City staff will establish review panels (evaluators) for the grant applications. Evaluators will be experts in the arts such as arts educators, arts executive directors, performers, curators, poets, authors, art critics, philanthropists, etc. Evaluators undergo a thorough training by City staff to cover the intent of the RFP which is reflective of the mission and vision of the Cultural Arts Commission (CAC). The

review panels will score the grants. The CAC will review the recommendation and, if approved by majority vote, recommend to City Council approval of the grant awards at a future City Council meeting.

In 2017, due to the fact that a number of Commissioners had a conflict of interest because they were also potential grant recipients, the Cultural Arts Committee reconvened at a special meeting to approve the evaluators' recommendations. If the Commission is unable to establish a quorum to recommend approval of 2019-20 grant recipients, due to conflict of interest, staff will reconvene the Cultural Arts Committee again.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

Objective 3f. Develop a co-sponsorship policy with criteria that would enable the City to encourage local community events.

FINANCIAL IMPACT

The FY 19-20 adopted budget allocated \$15,073 for ongoing salaries and benefits of temporary staff. Approval of this action authorizes an appropriation and distribution of \$170,000 for the FY19/20 award cycle from the fund balance in the Arts in Public Places Trust Fund (Fund 547). The projected FY19-20 ending unassigned fund balance of the Arts in Public Places Trust Fund is \$168,203, net of this appropriation request. Similar to FY18/19 cycle, the award of FY19/20 cycle may be disbursed in two fiscal years, e.g., FY19/20 and carryover to FY20/21.

Prepared by: Julie Estrada, Recreation Coordinator

ATTACHMENTS

1. AIPP BA 7.9.19 Updated
2. CSC Meeting 07.09.19 - AIPP pdf

REQUEST FOR BUDGET APPROPRIATION - FY19-20

Department: Cultural & Community Services

Date: July 9, 2019

Project/Program

Manager: Terrel Harrison

Phone: 7994

Reason for Appropriation:

To appropriate fund balance of Public Art Funds in the amount of \$170,000 for the purpose of providing funding over 2 fiscal years to various cultural arts organizations, programs, and artists.

Accounts and Descriptions

AMOUNT

Fund: 547 - ARTS IN PUBLIC PLACE TRUST

Expenditures/Transfers In

547 - ARTS IN PUBLIC PLACES TRUST

547-4270-804-8479 OTHER SERVICES / ONE TIME MISC EXPENSE 170,000

Sub-total Expenditures 170,000

Net Change to Fund Balance (170,000)

Net Appropriation Change 170,000

Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

FY: 19-20

**Arts in Public Places (AIPP) Grant
Authorization to Disburse and Appropriate Funds**

Community Services Committee

By: Julie Estrada, Recreation Coordinator

July 9, 2019

Background

- Funding for the Art in Public Places Grant Program comes from the Public Art Fund (Resolution No. 14,124)
- New Developments pay the Public Art Fund \$0.20 per square foot of roofed building area
- Funds to be used:
 - to acquire, purchase, install, and maintain artwork on public property
 - reimburse the city costs to administer the fund,
 - allocated to visual, performing or literary arts such as dance, voice, music or poetry.

Background *continued*

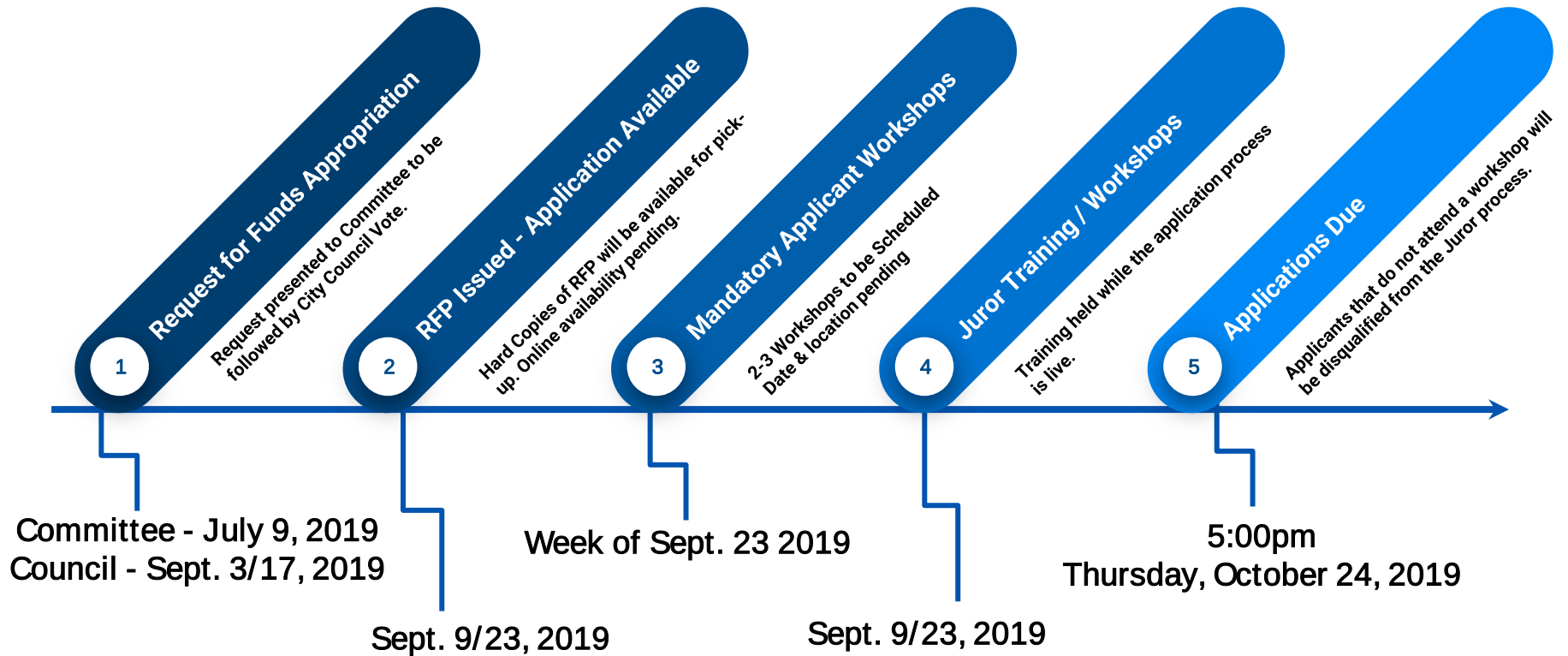
- From 2011-2013 the City Council tasked a Cultural Arts Committee to administer grants to the arts community in Oxnard
- In 2014, the City Council Ordinance No. 2886 established the Cultural Arts Commission powers and duties
- Division 11, Sec 2-134(H) of the Ordinance authorizes the commission to

“Recommend to the City Council the distribution of revenues collected through fundraising, grants, and public arts funds consistent with the needs of the community, including solicitation and analysis of cultural arts grants proposals.”

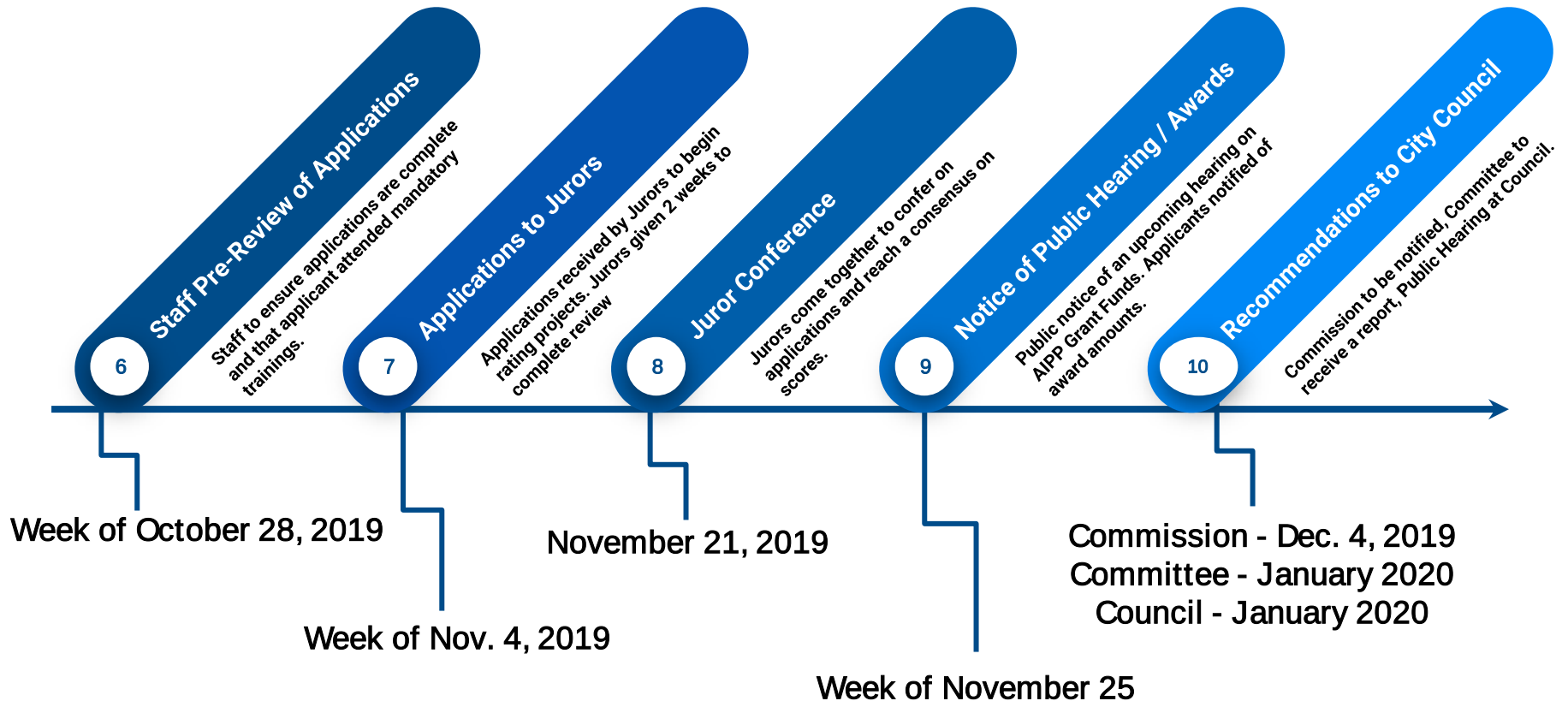
Background *continued*

- The Arts In Public Places (“AIPP”) grant program distributes these funds through a public Request for Proposals (“RFP”).
- This process has occurred in 2012, 2013, 2014, 2017, and 2018.
- Grant Categories Offered are
 - Project Grants: For the creation by an individual artist (emerging, mid-career, or established) or group of Oxnard-based artists, for a specific art project.
 - Operating Fund Grants: To sustain the work of an arts organization without being tied to a specific project, but to the artistic work/activities in general.

AIPP Proposed Timeline



AIPP Proposed Timeline *continued*



Distribution of Funds

AIPP: Project Grant

Category	FY:18-19 Award	FY19-20 Category Maximum	FY19-20 Application Maximum
Emerging Artists	\$9,641	\$10,000	\$1,500*
Mid-Career and Established Artists	\$20,980	\$20,000	\$2,000*
Collaborative Group	\$11,380	\$20,000	\$2,500*
Total	\$42,001	\$50,000	

**Maximum award in each category of the AIPP: Project Grant may vary based on the number of grants awarded in the respective category.*

Distribution of Funds

AIPP: Operating Funds Grant

Category	FY:18-19 Award	FY19-20 Category Maximum	FY19-20 Application Maximum
Emerging Organization	\$50,134	\$50,000	\$8,000*
Legacy Organization	\$67,663	\$70,000	\$10,000*
Total	\$117,797	\$120,000	

**Maximum award in each category of the AIPP: Operating Funds Grant may vary based on the number of grants awarded in the respective category.*

Disbursement of Funds

AIPP Total Award

Category	FY:18-19 Award	FY18-19 Award Balance	FY19-20 Request
Project Grants	\$42,001	\$7,999	\$50,000
Operating Funds Grants	\$117,797	\$2,203	\$120,000
Total	\$159,798	\$10,202	\$170,000

FY:19-20 Request for Disbursement \$170,000

Current Balance Arts in Public Place Trust \$318,865
(as of 6-19-19)



QUESTIONS?