ARTS AND CULTURE COMMISSION

Maureen Cappon-Javey **Ellis Weeker**
Rita Baum **Amy Fasnacht**
Laura Peak-Theuringer **Thomas Spilsbury**
David Stonesifer

TOWN OF LOS GATOS
ARTS AND CULTURE COMMISSION
AGENDA - *AMENDED

WEDNESDAY, OCTOBER 19, 2016, 4:00-5:30 P.M.
Library Conference Room
110 E. Main Street
Los Gatos, California

PARTICIPATION IN THE PUBLIC PROCESS

The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item NOT on the agenda, you may do so during the Verbal Communications period. The time allocated to speakers may change to better facilitate the Arts and Culture Commission meeting.

The purpose of the Arts and Culture Commission meeting is to conduct the business of the community in an effective and efficient manner. This is done by following meeting guidelines set forth in State law and in the Town Code. Conduct which is considered disruptive during Arts and Culture Commission meetings includes, but is not limited to:

- Addressing the Arts and Culture Commission without first being recognized;
- Interrupting speakers, Arts and Culture Commission members, and Town staff;
- Continuing to speak after the allotted time has expired;
- Failing to relinquish the podium when directed to do so; and
- Repetitiously addressing the same subject.

For the benefit of the community, the Town of Los Gatos asks that you follow the Town's meeting guidelines while attending Arts and Culture Commission meetings and treat everyone with respect and dignity.

Writings related to an item on Arts and Culture Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public review at the front desk of the Los Gatos Public Library, located at 100 Villa Avenue and are also published on the on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Los Gatos Library.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Manager's Office at (408) 354-6832. Notification 48 hours before the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting. [28 CFR 35, 102-35.104]

ARTS AND CULTURE COMMISSION SPECIAL MEETING AGENDA
October 19, 2016

1. **ROLL CALL**

2. **COMMUNICATIONS**
   Verbal (Three minute time limit per speaker for subjects not agendized)

   Written

3. **APPROVAL OF MINUTES**
   3.1 October 12, 2016

4. **OTHER BUSINESS**

5. **STAFF UPDATES**
   5.1 "Outside the Box" Utility Box Art Program
   5.2 Forbes Mill Footbridge
   5.3 Commission Appointment Policy Update

6. **STRATEGIC PLANNING PROCESS**
   5.1 Review existing public art and potential public art location maps
   5.2 Review draft survey
   5.3 Discuss formation and framework of public art fiscal sponsor

7. **ADJOURNMENT**
   Adjourn to November 16, 2016

ATTACHMENTS:

1. October 12, 2016 Meeting Minutes
2. Existing Public Art
3. Draft Survey
4. Fiscal Sponsorship Information
5. *Draft Strategic Plan Implementation for 2017

ATTENDANCE: Please contact the Town Manager's Office at (408) 354-6832 if you are unable to attend. The Town Attendance Resolution states that any commissioner who is absent from three regular meetings held in a consecutive twelve month period, shall surrender his or her office on the Commission.

ARTS AND CULTURE COMMISSION

Rita Baum	**Maureen Cappon-Javey**
Amy Fasnacht	**Laura Peak-Theuringer**
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Ellis Weeker	

DRAFT

TOWN OF LOS GATOS
ARTS AND CULTURE COMMISSION
SPECIAL MEETING MINUTES

WEDNESDAY, OCTOBER 12, 2016, 4:00 P.M.

Town Council Chambers Lobby
110 East Main Street
Los Gatos, CA 95030

1. ROLL CALL

Members Present: Baum, Cappon-Javey, Fasnacht, Spilsbury, Stonesifer, and Weeker

Members Absent: Peak-Theuringer

Also Present: Shelayne Hammack, Staff

2. COMMUNICATIONS

Verbal (Three minute time limit per speaker for subjects not agendized)

None

Written

None

3. APPROVAL OF MINUTES

3.1 September 21, 2016

MOTION: **Motion** by **Commissioner Fasnacht** to approve the minutes of September 21, 2016. **Seconded** by **Commissioner Weeker.**

VOTE: **Motion was passed unanimously**

4. STRATEGIC PLAN DEVELOPMENT

Goal #1- Public Art
Amy put together list of art located in Los Gatos

- Between now and the next meeting email Shelayne new art pieces, information about the pieces, and recommendations for future public art sites. Also, send Shelayne inventory of art organization that live or are represented in Los Gatos.

Survey

- Objectives
  - Funding- what are people willing to commit to in terms of funding.
  - Artistic Image- Whether people think Los Gatos is or leads a robust public arts program? Do we think we have enough?
  - Programming interest
- Potential Questions
  - How would you like it to be funded? Would you support a construction and/or development tax?
  - Would you support more public art in the parks?
  - Do you have a feeling that there is an artistic image in the town? Do you think it is important to increase that image in the town or do you think the town is okay how it is?
  - Do you want to increase the art profile of Los Gatos and how? Sculptures? Dance? Music?
  - What do you wish to see more of in Los Gatos in terms of the arts programming in Los Gatos?
  - Do people feel like art is important to them and their families?
  - Does history matter to you? Are you looking for modern/contemporary things?
  - There's a lot of art, which takes many forms in Town. What have you found that had been most valuable and important to you?
  - What do you like? What arts and culture programs do you like in Town?
    - Performance art
    - Literary/poetry/literary festivals
    - Film
    - Music
    - Dance
    - Fine arts
    - New media art
    - Technology based art
    - History
  - Art forms and art experiences in the Town?
  - Did you know that your Town has an Art and Culture Commission?
  - General demographics? Sex? Age? Where do they live? Homeowner? College educated?
- Structure
  - Short three sentences introduction and the end will be short description about the Arts and Culture Commission.
- Marketing
  - Chambers of Commerce, paper, website, social media, newsletter, library, Farmers' Market, events, grocery stores, email blasts, nonprofits
- Timing
  - Survey goes out in January and identify

Goal #2- Funding

- Public art trust fund
  - Teri Hope, Morning Rotary, Museum

- Looking for specific answers on how the public art trust fund works, wanting the committee to come back with more details about it. Commissioners plan to contact other people in town who have done something similar like Friends of the Library and Music in the Park.

Goal #3- Engagement and Outreach

- What's the next step on the notes? Looking to adding specific "To Do's" to the notes.

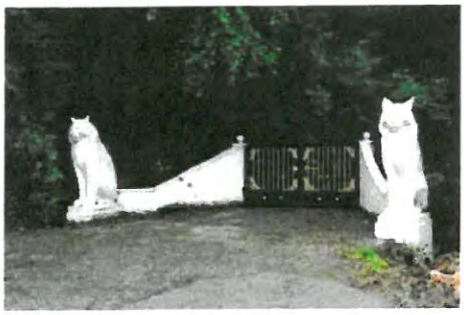
8. ADJOURNMENT

8.1 Adjourn to October 19, 2016.

Art wall at Los Gatos High School

Mosaic hand at Los Gatos High School

Animal sculptures at Los Gatos High School



Leo and Leona, by Robert Paine 1922, at the entrance to the former estate of Charles Erskine Scott Wood & Sara Bard Field

Brick wall made by Italian man who made the wall and then went back to Italy ??

John Pugh mural on side of The Pastaria restaurant 49 E Main St "Siete Punto Uno" 1991

Mural on art building at Los Gatos High School "Today Decides Tomorrow" by John Pugh

Forbes Mill footbridge children's art project

Cats in downtown trees

Attachment 2

10-11-16

Tree sculpture outside NUMU "The Source" by Paul Wilson 1998

Ever-changing mannequin at gas station at Lark Avenue & Los Gatos Blvd

"Cascading Garden Wall" by Daniel Winterich, on Netflix Campus

Utility box art project

Mural at Krush salon by Joyce Oroz, Wildbrush Murals and Wendy Carter, Cloud 9 Murals

Rock sculpture by Ken Matsumoto at 75 University Ave

"Eilian" by Eric Ziemelis 1991, on NUMU front lawn (on loan?)

Mosaic mural at Los Gatos Meadows entrance by Irene Lagorio 1971

Attachment 3 will be available on Tuesday October 18, 2016

Fiscal Sponsorship – An Alternative To Creating A Nonprofit

http://www.nonprofitexpert.com/fiscal-sponsorship-an-alternative-to-creating-a-nonprofit/

Fiscal sponsorship is an agreement between an established 501(c)3 charity and a group who might be a new organization that is not incorporated and lacks their own tax exempt status but is interested in soliciting donations from others as well as seeking grants from foundations. Under this agreement arrangement a tax-deductible contribution can be given using the sponsoring agent's exempt status. The fiscal agent for an organization then agrees to accept and be responsible for monies on your behalf.

One such organization interested in forming a sponsorship relationship with nonprofits is the **Edward Charles Foundation for Nonprofits**. To receive additional information concerning fiscal sponsorship opportunities **click here**.
Under the law the sponsoring agent and the new start up nonprofit are considered one legal entity and likewise both can be held responsible for each others actions.

To learn more you may want to visit **fiscalsponsordirectory.org** a website created by the San Francisco Study Center to be used as a tool to help connect community projects with fiscal sponsors; it is also a forum for fostering understanding of that relationship and its impact on the nonprofit sector.
The following is a **video presentation** given by Rachel Epps Spears, Executive Director, Pro Bono Partnership of Atlanta in Atlanta, GA on July 22, 2009 titled: What You Need to Know About Fiscal Sponsorships. This presentation shares the pros and cons of having a fiscal sponsor and what organizations can do to avoid potential problems when entering into a fiscal sponsorship agreement.
We would also recommend you taking the time to review the Foundation Center's website: **What is fiscal sponsorship? How do I find a fiscal sponsor?**
Tutorials – Guide to Fiscal Sponsorship and Affiliation
http://foundationcenter.org/getstarted/tutorials/fiscal/index.html
The following is a list of frequently asked questions that was found on **CompassPoint the Nonprofit Genie** on the topic of fiscal sponsorship. These questions and answers were provided on January 2006 by David Barlow:
Are there organizations that are "in the business" of fiscal sponsorship?
Yes. Some 501(c)(3)s have received permission from the IRS to support "a very wide variety of charitable and educational activities". Fees and services can vary widely so it is important to understand each sponsor's "personality".

Do we need an attorney to work out a fiscal sponsorship agreement?
When a project sets up a relationship where it voluntarily gives up some control over its activities, it is always a good idea to have a written contract. Often a sponsor will have a standard contract that it uses with new projects. A good contract will have a procedure outlined in it as to how to terminate the relationship if for some reason either side becomes uncomfortable. Read the contract carefully and don't be afraid to ask the sponsor questions. The sponsorship agreement is a legally enforceable document so unless the group has

experience in this area, a review of the document by an attorney paid to represent your interests is a good idea. Make sure you know what you are getting yourself into.

Do you have an example of a fiscal sponsorship agreement between a professional fiscal sponsor and its projects?
This is the standard fiscal sponsorship agreement that sponsored projects sign with the San Francisco Foundation Community Initiative Funds, a fiscal sponsorship organization affiliated with the San Francisco Foundation. Based on the specifics, needs and circumstances of a sponsored project, this standard agreement is modified in many different ways.

Do you have an example of a fiscal sponsorship agreement between two nonprofits?
Here is a modified version of the standard agreement used by one arts organization when it acts as the fiscal sponsor for independent filmmakers.

How can a new nonprofit get started right away without waiting to file all its papers and obtain tax-exempt status?
Individuals or groups in a hurry to begin operations and accept tax-deductible donations can become sponsored by an organization that already has 501(c)(3) status. By doing so, the group can apply for and accept grants, accept tax-deductible donations, and carry on other activities under the tax-exempt status of their sponsor. However, the activities of the sponsored group must be consistent with those of the sponsor. For example, a group that intends to provide services to homeless people cannot be sponsored by a 501(c)(3) that is tax-exempt for the purposes of providing classical music concerts.

How do I go about looking for a fiscal sponsor?
Some of the places to inquire about fiscal sponsorship services are: a local technical assistance provider such as the members of the California Management Assistance Partnership (C-MAP), a local community foundation, legal firms that specialize in nonprofits, prospective funders, the internet under "fiscal sponsorship".

How much do fiscal sponsors charge?
There are almost as many fee arrangements as there are fiscal sponsors. Some charge nothing, some charge up to forty percent. Some sponsors pay projects interest on the money the project has on deposit, some don't. A full-service professional sponsor will probably cost a group between five and twelve percent of gross receipts. Large projects may be able to negotiate a lower fee.

If my group is operating under a fiscal sponsor, and we've decided to become an independent nonprofit, what are the steps we should take?
If you have decided to separate from your current sponsor and don't want to affiliate with another the process to become independent begins with informing your current sponsor of your decision. Most often you will next create public benefit corporation that will file applications with both the IRS and state taxing authority asking to be exempt from income tax. From the time the applications are submitted it usually takes four to six months to receive your determination letters (notice that exemption has been granted). When you receive your notice it is retroactive to the date of your original application. While you are waiting for your letter you will need to do all those things that any new business does (open bank accounts, hire

employees obtain insurance, etc.). The final step is arranging to have your sponsor transfer the project's assets and liabilities to the new nonprofit.

In what situations do groups use fiscal sponsors? What types of groups find them the most useful?

There are many situations where using a fiscal sponsor could make sense. New groups that aren't sure if they are really viable can test the waters before committing money and time setting-up an independent 501(c)(3). Groups who only intend to operate for a limited period of time may benefit from fiscal sponsorship, as they do not have to first establish and then dismantle a nonprofit corporation. If a group is a coalition of several groups, or even 501(c)(3)'s working together on a common issue, a fiscal sponsor may be seen as neutral territory for accepting funds. If the group is committed to its mission but just has no interest, or experience, in managing all the administrative functions of a business, a fiscal sponsor could be a good option. Finally, individuals who are unaffiliated with any group or nonprofit (such as independent filmmakers) seeking grants and donations may find it convenient to work under a fiscal sponsor.

Example: In the hours immediately following the shootings in San Francisco at the 101 California office building, many people wanted to donate funds to help the families of the victims (many of whom worked for a law firm) and to educate the public about gun violence and gun control. A group of attorneys contacted a fiscal sponsor and were able immediately to begin collecting donations and conducting an educational campaign on the subject. Later, the group decided to become permanent and incorporated separately as the Legal Community Against Violence.

What are some of the services typically provided by fiscal sponsors?

There is really no such thing as a "typical" bundle of services provided by a sponsor. The services available from sponsors vary from nothing to those listed below that are often provided by a professional sponsor.

Financial
Federal, state and local tax & informational returns
Receipt and acknowledgment of tax-deductible donations and grants
Payroll tax remittance and filings
Monthly financial statements
Financial record-keeping
Independent Audit
Check processing and issuance for expenses, I-9s, 1099s
Insurance
Directors' & Officers Insurance
Volunteer Insurance
General Liability
Umbrella
Commercial Automobile
Human Resources Administration
Payroll processing, W-2s

Personnel policies in compliance with federal, state and local laws
Comprehensive benefits package
Benefits administration
Technical assistance on personnel issues
General Administration
Bulk rate postal permit
Resale permit
Sales tax reports
Legal advice
Grant progress reports

What are the benefits of using a fiscal sponsor?
Groups may decide that using a fiscal sponsor makes sense for a variety of reasons;

Speed – It normally takes four to six months from the time an application for tax exemption is filed with the IRS to receive notice that tax-exempt status has been granted, and that is IF the IRS has no questions about information contained in the application. Theoretically one could make arrangements to be fiscally sponsored in a day or less, although a couple of weeks is more typical.
Efficiency – Especially for small groups, having someone else provide most of your administrative, or infrastructure functions may be cheaper than doing it yourself. This is especially true if you are a group that is only expecting to be in existence for a short period of time.
Convenience – Most groups, start-up or otherwise, want to focus their energy on their charitable activities. Having to create and maintain an infrastructure can be distracting from the mission of the group.
Necessity – There are some funding sources that will not fund brand-new groups. One way around this restriction is to become part of a group that has some history.
What are the disadvantages?
As a sponsored project of an already existing 501(c)(3), your "parent organization" is legally responsible for everything you do. This includes the responsibility to comply with the terms of the grants you have been awarded and how you operate. If you and your sponsor disagree, you may be forced to "do it their way".

Some foundations have policies that do not permit them to make grants through fiscal sponsors.

What are the reasons to provide fiscal sponsorship to another organization?
The most common reason a 501(c)(3) would agree to provide sponsorship to another group is because the other group wants to engage in an activity that is substantially similar or complementary to the activities of the 501(c)(3). By acting a fiscal sponsor, an organization can nurture a new, complementary effort, manage funds for a temporary project, etc.

What are the risks of being a fiscal sponsor for others?
Often the sponsored project operates from a different physical location than the sponsor so the sponsor may forget to provide proper oversight and support. Conversely, the sponsored project

needs to remember that it is part of a larger organization and the sponsee has agreed to give up some of its autonomy. Frequent, open communication is the key to making the relationship work for both sides.

Since the law considers the project and the sponsor to be one legal entity, each can be held responsible for the actions of the other.

What can a fiscal sponsor provide us that we couldn't do on our own?
A fiscal sponsor can often provide useful advice and help point you in the right direction. Hopefully the sponsor will also have solid experience in the areas where they are providing services to you. But the bottom line is, except for groups needing to get around being new with funders, if you wanted to put in the resources necessary to do everything on your own, you could do it all yourself.

What happens if we want to leave a fiscal sponsor?
It is important to both you and the sponsor that the terms of the relationship are in writing before the relationship begins. If you don't and later decide you want to leave you may find that the sponsor wants to keep the project but not you. Any good sponsorship agreement will have a mechanism to deal with how to terminate the relationship. There are certain legal restrictions on how the project's activities and assets are severed from the sponsor but that should be disclosed in the sponsorship agreement.

What is a "fiscal agent"? Is a fiscal sponsor different from a fiscal agent?
Legally, the term "fiscal agent" does not exist. When people use the term "fiscal agent" what they really mean is "fiscal sponsor." If a group wants to be covered by a 501(c)(3) designation they must be part of, not merely affiliated with, a 501(c)(3) organization.

Additional Resources
Fiscal Agency Versus Fiscal Sponsorship – Everything you need to know to stay out of trouble with third-party representatives by Jane C. Nober
Fiscal Agency Versus Fiscal Sponsorship by Jane C. Nober
Frequently Asked Questions about Fiscal Agents – From The NEA Foundation
Not a nonprofit? Get a fiscal sponsor!
Fiscal Sponsor by Joanne Fritz, About.com Guide
Can We Use a Fiscal Sponsor to Get Grants? by Joanne Fritz, About.com Guide
Fractured Atlas Fiscal Sponsorship for Independent Artists
New York Foundation for the Arts (NYFA) Fiscal Sponsorship

Los Gatos Arts and Culture Commission

Strategic Plan Implementation 2017

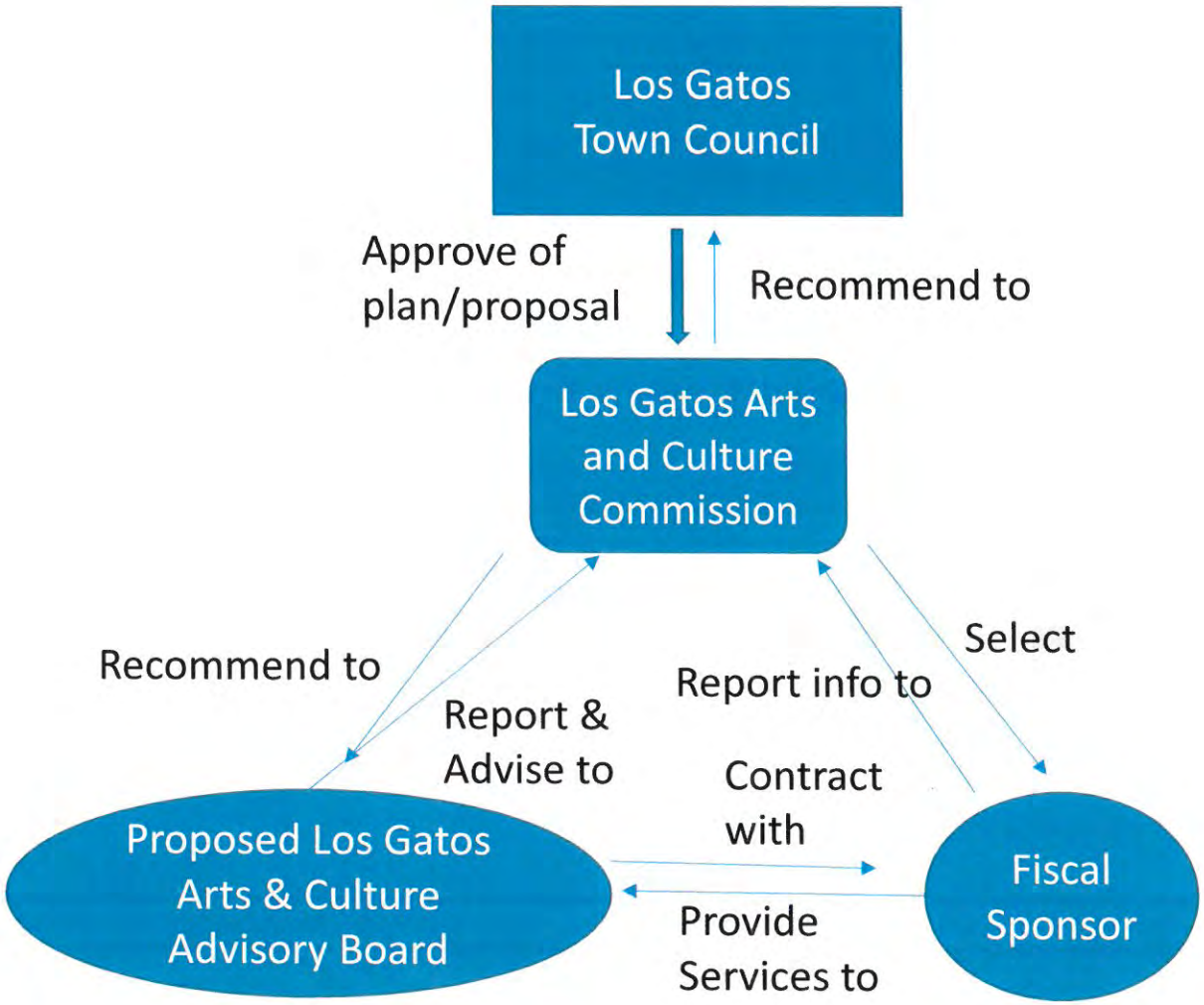
Draft 10/14/2016

ATTACHMENT 5

Arts & Culture Commission Strategic Planning Funding Subcommittee Proposal

- Gain approval from the L.G. Town Council to utilize an Advisory Board with a contracted Fiscal Sponsor to raise public and private funds to benefit the further development of Arts & Culture in L.G.
- Convene a group of interested residents of Los Gatos who would participate in the creation of a Los Gatos Arts & Culture Advisory Board and then serve on it
- Select a Fiscal Sponsor that would contract to provide appropriate services to this Advisory Board

Proposed Structure for Fund Public & Private Fund Raising
For New Art and Culture Development in Los Gatos



Los Gatos
Town Council

Roles in Developing Arts & Culture in L.G:

- Overall responsibility and authority for goals, design & budgeting for development of Arts & Culture in the Town of Los Gatos
- Approves any proposal, plan or funding for Arts and Culture referred to it by the L.G. Arts & Culture Commission and others

Los Gatos Arts and Culture Commission

Long Term Vision
A vibrant, collaborative and creative Los Gatos where arts and culture are a defining and accessible
feature of our identity and unique character.

Mission Statement
Develop, promote and support the arts in the Town of Los Gatos.

Public Arts Plan Goal Areas
- Public Art
- Funding
- Commission Engagement
- Involvement/Outreach
- Community Partnerships

Los Gatos Arts and Culture Commission

Roles in Developing Arts & Culture in L.G.:

- Promotes art & culture in all of its many forms whether it be visual, literary, musical, oratory, etc. in the Town of Los Gatos
- Encourages public & private organizations to support the development of art and culture in L.G.
- Creates and maintains an updated Strategic Plan for Arts and Culture approved by the L.G. Town Council
- Maintains registers of existing and potential locations for Public Art

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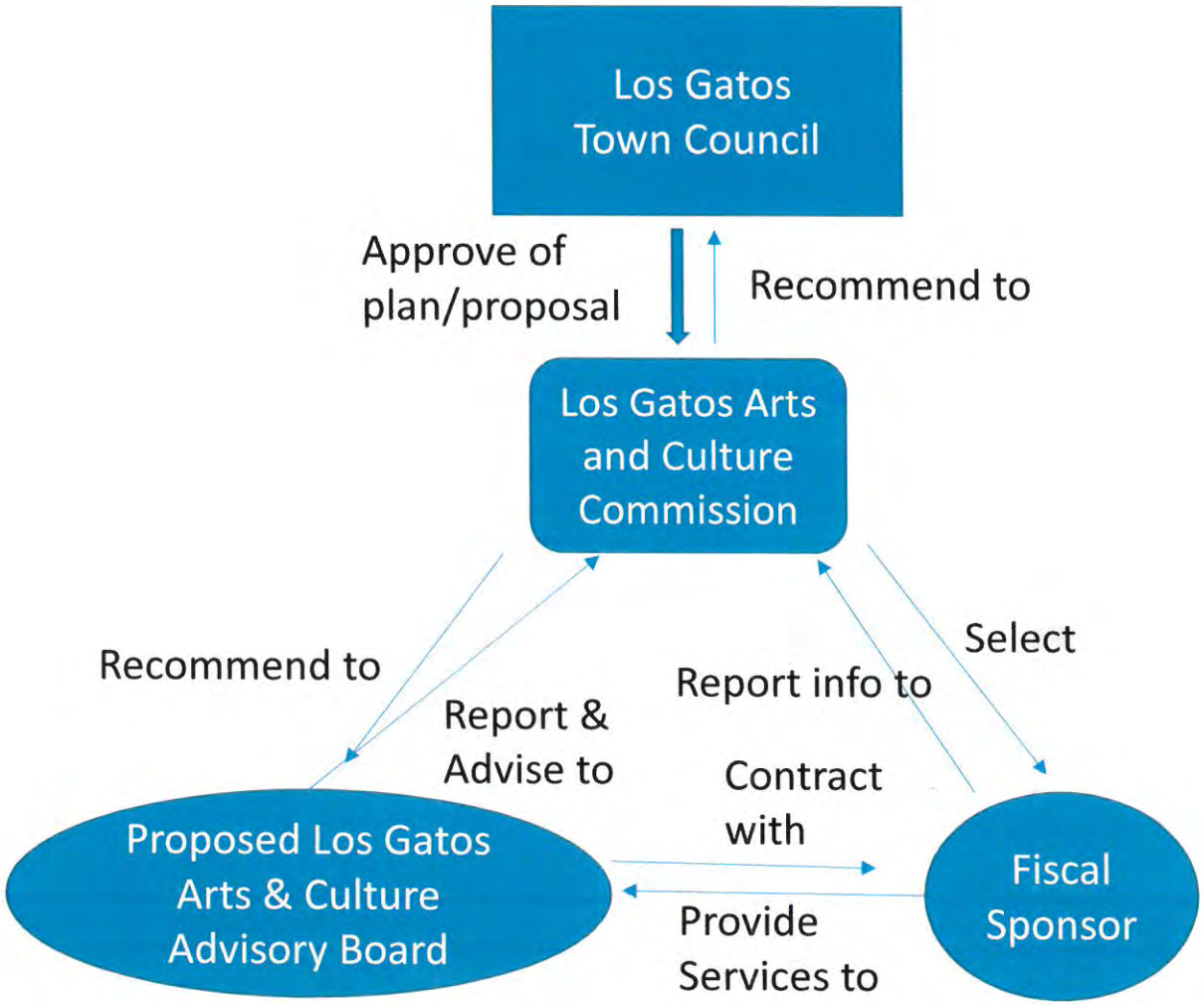

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Proposed Los Gatos Arts & Culture Advisory Board

Roles in Developing Arts & Culture in L.G.:

- Group of private citizens of L.G. who are interested in furthering the interests of art & Culture for the Town of Los Gatos & its residents
- Establishes network of public and private donors of funds for art & culture in L.G.
- Identifies and recommends worthy art and culture projects to the L.G. A & C Commission
- Raises money for art & culture projects in L.G. through public and private sponsorship
- Partners with other like-minded organizations to achieve mutual goals of developing art & culture in L.G.
- Utilizes proper legal devices to encourage tax deductible private fund donations

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Fiscal Sponsorship

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Fiscal Sponsorship

- Under an agreement arrangement a tax-deductible contribution can be given using the sponsoring agent's exempt status.
- The fiscal agent for an organization then agrees to accept and be responsible for monies on the group's behalf.
- Under the law the sponsoring agent and the new start up nonprofit are considered one legal entity and both can be held responsible for each others actions.
- Groups can begin operations and accept tax deductible donations quickly, but the activities of the sponsored group must be consistent with those of the sponsor.
- Fiscal sponsors usually receive a small percentage of the money raised in payment for their services.

Fiscal Sponsorship

General Services Provided:

- Financial
- Federal, state, local & informational returns/reports
- Receipt & acknowledgment of tax-deductible donations & grants
- Monthly financial statements
- Financial record-keeping
- Independent audit
- Check process & issuance for expense
- General liability insurance
- D & O Insurance
- Volunteer Insurance
- Commercial automobile insurance
- Human resources administration
- Payroll processing
- Benefits mgt. & admin.
- Legal advice
- Grant progress reports
- Etc.

Fiscal Sponsorship

Benefits of Using a Fiscal Sponsor:

- Speed – Normally takes 4-6 months to be granted a tax- exempt status after application. With F.S. could take only a few weeks.
- Efficiency – For small groups, using a more experienced organization is cheaper and requires less of a learning curve.
- Convenience – Able to concentrate energy on charitable activities rather than organizational ones.
- Necessity – Some funding sources will not fund brand-new groups and prefer one with a track record

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