



## **PUBLIC ARTS COMMISSION MEETING**

**THURSDAY, JUNE 28, 2018 – 5:00 P.M.**

Community Meeting Chambers, Los Altos City Hall  
1 North San Antonio Road, Los Altos, California

### **ESTABLISH QUORUM**

### **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

Members of the audience may bring to the Commission's attention any item that is not on the agenda. Please complete a "Request to Speak" form and submit it to the Staff Liaison. Speakers are generally given two or three minutes, at the discretion of the Chair. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "the Brown Act") items must first be noticed on the agenda before any discussion or action.

### **INFORMATIONAL ITEMS**

1. Informational items: Receive information and announcements from City staff

### **ITEMS FOR CONSIDERATION/ACTION**

2. Commission minutes: Approve minutes of the meeting of May 24, 2018
3. Public Art Development Fee: Discuss the June 26, 2018 City Council meeting item regarding establishment of a Public Art Development Fee and next steps
4. Call for Art: Discuss issuing a Call for Art and next steps
5. 2017/18 Commission Work Plan: Discuss the 2017/18 Work Plan and how to integrate the Public Art Tactical Plan

### **COMMISSIONERS' REPORTS AND COMMENTS**

### **POTENTIAL FUTURE AGENDA ITEMS**

### **ADJOURNMENT**

#### **SPECIAL NOTICES TO PUBLIC**

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk at least 48 hours prior to the meeting at (650) 947-2720.

Agendas, Staff Reports and some associated documents for Public Arts Commission items may be viewed on the Internet at <http://www.losaltosca.gov/meetings>

If you wish to provide written materials, please provide the Commission Staff Liaison with **10 copies** of any document that you would like to submit to the Commissioners in order for it to become part of the public record.

**MINUTES OF THE MEETING OF THE PUBLIC ARTS COMMISSION OF THE  
CITY OF LOS ALTOS, HELD ON THURSDAY, MAY 24, 2018, AT 5:00 P.M. AT LOS  
ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS,  
CALIFORNIA**

**ROLL CALL**

PRESENT: Chair Rini, Vice Chair Ellickson, Commissioners Biggs, Meisner, Waldman, and Wu

ABSENT: Commissioner Yang

**PUBLIC COMMENTS**

The following individual provided public comments: Los Altos resident Garry Hedden.

**ITEMS FOR CONSIDERATION/ACTION**

1. Informational items: Receive information and announcements from City staff

There were no informational items.

2. Commission minutes: Approve minutes of the meeting of April 26, 2018

Action: Upon a motion by Vice Chair Ellickson, seconded by Commissioner Waldman, the Commission approved the minutes of the meeting of April 26, 2018, by the following vote: AYES: Biggs, Ellickson, Meisner, Rini, Waldman and Wu; NOES: None; ABSTAIN: None; ABSENT: Yang.

3. Public Art Master Plan and City Council meeting recap: Discuss the May 8, 2018 joint meeting with City Council and discuss next steps

The Commission discussed the joint meeting.

4. Public Art Development Fee: Discuss options related to creation of Public Art Development Fee and make a recommendation to be presented to the City Council

Commissioners discussed a draft ordinance establishing a Public Art Development Fee.

Action: Upon a motion by Vice Chair Ellickson, seconded by Commissioner Meisner, the Commission recommended City Council approve the draft ordinance with the inclusion of language requiring developer to insure artwork, by the following vote: AYES: Biggs, Ellickson, Meisner, Rini, Waldman and Wu; NOES: None; ABSTAIN: None; ABSENT: Yang.

## **COMMISSION AND STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS**

Commissioners requested agenda items to discuss a Call for Art and how the Tactical Plan will be incorporated into the Work Plan.

## **ADJOURNMENT**

Chair Rini adjourned the meeting at 6:24 p.m.



DATE: June 28, 2018

AGENDA ITEM # 3

**TO:** Public Arts Commission

**FROM:** Jon Maginot, Staff Liaison

**SUBJECT:** Public Art Development Fee

**RECOMMENDATION:** Discuss the June 26, 2018 City Council meeting item regarding establishment of a Public Art Development Fee and next steps

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## **BACKGROUND**

On May 24, 2018, the Public Arts Commission (PAC) recommended the City Council adopt an ordinance establishing a Public Art Development Fee.

## **DISCUSSION**

On June 26, 2018, the City Council discussed the recommended ordinance establishing the Public Art Development Fee. It is recommended that the PAC discuss the action taken by Council and next steps.

Attachment: Draft Ordinance submitted to Council

**ORDINANCE NO. 2018-446**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LOS ALTOS ESTABLISHING A DEVELOPMENT FEE OF 1%  
FOR PUBLIC ART, CREATING A PUBLIC ART FUND AND  
ESTABLISHING REQUIREMENTS FOR INCLUSION OF  
PUBLIC ART IN PRIVATE DEVELOPMENT PROJECTS AND  
ADOPTING CEQA EXEMPTION FINDINGS**

**WHEREAS**, public art enhances the quality of life in a community, fosters economic development and creates inventive and/or stimulating public spaces; and

**WHEREAS**, published data strongly indicates that cities with an active and dynamic cultural scene are more attractive to individuals and businesses; and

**WHEREAS**, public art provides an intersection between the past, present and future as well as between disciplines and ideas; and

**WHEREAS**, Los Altos can create diverse, interactive and engaging art experiences for the community with public art in the Civic Center, community plazas, parks, buildings and other public spaces throughout the City; and

**WHEREAS**, new development generally results in aesthetic impacts to a community; and

**WHEREAS**, as development and revitalization of real property in the City continues, the opportunity for creation of new cultural and artistic resources is diminished and the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased; and

**WHEREAS**, through the inclusion of public art or payment of an in-lieu fee, developers will address at least a portion of the aesthetic impact of their developments on the community by providing art or an in-lieu fee that can be used to increase the presence of art; and

**WHEREAS**, the provision of public art, or payment of a fee, will benefit the public interest, convenience, health safety and/or welfare and address the legitimate public concern of mitigating aesthetic impacts of development; and

**WHEREAS**, the legislative requirement to provide public art or an in-lieu fee generally applies broadly to all similarly situated private developers throughout the City and is a permissible land use regulation and a valid exercise of the City's traditional police power; and

**WHEREAS**, private, non-residential construction projects in the City of Los Altos can contribute to funding the creation, installation, maintenance and administration of public art for the enjoyment of residents and visitors; and

**WHEREAS**, on June 12, 2018, the City Council held a duly notice public meeting and all interested parties were provided an opportunity to comment on this ordinance; and

**WHEREAS**, this Ordinance is exempt from environmental review under the California Environmental Quality Act, Cal. Pub. Res. Code sections 21000, *et seq.* and the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq.*, each as a separate and independent basis, for the reasons set forth in Section 4 of this Ordinance.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter 3.52 “Public Art Funding” is hereby added as follows:

**“Chapter 3.52 – “Public Art Funding”**

**3.52.010 – Definitions**

The definitions set forth in this Section shall govern the application and interpretation of this Chapter 3.52.

- A. “Applicant” shall mean the property owner or developer who submits a development application to the City and their successors
- B. “Publicly accessible art” shall mean art which can be reasonably viewed or experienced from the public right-of-way or to which access is unrestricted to members of the public at all times of day.
- C. “Total construction costs” shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent City of Los Altos Building Valuation Fee Schedule.

**3.52.020 – Los Altos Public Art Fund**

There is hereby created a Los Altos Public Art Fund, which funds shall be restricted to implementation of the Los Altos Public Art Program. Such funds may be used for the following purposes, including: acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on City-owned, public property throughout the City.

**3.52.030 – Contribution Requirements**

- A. R1-10, R1-H, R1-20, R1-40. Private single-family developments within the R1-10, R1-H, R1-20 and R1-40 districts shall be exempt from the requirements of this chapter. Private, non-residential developments with total construction costs in excess of one million dollars (\$1,000,000) and subject to design review approval

within the R1-10, R1-H, R1-20 and R1-40 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000).

- B. R3-4.5, R3-5, R-3-3, R3-1.8, R3-1. Private developments of four (4) or more units and subject to design review approval within the R3-4.5, R3-5, R-3-3, R3-1.8 and R3-1 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000). Construction costs for Below Market Rate units shall not be included in valuation.
- C. OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, PUD. Private building developments with total construction costs in excess of one million dollars (\$1,000,000) and subject to design review approval within the OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, and PUD districts shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. At the discretion of the applicant, and in lieu of developing on-site public artwork, a Public Art in-lieu contribution of one percent (1%) may be placed into the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000). Costs directly attributable to construction for Affordable Housing units as defined by Section 14.28.020 shall not be included in valuation.

**3.52.040 – Application procedures for placement of required public art on private property**

An application for placement of public art on private property shall be submitted in a form and manner as prescribed by the Public Arts Commission staff liaison and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
- B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods; and
- D. A detailed plan that demonstrates how the property owner or developer will maintain the artwork, including schedule, cost and manner of maintenance; and

- E. A narrative statement or plan that demonstrates the public art will be displayed in a publicly accessible manner.

### **3.52.050 – Approval for placement of public art on private property**

An application for placement of public art on private property submitted pursuant to Section 3.52.040 shall be reviewed by the Public Arts Commission for recommendation prior to final review of the application as a whole by the City Council. Public art on private property shall conform to standards adopted by Resolution of the City Council. A formal application for final placement of public art on private property shall be submitted to and approved by the Public Arts Commission prior to issuance of a building permit. Installation of public art on private property shall occur concurrent with project construction prior to issuance of final certificate of occupancy.

### **3.52.060 – Modification of an approved public art on private property application**

For modifications to an approved application for public art on private property, the Public Arts Commission shall be the decision-making body. The action of the Public Arts Commission shall be final unless it is appealed in writing to the City Council within fifteen (15) days of the date of the action, and the appropriate fee is paid.

Any material damage to, or removal or replacement of public art installed pursuant to this Chapter shall require immediate written notification to the City and, within thirty (30) days thereof, full repair or in-kind replacement of same, or payment of a Public Art in-lieu contribution as defined in Section 3.52.030.

### **3.52.070 – Ownership of public art on private property; insurance**

The installation or placement of public art on private property shall not constitute a donation to the City. Ownership of public art on private property shall continue with the applicant. The City shall bear no obligation nor assume any responsibility or liability with respect to the installation, operation or maintenance of any art installed on private property, which obligations, responsibilities and liabilities shall be borne by the applicant.

The applicant shall be required to carry insurance to cover the full replacement cost of the public art installed pursuant to this Chapter. Such insurance shall include coverage resulting from any loss or damage to, including but not limited to vandalism. The applicant shall, upon request of City, timely provide evidence of such insurance coverage to the City.

### **3.52.080 – Waiver.**

Notwithstanding any other provision of this chapter, the requirement to install public art on private property or to pay a Public Art in-lieu contribution may be waived, adjusted or reduced by the City Council if an applicant demonstrates that there is no reasonable relationship between the impact of the proposed development and the requirement to install public art or to pay the Public Art in-lieu contribution, or that applying the requirements of



this chapter would take property in violation of the United States Constitution or California Constitution or would result in any other constitutional result.

### **3.52.090 – Enforcement**

The provisions of this chapter shall apply to all agents, successors and assigns of an applicant proposing or constructing a development governed by this chapter. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to, actions to revoke, deny or suspend any permit, including a development approval, building permit or certificate of occupancy. The City shall be entitled to costs and expenses for enforcement of the provisions of this chapter, or any agreement pursuant thereto, as awarded by the court, including reasonable attorneys' fees.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any of the remaining portions of this code.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.** Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed ordinance, the City Council hereby finds and determines that the proposed ordinance is exempt from CEQA review: (1) pursuant to CEQA Guidelines Sections 15050(c)(2) and 15061(b)(3) because it does not authorize any direct or indirect changes to the physical environment and there is no possibility of a significant effect on the environment; (2) because it is not a "project" for purposes of CEQA and is exempt pursuant to State CEQA Guidelines sections 15378(b)(2); (3) pursuant to CEQA Guidelines Section 15378(b)(4) because it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (4) because it is not intended to apply to any specifically identified development project and as such it is speculative to evaluate any such future project now; and/or (5) because it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the ordinance's requirements. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

**SECTION 5. NOTICE OF EXEMPTION.** The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County, County Clerk within five working days of the adoption of this ordinance.

**SECTION 6. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2018 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2018 passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jean Mordo, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK



DATE: June 28, 2018

AGENDA ITEM # 4

**TO:** Public Arts Commission

**FROM:** Jon Maginot, Staff Liaison

**SUBJECT:** Call for Art

**RECOMMENDATION:** Discuss issuing a Call for Art and next steps

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## **BACKGROUND**

The Public Arts Commission (PAC) routinely issues Calls for Art for the Outdoor Sculpture Loan Program.

## **DISCUSSION**

With several sculptures nearing the end of their loan period, there are a number of potential locations to place art. Should a Call for Art be issued, it is recommended that the sites be identified prior to issuance of the Call.

In addition, the City received a communication from Jeff Downing who submitted pieces for a previous Call for Art indicating that one of his pieces is now available for placement. It is recommended that the piece be included in the consideration for the next Call for Art.

Attachment: Barred Spiral by Jeff Downing



PUBLIC ARTS COMMISSION  
2017/18 Work Plan  
(As of November 7, 2017)

Goal	Projects	Assignments	Target Date	Status
Implementation of Public Art Master Plan	Begin implementation of short-term recommendations	<ul style="list-style-type: none"> <li>• Assignments will be dependent upon those recommendations approved by Council</li> </ul>	TBD	
Outdoor Sculpture Program	Maintain and expand existing program	<ul style="list-style-type: none"> <li>• Monitor and recommend actions/maintenance for loaned sculptures</li> <li>• Monitor permanent sculptures for maintenance needs</li> <li>• Acquire plaques for all sculptures</li> </ul>	Ongoing  Ongoing  TBD	
Community Outreach	Arts Education and Communication	<ul style="list-style-type: none"> <li>• Develop bike, walking and auto tours of Public Art</li> <li>• Review public art portion of City website and provide recommendations on content</li> <li>• Explore public arts educational opportunities for community groups</li> <li>• Gather public input regarding public art</li> <li>• Establish an ongoing speaker series</li> </ul>	TBD – Many of these dependent upon completion of Master Plan	

The background is a mosaic of various colored tiles in shades of blue, green, and brown. In the lower-left quadrant, there is a prominent circular floral motif composed of smaller, multi-colored tiles (red, yellow, green, blue) arranged in a pattern resembling a flower head or a sunburst.

*City of Los Altos Public Arts*  
*Revised Master Plan Recommendations*

1 May 2018

# Meeting Goals

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- Council review and input to the Los Altos Arts Tactical Plan
- Funding sources for the plan

# At-a-Glance Public Arts Program Schedule

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<b>Summer</b>	<b>Fall</b>	<b>Winter</b>
<b>Spotlight on Art Farmers Market</b> (2x per month)	<b>Call for Art Sculpture Search, Selection &amp; Installation</b>	<b>Begin Maintenance &amp; Repair Program for City-owned Art</b>
<b>SmartArt Lecture Series #3</b>	<b>SmartArt Lecture Series #4</b>	<b>SmartArt Lecture Series #5</b>
<b>City-wide Community Art Project</b> Downtown Los Altos	<b>Holiday Craft Event for Kids</b> Los Altos Holiday Stroll Fri., Nov 9	<b>Launch New City-wide Community Art Project</b> (completion est. Spring 2019)



# Program Overview – Spotlight on Art

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- **Spotlight on Art**
  - 2x per month Farmer's Market "Art Experience"
  - Onsite art creation which could include:
    - Painting
    - Ceramics
    - Sculpture
    - Glassblowing
    - And more
  - Promoted in advance through the TC, Nextdoor, City social media
- **Timeframe: Summer**

# Program Overview - SmartArt Lecture Series

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- **SmartArt Lecture Series:**
  - 3 events through the remainder of 2018
    - Forum similar to the Danny Harris event this past Fall
    - Free attendance
  - Promoted in advance through direct mail, ads in the TC, Nextdoor, City social media and community art group mailings
- Timeframe: One per quarter (summer, fall and winter)

# Program Overview – Community Art

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- **Los Altos Community Art Project:**
  - Ongoing art project creation through the summer with a planned “unveiling” after completion
  - Artist on-site to work with community members during downtown’s heaviest traffic days (Farmer’s Market, First Fridays, etc.)
  - Promoted in advance through ads in the TC, summer school or other children’s programs, City social media, Nextdoor and LACI
  - Completed work could be displayed at the Main Library, History Museum, City Chambers, Hillview, S. Los Altos Senior Center
- **Timeframe: July-August**

# Program Overview - Holiday Stroll

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- **Holiday Stroll Children's Art Project**
  - Project TBD but could be ornament painting, “plant a fir tree,” etc.
  - Promoted in advance through ads in the TC, Next Door, local schools and City social media
- Timeframe: November 9

# Additional Activities: June - December

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- Sculpture search to fill available sculpture sites (expiring loans + a couple of open sites)
- Maintenance and repair of “in need” artworks
- Vinyl Art on store windows
- Continue efforts to implement and integrate functional art designs into public spaces\*

*\* Functional art scored among the top result 72% from question #9 of the online questionnaire and #11.*

# What the Los Altos Arts Program Delivers

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**ENGAGES** our diverse Los Altos community

**ENHANCES** public appreciation of art

**ATTRACTS** visitors--become a destination for shopping & dining

**SUPPORTS & GROWS** our city-wide economy

**CONNECTS** artists with our community

# Estimated Annual Budget

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- Art Program Plan: \$70,000
- New Public Sculpture Search / Installation: \$30,000
- Maintenance & Repair: \$15,000
- Engage Public Arts Contractor for 4-5 months: \$30,000

**Total Budget Estimated: \$145,000**

# Measuring Success

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- “Sculpture of the Year” contest where the community selects their favorite piece of art (which will have a signage designation)
- Ongoing annual community feedback forum
- 20% off dinner coupons for SmartArt night attendees at selected restaurants (follow-up with restaurants to measure success)



# Funding Options

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- Option 1: Funding provided by the City
- Option 2: Funding through a *Percent for Art* program

# Percent Funding

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- Similar to programs in nearly 50 CA cities
- Sample of Northern California cities that have Percent for Art programs in place:
  - **Los Gatos**
  - **San Carlos**
  - **Emeryville**
  - **Lafayette**
  - **El Cerrito**
  - Palo Alto
  - Danville
  - Redwood City
  - Walnut Creek
  - Pleasanton

***BOLD** denotes similar in size to Los Altos*

# Percent Funding Program Overview

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- Developers would be charged a one percent (1%) fee --capped at \$200k per development project--on the capital construction or renovation costs of construction of commercial and multi-dwelling buildings. (Municipal buildings will not be included.)
- Program proceeds used for:
  - Acquisition, installation and maintenance of public art
  - Community art education
  - Promotes participating in and experiencing of public art by residents of Los Altos

**Normal costs of construction changes or overruns  
far exceed 1%**

# Examples from Past Projects

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At 1%, these projects would have paid:

- Los Altos Colonnade      \$335,000 (but would cap @ \$200k)
- Enchanté Hotel      \$27,800
- First & Main      \$114,000
- First & San Antonio      \$65,000
- Safeway      \$136,000

# Questions?



I Do Not Know But I am Open to Learning  
(Chris Johanson) – SFMOMA in Los Altos