



## **MEMORANDUM**

**TO:** Arts and Culture Commission Chair and Vice Chair

**FROM:** Kylie Bagley  
Brittany Rakowitz

**DATE:** September 19, 2018

**RE:** Arts and Culture Commission Strategic Planning Workshop

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### **Agenda**

1. First Amendment and Censorship
2. Authority of the Board and Open Meeting Requirements
3. By-Laws, Ordinance, and Structure of Commission
4. Roles and Responsibilities
5. Financial Policy Review
6. Prioritization of Goals; Workplan
  - a. 2018 Assessment
    1. Workplan, Accomplishments and Remaining Goals
    2. Budget Review
  - b. Workplan 2019
    1. Goals
    2. Budget Framework
    3. Staff Resources and Workplan Priorities
7. Public Art Semi-Annual Sponsorship Application Period

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 4948

**AN ORDINANCE ENACTING SECTION 20-0805 OF ARTICLE 20-08  
OF CHAPTER 20 OF THE FARGO MUNICIPAL CODE  
RELATING TO ARTS AND CULTURE COMMISSION**

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the city shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-50 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purposes; and,

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the board of city commissioners of the city of Fargo:

Section 1. Enactment.

Section 20-0805 of Article 20-08 of Chapter 20 of the Fargo Municipal Code is hereby enacted as follows:

**§20-0805. – Arts and Culture Commission**

**A. Purposes and Intent**

1. The purpose of this section is to establish a commission to ensure that public art continues to be a valuable part of Fargo to encourage the display of public art by citizens, developers, property owners, architects and builders to provide a process for review and recommendation to the city commission of the commissioning and placement of public art by the city; to ensure that existing public art is properly displayed and maintained and that it is accessible to the general public.

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2. The Arts and Culture Commission is not a municipal arts council as provided by N.D.C.C Chapter 40-38.1. As a result, the Arts and Culture Commission is not authorized to levy city property taxes; however, the Arts and Culture Commission is authorized to receive and expend funds as provided by N.D.C.C. § 40-05-01(75).

**B. Creation of Arts and Culture Commission**

There is hereby created an Arts and Culture Commission of the city of Fargo, which shall have powers and duties as hereinafter provided.

**C. Appointment and Terms**

The Arts and Culture Commission shall consist of nine (9) members who shall be residents of the city of Fargo. One member shall be a current member of the board of city commissioners. One member shall be a representative of the Downtown Community Partnership if available. One member shall be a representative of an established neighborhood association if available. Four members shall have a background in arts and humanities or shall have experience participating in the arts and culture activities in the community. The rest of the members shall be at large. Members shall be appointed by the mayor, subject to ratification and approval by the board of city commissioners. The appointments shall be made as follows, to-wit: three (3) members, who shall serve for a term of one (1) year; three (3) members, who shall serve for a term of two (2) years; and three (3) members, who shall serve for a term of three (3) years. All terms shall commence on January 1, 2015. Upon the expiration of the initial term of a member as aforesaid, thereafter members shall be appointed for 3-year terms. If a vacancy occurs for reasons other than expiration of a term, it shall be filled by appointment for the unexpired portion of the term. Notwithstanding the expiration of a member's term, such member may serve until his successor has been appointed and qualified. No member of the Arts and Culture Commission shall be entitled to any compensation, except that reasonable expenses may be paid if budgeted and approved in advance.

**D. Rules**

The Arts and Culture Commission shall prepare and adopt by-laws and rules governing its own operation and, at its first meeting following January 1<sup>st</sup> each year, it shall elect a chair and vice-chair to serve until their successors are elected and qualified. The majority of the existing and qualified members of the Arts and Culture Commission shall constitute a quorum for the conduct of business.

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**E. Meetings**

All meetings of the Arts and Culture Commission shall be governed by North Dakota open meeting law. Minutes of meetings shall be kept in the office of the Planning Department.

**F. Funding**

The board of city commissioners may annually appropriate funds, within budget limitations, for the operation of the Arts and Culture Commission. As provided by state law, the Arts and Culture Commission, in addition to the appropriations made by the city of Fargo, is authorized to receive, hold and spend funds which it may legally receive from any and every source, both in and out of the state of North Dakota, for the purpose of carrying out the provisions of this article.

**G. Powers and Duties**

The Arts and Culture Commission shall have the powers and duties as hereinafter provided and in addition thereto, shall act in an advisory capacity to the board of city commissioners in any manner which may be assigned to said Arts and Culture Commission for consideration and recommendation. The following general powers and duties are specifically conferred upon the Arts and Culture Commission.

1. Managing and facilitating new public art commissions or works of art gifted to the city.
2. Managing available funds and engaging in active pursuit of public art grants and other relevant funding opportunities.
3. Reporting to city commission annually the status of donations, monies received and expended, and the purpose of all expenditures.
4. Guiding the development of a public art master plan and maintaining said master plan.

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5. Identifying opportunities for public art within current and future capital improvement projects.
6. Managing a public art collection.
7. Promoting public art through education.
8. Employing qualified city staff to support the activities of the council.
9. To make recommendations to the board of city commissioners for any additional ordinances or administrative procedures required to implement the stated purpose and intent of this section.
10. To accept such gifts or grants as may be appropriate for fulfilling the purposes of this ordinance.
11. Maintain public art as needed.
12. Perform any other functions which may be assigned or delegated to it by the board of city commissioners.

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Section 2. Effective Date.

This ordinance shall be in full force and effect from and after its passage and approval.

s/  
Dennis R. Walaker, Mayor

Attest:

s/  
Steven Sprague, City Auditor

First Reading: 11-10-14  
Second Reading: 11-24-14  
Final Passage: 11-24-14

**ARTS AND CULTURE COMMISSION  
BY-LAWS  
CITY OF FARGO  
(ADOPTED April 15, 2015)**

**I. NAME**

The Arts and Culture Commission for the City of Fargo, North Dakota, hereinafter referred to as the "Commission," does hereby adopt these by-laws that shall govern its internal operations.

**II. PURPOSE**

Pursuant to Ordinance No. 4948 (2014), the purpose of this Commission is to ensure that public art continues to be a valuable part of Fargo; to provide a process of review and recommendation to the city commission of the commissioning and placement of public art by the city; and to ensure that city owned public art is properly displayed and maintained in a manner that it is accessible to the general public. The commission may fulfill this purpose by means of the Power and Duties outlined within the aforementioned ordinance.

**III. MEMBERSHIP**

The Commission shall be composed of those individuals who have been duly appointed by the Mayor and subject to ratification and approval by the Board of City Commissioners.

The Chairperson shall generally preside and conduct all Commission meetings, and with the advice and consent of other members, may appoint sub-committees from Commission members to perform specific duties.

The Vice Chairperson - In the event of the absence, disability, resignation or conflict of interest of the Chairperson, the Vice-Chairperson shall exercise all the powers and duties of said Chairperson, performing this function, the Vice Chairperson shall automatically become Commission Chairperson and the position of Vice Chairperson shall be deemed vacant and the Commission may elect from its own members a successor Vice Chairperson to fill this vacancy at its next meeting.

The Commission shall consist of nine (9) members to be appointed for three (3) year terms. Appointments shall be limited to a maximum of three (3) full terms. Terms which are less than three (3) years in length shall not be considered full terms for the intent of determining maximum allowed terms. Vacancies shall be filled in the same manner as other appointments to the Commission. All members of the Commission shall serve without compensation.

**IV. MEETINGS**

Quorum - A quorum shall consist of the majority of the existing and qualified members of the Commission.

Annual Meeting - At the regular annual meeting on the third Wednesday of June of each year, the Commission shall elect a Chairperson and Vice-Chairperson for the ensuing year.

Regular Meetings - The Commission shall meet on the third Wednesday of each month at 4:00 o'clock p.m. If the regular meeting date falls on a holiday when the City governing offices are generally closed, the meeting will be held on the regular meeting day and time of the succeeding week.

Special Meetings - The Chair or three Commissioners may from time to time call special meetings of the Commission with not less than twenty-four hours notice to Commission members.

Meeting Location - All regular meetings of the Commission shall be held in the City Commission Room unless otherwise published or distributed in the public notice for the public hearing.

Order of Business - The items of business to be considered at any regular or special meeting shall be specified on the notice of such meetings, which shall be the meeting agenda and which shall be transmitted to each member not later than five days immediately preceding the meeting date. Items of business at any meeting will be considered by the Commission in the order in which they appear on the meeting agenda and, except in the cases of emergency or mistake, no items shall be added thereto after said written agenda is transmitted to Commission members.

Records - The Commission shall keep a record of its resolutions, transactions, findings, and determinations; and, such record shall be a public record.

## **V. VOTING**

All Commission members, including the Chairperson and Vice-Chairperson, shall be entitled to one equal vote at any meeting. There shall be no voting by proxy. Dissenting votes or abstentions on any matter presented to the Commission shall be clearly expressed orally or in writing when voting is in process.

The Commissioner declaring a conflict of interest concerning a matter before the Commission shall declare such a conflict at the time the matter is introduced for consideration and shall not vote nor participate in the discussion concerning the matter. The Commissioner declaring the conflict may remove oneself from the table and participate in the discussion as a member of the public.

All matters presented for Commission consideration requiring affirmative action shall be decided by the majority vote of those present at the meeting.

## **VI. ETHICS/CONDUCT**

The Commission follows the ethics, conduct, and gift policy of the City of Fargo on boards and commissions and the Federal Grants Ethics policy of the City of Fargo boards and commissions.

## **VII. OTHER PROCEDURES**

All operating procedures not specifically provided for herein shall generally be governed by "Robert's Rules of Order" which is hereby incorporated for purposes of reference. In the



event any provision of "Robert's Rules of Order" are inconsistent herewith, these By-Laws shall govern.

#### **IX. CONTROL OF LAW**

The procedures and operations of the Commission shall be governed by applicable ordinances of the City of Fargo, North Dakota, law of the State of North Dakota, and applicable laws of the United States of America; and any provisions herein inconsistent or in conflict with such laws or ordinances shall be deemed void.

#### **X. AMENDMENT AND REPEAL**

Except when in conflict with state statutes, these By-Laws may be amended or repealed from time to time by the affirmative vote of a majority of the appointed Commission members at a regular or special meeting. Said By-Laws may be made inoperative regarding any particular subject matter by the affirmative vote of a majority of Commission members.



David Bertolini

Chairperson, Arts and Culture Commission

## **CHAPTER 44-04**

### **DUTIES, RECORDS, AND MEETINGS**

#### **44-04-01. When official reports to be made.**

All county, township, and city officers, except such as are required to make their reports at some other specified time, who are required by law to make annual reports for any purpose to any state officer, shall prepare and transmit the same on or before the fifteenth day of August of each year to the proper officer. For the purpose of preparing such report, the year begins on the first day of July of each year and ends on the last day of June of the succeeding year.

#### **44-04-02. Penalty for failure to make report.**

Repealed by S.L. 1975, ch. 106, § 673.

#### **44-04-03. Attorney general and state's attorney to prosecute officer for failure to make report.**

Upon the willful neglect of any public officer to make any report required by law, the officer or board to whom such report should be made promptly shall notify the attorney general or the state's attorney of such failure to report. The attorney general or state's attorney shall investigate the neglect of duty complained of, and, if in the opinion of the attorney general or state's attorney, the officer has not a sufficient excuse for such failure, the attorney general or state's attorney shall prosecute such officer.

#### **44-04-04. Aliens convicted of felony or adjudged mentally ill.**

Whenever any person convicted of a felony or adjudged mentally ill is committed to the custody of the department of corrections and rehabilitation, a county jail, or to any other county institution that is supported wholly or in part by public funds, the warden, superintendent, sheriff, or other officer in charge shall inquire immediately into the nationality of that person, and, if it appears that that person is an alien, immediately shall notify the United States immigration officer in charge of the district in which that person is located, of the date of and the reason for the commitment, the length of time for which the alien was committed, the country of which the alien is a citizen, and the date on, and the port at, which the alien last entered the United States.

#### **44-04-05. Certified copies of papers on alien convicted of felony - Request by United States immigration officer.**

Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien, for the commission of a felony, to any state institution supported wholly or in part by public funds, the clerk of such court shall furnish, without charge, a certified copy of the complaint, information, or indictment, and the judgment and sentence, and any other record pertaining to the case of the convicted alien.

#### **44-04-06. Peace officers to report law violations.**

The state's attorney, assistant state's attorney, sheriff, deputy sheriff, or peace officer of any county, township, city in this state, having any evidence, knowledge, or notice of any violation of any liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or habit-forming drug laws of North Dakota shall investigate and seek evidence of the violation and the names of witnesses by whom the violation may be proved. Any peace officer shall report the information to the state's attorney of the county in which the violation occurs and shall assist the state's attorney in the prosecution of the violators of said laws.

#### **44-04-07. Inventory required.**

The person in charge of any state department, industry, institution, board, association, or commission shall maintain, or cause to be maintained, a complete and current inventory record of all property of sufficient value and permanence as to render such inventory record practical. Each year such person shall make a complete inventory of all such property, and shall maintain such inventory, with the person's certificate thereto attached, as to the correctness of same, in

4. Disclosure of an autopsy photograph, image, or recording may be obtained under section 44-04-18.11.

**44-04-18.19. Exemption of records relating to individual recipients of economic assistance or benefits.**

Records concerning individual applicants or recipients of economic assistance or support administered under the division of community services or a community action agency, including benefits or services, are exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. These exempt records include applications, income or eligibility verification, assessments, or other personal, medical, or financial data.

**44-04-18.20. Domestic violence record information of law enforcement exempt.**

The address, telephone number, or any identifying information that, if released, could reasonably be used to locate a victim or alleged victim of domestic violence contained in any record maintained by a law enforcement facility is exempt from section 44-04-18 and may be redacted from the record before it is released.

**44-04-18.21. Electronic mail addresses and telephone numbers exempt.**

The electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that public entity is an exempt record. This section may not be used to shield the identity of the individual communicating with the public entity.

**44-04-18.22. Medical condition or medical treatment information obtained during emergency medical response - Exempt.**

The medical condition of an individual, medical treatment provided to an individual, and the name of an individual who received medical treatment from a public entity during an emergency medical response is an exempt record.

**44-04-18.23. Library, archive, and museum collections - Exempt records.**

A public library, archive, or museum may designate a donated record as an exempt record if the donor of the record requests as a condition of the donation that the record not be released to the public for a specific amount of time, which may not exceed twenty years beyond the death of the donor.

**44-04-18.24. Legislative bill tracking records - Exempt.**

Any record maintained within a legislative bill tracking system administered or operated by a public entity is an exempt record.

**44-04-19. Access to public meetings.**

Except as otherwise specifically provided by law, all meetings of a public entity must be open to the public. That portion of a meeting of the governing body of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 which does not regard public business is not required to be open under this section.

1. This section is violated when any person is denied access to a meeting under this section, unless such refusal, implicitly or explicitly communicated, is due to a lack of physical space in the meeting room for the person or persons seeking access.
2. For purposes of this section, the meeting room must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend the meeting.
3. The right of a person to attend a meeting under this section includes the right to photograph, to record on audiotape or videotape and to broadcast live on radio or television the portion of the meeting that is not held in executive session, provided that there is no active interference with the conduct of the meeting. The exercise of this right may not be dependent upon the prior approval of the governing body. However,

the governing body may impose reasonable limitations on recording activity to minimize the possibility of disruption of the meeting.

4. For meetings subject to this section when one or more of the members of the governing body is participating by telephone or video, a speakerphone or monitor must be provided at the location specified in the notice issued under section 44-04-20.

**44-04-19.1. Open records and open meetings - Exemptions for attorney work product, attorney consultation, and negotiation preparation.**

1. Attorney work product is exempt from section 44-04-18. Attorney work product and copies thereof shall not be open to public inspection, examination, or copying unless specifically made public by the public entity receiving such work product.
2. Attorney consultation is exempt from section 44-04-19. That portion of a meeting of a governing body during which an attorney consultation occurs may be closed by the governing body under section 44-04-19.2.
3. Active investigatory work product is exempt from section 44-04-18.
4. "Adversarial administrative proceedings" include only those administrative proceedings in which the administrative agency or institution of higher education acts as a complainant, respondent, or decisionmaker in an adverse administrative proceeding. This term does not refer to those instances in which the administrative agency or institution acts in its own rulemaking capacity.
5. "Attorney consultation" means any discussion between a governing body and its attorney in instances in which the governing body seeks or receives the attorney's advice regarding and in anticipation of reasonably predictable civil or criminal litigation or adversarial administrative proceedings or concerning pending civil or criminal litigation or pending adversarial administrative proceedings. Mere presence or participation of an attorney at a meeting is not sufficient to constitute attorney consultation.
6. "Attorney work product" means any document or record that:
  - a. Was prepared by an attorney representing a public entity or prepared at such an attorney's express direction;
  - b. Reflects a mental impression, conclusion, litigation strategy, or legal theory of that attorney or the entity; and
  - c. Was prepared exclusively for civil or criminal litigation, for adversarial administrative proceedings, or in anticipation of reasonably predictable civil or criminal litigation or adversarial administrative proceedings.
7. "Investigatory work product" means records obtained, compiled, or prepared by a public entity in an effort to monitor and enforce compliance with the law or an order. Investigatory work product must be considered active as long as it is related to monitoring or enforcement activity conducted with a reasonable good-faith belief that it will lead to enforcement of the law or an order.
8. Following the final completion of the civil or criminal litigation or the adversarial administrative proceeding, including the exhaustion of all appellate remedies, attorney work product must be made available for public disclosure by the public entity, unless another exception to section 44-04-18 applies or if disclosure would have an adverse fiscal effect on the conduct or settlement of other pending or reasonably predictable civil or criminal litigation or adversarial administrative proceedings, or the attorney work product reflects mental impressions, opinions, conclusions, or legal theories regarding potential liability of a public entity.
9. A governing body may hold an executive session under section 44-04-19.2 to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding litigation, adversarial administrative proceedings, or contracts, which are currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future. An executive session may be held under this subsection only when an open meeting would have an adverse fiscal effect on the bargaining or litigating position of the public entity.

10. Nothing in this section may be construed to waive any attorney-client privilege of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 regarding matters that do not pertain to public business.

**44-04-19.2. Confidential or closed meetings.**

1. A governing body may hold an executive session to consider or discuss closed or confidential records.
2. Unless a different procedure is provided by law, an executive session that is authorized by law may be held if:
  - a. The governing body first convenes in an open session and, unless a confidential meeting is required, passes a motion to hold an executive session;
  - b. The governing body announces during the open portion of the meeting the topics to be discussed or considered during the executive session and the body's legal authority for holding an executive session on those topics;
  - c. The executive session is recorded under subsection 5;
  - d. The topics discussed or considered during the executive session are limited to those for which an executive session is authorized by law and that have been previously announced under this subsection; and
  - e. Final action concerning the topics discussed or considered during the executive session is taken at a meeting open to the public, unless final action is otherwise required by law to be taken during a closed or confidential meeting. For purposes of this subsection, "final action" means a collective decision or a collective commitment or promise to make a decision on any matter, including formation of a position or policy, but does not include guidance given by members of the governing body to legal counsel or other negotiator in a closed attorney consultation or negotiation preparation session authorized in section 44-04-19.1.
3. The remainder of a meeting during which an executive session is held is an open meeting unless a specific exemption is otherwise applicable.
4. The minutes of an open meeting during which an executive session is held must indicate the names of the members attending the executive session, the date and time the executive session was called to order and adjourned, a summary of the general topics that were discussed or considered that does not disclose any closed or confidential information, and the legal authority for holding the executive session.
5. All meetings of the governing body of a public entity that are not open to the public must be recorded electronically or on audiotape or videotape. The recording must be disclosed pursuant to court order under subsection 2 of section 44-04-18.11 or to the attorney general for the purpose of administrative review under section 44-04-21.1. The attorney general may not disclose to the public any recording received under this subsection and must return the recording to the governing body upon completion of the administrative review. The recording may be disclosed upon majority vote of the governing body unless the executive session was required to be confidential. Disclosure of the recording by a public servant except as provided in this subsection is a violation of section 12.1-13-01. All recordings under this subsection must be retained for a minimum of six months after the executive session that is the subject of the recording.
6. A public entity may sequester all competitors in a competitive selection or hiring process from that portion of a public meeting wherein presentations are heard or interviews are conducted.

**44-04-19.3. Open meetings exemption - Legislative caucuses.**

A caucus of members of either house of the legislative assembly may meet in an executive session that is not subject to section 44-04-19.2 if the meeting is not held on public property.

**44-04-20. Notice of public meetings required - Exceptions - Schedule set by statute, ordinance, or resolution.**

1. Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity as defined in section 44-04-17.1, including executive sessions, conference call meetings, and videoconferences. Unless otherwise specified by law, resolution, or ordinance, or as decided by the public entity, notices required by this section need not be published.
2. The notice required in this section must contain the date, time, and location of the meeting and, if practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure from, or an addition to, the agenda at a meeting, does not affect the validity of the meeting or the actions taken thereat. The notice must also contain the general subject matter of any executive session expected to be held during the meeting. For meetings to be held by telephone or videoconference, or other electronic means, the location of the meeting and the place the meeting is held is the location of a speakerphone or monitor as required under section 44-04-19.
3. If the governing body holds regularly scheduled meetings, the schedule of these meetings, including the aforementioned notice information, if available, must be filed annually in January with the secretary of state for state-level bodies or for public entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the city for city-level bodies, and the county auditor or designee of the county for all other bodies or the schedule must be posted on the public entity's website. This schedule must be furnished to anyone who requests the information. When reasonable and practicable, a governing body of a public entity should attempt to set a regular schedule for its meetings by statute, ordinance, or resolution. This subsection does not apply to meetings of the legislative assembly or any committee thereof.
4. The notice required in this section must be posted at the principal office of the governing body holding the meeting, if such exists, and at the location of the meeting on the day of the meeting. In addition, unless all the information contained in the notice was previously filed with the appropriate office under subsection 3, the notice must be filed in the office of the secretary of state for state-level bodies or for public entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the city for city-level bodies, the county auditor or designee of the county for all other bodies, or posted on the public entity's website. This subsection does not apply to meetings of the legislative assembly or any committee thereof.
5. The governing body's presiding officer has the responsibility of assuring that such public notice is given at the same time as such governing body's members are notified, and that this notice is available to anyone requesting such information. When a request is made for notice of meetings, the request is effective for one year unless a different time period is specified.
6. In the event of emergency or special meetings of a governing body, the person calling such a meeting shall, in addition to the notices in subsection 4, also notify the public entity's official newspaper, if any, and any representatives of the news media which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such governing body's members are notified. If the public entity does not have an official newspaper, then it must notify the official newspaper of the county where its principal office or mailing address is located. Topics that may be considered at an emergency or special meeting are limited to those included in the notice.
7. A committee of an institution under the authority of the state board of higher education, in lieu of the notice requirements in this section, may file in the office of the president of the institution the name, address, and telephone number of a person who may be contacted to obtain specific times, dates, and locations of any meetings of that committee or to request specific notification of each meeting of that committee.
8. The attorney general shall prepare general guidelines to assist public entities in following the provisions of this section.

9. This section is violated when a notice is not provided in substantial compliance with this section.

**44-04-21. Open voting at public meetings required - Results recorded in minutes.**

1. Unless otherwise specifically provided by law, all votes of whatever kind taken at any public meeting governed by the provisions of section 44-04-19 must be open, public votes, and all nonprocedural votes must be recorded roll call votes, with the votes of each member being made public at the open meeting. Procedural votes must be recorded roll call votes upon the request of any member of a governing body holding a meeting subject to this section. As used in this section, "nonprocedural" should be broadly interpreted and includes all votes that pertain to the merits of the matter before the governing body.
2. Minutes must be kept of all open meetings and are records subject to section 44-04-18. The minutes must include, at a minimum:
  - a. The names of the members attending the meeting;
  - b. The date and time the meeting was called to order and adjourned;
  - c. A list of topics discussed regarding public business;
  - d. A description of each motion made at the meeting and whether the motion was seconded;
  - e. The results of every vote taken at the meeting; and
  - f. The vote of each member on every recorded roll call vote.

Notwithstanding subsection 8 of section 44-04-18, the disclosure of minutes kept under this subsection may not be conditioned on the approval of the minutes by the governing body.

**44-04-21.1. Administrative review procedure.**

1. Any interested person may request an attorney general's opinion to review a written denial of a request for records under section 44-04-18, a denial of access to a meeting under section 44-04-19, or other alleged violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the legislative assembly or any committee thereof. A request made under this section must be made within thirty days of the alleged violation, except that a request based on allegations that a meeting occurred without the notice required by section 44-04-20, must be made within ninety days of the alleged violation. In preparing an opinion under this section, the attorney general has discretion to obtain and review a recording made under section 44-04-19.2. The attorney general may request and obtain information claimed to be exempt or confidential for the purpose of determining whether the information is exempt or confidential. Any such information may not be released by the attorney general and may be returned to the provider of the information. The attorney general shall issue to the public entity involved an opinion on the alleged violation unless the request is withdrawn by the person requesting the opinion or a civil action has been filed involving the possible violation. If the request pertains to a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1, the opinion must be issued to the public entity providing the public funds. In any opinion issued under this section, the attorney general shall base the opinion on the facts given by the public entity.
2. If the attorney general issues a written opinion concluding that a violation has occurred, the public entity has seven days after the opinion is issued, regardless of whether a civil action is filed under section 44-04-21.2, to disclose the record, to issue a notice of a meeting that will be held within a reasonable time to correct the violation, or to take steps to correct any other violation. If the public entity fails to take the required action within the seven-day period and the person requesting the opinion prevails in a civil action brought under section 44-04-21.2, the person must be awarded costs, disbursements, and reasonable attorney's fees in the action and on appeal. The consequences for failing to comply with an attorney general's opinion issued under this section will be the same as for other attorney general's opinions,

## ACTION STEPS IN PROCESS IN 2018

### GOAL 1 Maintain Current Programs

- Develop A&CC work plan
- Curating City Hall
- Exterior Panels- New City Hall
- Public Art- Commission, programming, sponsorship/funding, placement (open public space)
- Conservation of existing artwork
- Management of City owned artwork

### GOAL 2 Develop capacity of Arts & Culture Commission

- Identify skills and interests of the commissioners

### GOAL 3 Care for Fargo's Public Art Collection

- Inventory City-owned art

### GOAL 4 Ensure Public Art Program's Accessibility & Effectiveness

- Update conservation and maintenance policies & procedures of Fargo's collection, loans or gifts

### GOAL 6 Maintain citywide perspective and effective communications

- Establish and cultivate advisors and commissioners from each district of Fargo

### GOAL 7 Encourage new ideas and keep abreast of evolving field

- Support the participation of local artist in public art projects

Fargo Public Art Master Plan	Action Steps	Progress
2018		
Goal 1 Maintain current programs	Review Arts & Culture Commission 2018 Work Plan (this document)	Monthly
	Identify champions for each Action Step in Quarters 2-4	
	Add Actions Steps in progress to working agendas	Monthly
Goal 1 Maintain current programs	Establish Task Force to develop arts plan and recommendations for new City Hall and Civic Plaza, include budget recommendations	TBD
Goal 2 Develop capacity of the A&CC	Clarify roles and responsibilities for Arts and Culture Commission members, program staff, advisors, committees, and existing partners	Ongoing, Workshop
Goal 6 Maintain citywide perspective & communications	Identify upcoming infrastructure and improvement projects in each of the City's districts;	TBD



Goal 5 Adequately support program admin & projects	Investigate City support and inter-agency cooperation to support projects underway or planned for the future	ACC- determine project areas of focus
	*needs strategy	
Goal 2 Develop capacity of the A&CC	Adopt job description for Arts and Culture Commissioners, including recruitment procedures	Completed- Adopted August
Goal 1 Maintain current programs	Document projects to share stories of projects and accomplishments and monitor projects progress	Implemented- October 2017
Goal 5 Adequately support program admin & projects	Review cost estimates for Fargo's public art program (see FPAMP 48); and	TBD
Goal 1 Maintain current programs	Draft budgets for 2019	On-going
	*needs strategy	
Goal 7 Encourage new ideas and keep abreast of evolving field	Review 2016 Public Art Possibilities submissions, rank according to viability, potential impact, budget	
	Include top-ranked Public Art Possibilities project in budget request for year 2019	

Fargo Public Art Master Plan	Action Steps
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Future		
Goal 1 Maintain current programs GOAL 4 Ensure Public Art Program's Accessibility & Effectiveness	Develop evaluative criteria for projects;	Completed
	Use the Process Guide Tool (see FPAMP) to oversee projects start to finish;	Completed
	Draft outline of guidelines, policies, and procedures for site selection, artist selection, commissioning and maintaining artwork	Completed
GOAL 4 Ensure Public Art Program's Accessibility & Effectiveness	Recruit community to serve on art selection panels and as advisors (jurors)	Complete
Goal 5 Adequately support program admin & projects	Consider projects that serve shared goals of A&CC and identified Partners;	Complete

GOAL 4 Ensure Public Art Program's Accessibility & Effectiveness	Develop criteria to prioritize projects	Complete
GOAL 3 Care for Fargo's Public Art Collection	Recommend 3-year maintenance and repair plan to the City Commission	Maint. Plan Complete - No recommendations made to CC.
Goal 7 Encourage new ideas and keep abreast of evolving field	(June 15-17, Denver) A&CC Representative and Staff to attend Public Art Network Convention	Complete/ On-going
<b>Future</b>		
GOAL 7 Encourage new ideas and keep abreast of evolving field	Create Annual Communication Plan, include social media and public relations;	Draft Communication Plan in process Social media- Quarterly Social Content Calendar completed 2017 Communication to Commission- On-going
	Share information with committees and advisors	
GOAL 4 Ensure Public Art Program's Accessibility & Effectiveness	Gain community input into planning, projects and project implementation;	Artist led project planning
<b>Future</b>		
Goal 5 Adequately support program admin & projects	Research private foundation sand community foundations as sources of support	TBD
GOAL 7 Encourage new ideas and keep abreast of evolving field	Facilitate grants for artists	TBD
Goal 6 Maintain citywide perspective & communications	Prioritize incorporating art in projects that offer the most impact	TBD

# ACC Tracking by City Staff- Administrative/ Technical

September 2017- Present



## Completed Public Art Projects

Canoe Parade  
Madison Brick Sculpture  
Creative Bike Racks  
Utility Box Wraps  
City Hall Art Panel  
City Hall Exhibits- 5  
Hayes Restoration- Ongoing  
RedBall  
Façade- Kilbourne collaboration

Possible Public Art Projects- proposals have not been submitted to initiate ACC discussion.

Carlson Library Rotunda Art Piece  
Public Health Building Exhibit  
Library Restorations  
Lions Club- Commemorating the Centennial celebration. \*May be advisory-lions will solely fund.  
Porchfest  
Fargo Historic Image Collection (39) - reframing, matting restoration/ exhibit materials  
CVB  
Fargo Youth Initiative  
Creative Plains Project- exhibit  
TAP collaboration  
Curating new City Hall

## Development

Logo  
Twitter

- Content Generation
- Social Content Calendar

Webpage- [www.FargoArtsandCulture.com](http://www.FargoArtsandCulture.com)

- Content, documents

Advisory Panel/ Sub-Committee

- Description of role
- Scoring Rubric

## Outreach Email List

Processes for funding applicants  
Process for the acquisition of fine art  
Process for documenting City owned art collection  
Process for facilitating public art through City channels

## Documentation

Collection Management Tracker (149)

Digital Artwork Files- Paperless

Collection Audit

- Condition Report
- Restoration recommendations
- Insurance
- Appraisal- TBD

Creative Capital Sponsorship Form

Memorandum of Understanding

Project Agreement/ Letter of Agreement-  
Curating/ Project Management

Collection Maintenance and Archival Care Guide-  
entirety

Maintenance Agreement- developed per project

Public Art Policy Guide- entirety

Sample Call for Artist

Public Art Project- Status Report

RFP's/ Call for Artists

License and Use Agreement- Artist

Bill of Sale- Artwork Acquisitions

Visual Art Donation Application/ Receipt

Accession/ Deaccession Document

Loan Agreement and Insurance Provision

Monthly Management Report

Public/ Private Funding Flow Chart

Art Release Waive

**2018 Budget****Arts and Culture Commission**

\$150,000.00- (recurring)

\$85,000.00 Capital (One-Time)

Regranting - The Arts Partnership	\$112,000.00
ACC Projects	\$0.00
Sponsored Projects	\$19,960.00
Curating Services- City Hall	\$8,050.00
Artwork Acquisition	\$1,075.00
Maintenance/ Restoration	\$250.00
Education/ Retreat	\$3,196.10
Total Spent:	\$144,531.10
Available Funds:	(\$5,468.90)

**ACC Projects**

	\$0.00
Total Spent	\$0.00

**Sponsored Projects**

RedBall Project- Plains Art Museum	\$15,000.00	
Utility Box Project- Downtown Community Par	\$2,960.00	
Artistic Screen- Kilbourne	\$2,000.00	City has not been invoiced yet
Total Spent:	\$19,960.00	

**Curating City Hall**

Tania Blanich-curating services	\$5,250.00
Tania Blanich-curating services	\$1,800.00
Jon Solinger (July-August)	\$1,000.00
Total Spent:	\$8,050.00

**Artwork Acquisition**

Char-Marie Flood	
Amber Waves of Grain	\$450.00
Hoar Frost on the Plains	\$450.00
Bluestem- Damaged	\$175.00
Total Spent:	\$1,075.00

**Maintenance/ Restoration**

Rain on the Reservation- Randy Hayes	\$250.00
Insured- Deductable	
Total Spent:	\$250.00

**Education/ Retreat**

Retreat Pre-planning- Reach Partners	\$922.50
Retreat- Reach Partners	\$2,076.62
Retreat Planning- Twenty Below Coffee	\$25.00
Retreat Planning- Hornbacher's	\$35.47
Fargo Project Lessons Learned	\$136.51
Total Spent:	\$3,196.10

**2019 Budget****Arts and Culture Commission**

\$150,000.00- (recurring)

\$85,000.00 Capital (One-Time distributed in 2018)

	Proposed Budget 2019	Actual Spent
Regranting - The Arts Partnership	\$112,000.00	\$0.00
ACC Projects	\$0.00	\$0.00
Sponsored Projects	\$20,000.00	\$0.00
Curating Services- City Hall	\$10,000.00	\$0.00
Artwork Acquisition	\$0.00	\$0.00
Maintenance/ Restoration	\$3,000.00	\$0.00
Education/ Retreat	\$3,000.00	\$0.00
Total Spent:	\$148,000.00	
Available Funds:	(\$2,000.00)	\$0.00

**ACC Projects****Amount Allocated****Date Approved**

	\$0.00	
Total Spent	\$0.00	

**Sponsored Projects****Amount Allocated****Date Approved**

	\$0.00	
	\$0.00	
Total Spent:	\$0.00	

**Curating City Hall****Amount Allocated****Date Approved**

	\$0.00	
	\$0.00	
Total Spent:	\$0.00	

**Artwork Acquisition****Amount Allocated****Date Approved**

	\$0.00	
	\$0.00	
Total Spent:	\$0.00	

**Maintenance/ Restoration****Amount Allocated****Date Approved**

	\$0.00	
Total Spent:	\$0.00	

**Education/ Retreat****Amount Allocated****Date Approved**

	\$0.00	
	\$0.00	
Total Spent:	\$0.00	