



---

**Public Works Committee  
Meeting Summary**

---

**Date:** Oct. 16, 2007      **Time:** 1:30 p.m.      **Room** 391

**Members Present:** Johnson, Brown, Lehmann, López, Nevitt  
**Members Absent:** None  
**Others Present:** Hancock, Linkhart, Madison, Montero, Robb

---

**1. Graffiti Task Force Recommendations**

Committee Action

The Committee approved filing two bills amending ordinances concerning abatement and enforcement of graffiti per the recommendations of the Graffiti Task Force.

Summary of Discussion

Councilwoman Montero and Regina Huerter, Manager of Safety's Office, co-chaired the Task Force, which was comprised of a cross-section of the community, including residents, property owners, business owners, the Mayor's Office, Solid Waste and the Police.

The Task Force and three sub-committees -- Prevention, Enforcement and Abatement -- worked over a nine-month period. The group identified ten core values, studied best practices from other jurisdictions across the country, and drafted recommendations for action. "Quick wins" achieved by the Task Force included:

- identification of graffiti "hot spots", especially along the Federal corridor;
- de-centralization of police response to graffiti; and
- identification of people able to help remove barriers in efforts to combat graffiti.

**Abatement**

Gary Price, Director of Solid Waste, reviewed the current procedures and the proposed amendments crafted by the Task Force in an effort to expedite abatement of graffiti.

Currently, when a graffiti complaint is received, the address is checked to determine if a signed graffiti removal authorization form is on file, granting the City permission to go onto the private property to clean it. If so, a work order is issued to a Solid Waste crew.

If no authorization is on file, a Notice of Violation and an authorization form are mailed to the

property owner (as listed in the records of the Assessment Division) with the goal of either:

- having the property owner remove the graffiti within the 10 days required by current ordinance; or
- gaining authorization from the owner for the City to enter the property to clean it.

The owner may appeal the Notice of Violation within the 10 days allowed for compliance if he or she does not want the property graffiti removed.

Authorization forms are available on-line at DenverGov.org at the Solid Waste webpage, or property owners may call 3-1-1 or Solid Waste to obtain a form. Once an authorization is on file, it is good in perpetuity or until the owner withdraws it. The City currently does not charge for clean up of private property, although the ordinance allows it.

During January through September 2007, Solid Waste issued 712 abatement work orders to its six 2-person crews. The average turn-around time was 1.7 days. A rough estimate is that each work order takes a minimum of 1 hour and costs a minimum of \$100.

#### Task Force Abatement Recommendation

The proposed amendments to the ordinance would:

- shorten the time allowed to comply with a Notice of Violation from 10 days to:
  - 72 hours for residential property; and
  - 48 hours for non-residential property.
- define “residential” and “nonresidential” property.

“Residential” does not include motels and hotels; these establishments are considered commercial and therefore are “nonresidential”. Billboards, highway noise barrier walls, utility boxes and other structures that are not buildings *per se* are considered “nonresidential”.

The proposed 2008 budget increases Solid Waste’s graffiti abatement allocation by \$1.2 million, which will add a seventh crew and a new graffiti inspector. The inspector will photograph and document graffiti and attempt to contact the property owners or tenants about abatement, offering the authorization form so the City can do it. Having a person in the field to knock on doors and talk to people should improve abatement compliance and timeliness. If these attempts fail, a Notice of Violation will be mailed with direction to clean up the graffiti within the new 72 or 48 hour timeframe.

Members asked about notices and authorizations being available in various languages. Solid Waste publishes all of its materials in English and Spanish, and is working to provide materials in other languages as needed.

Members, noting that property with graffiti is highly likely to be retagged, were concerned that even these shortened timeframes are too long. They wanted the City to abate properties as soon as graffiti appears rather than wait for authorization. David Broadwell, Assistant City Attorney, explained that access to private property requires due process. He speculated that it might be possible to formulate blanket notice that private property graffiti

accessible from the right-of-way will be abated without specific notice or permission that met due process standards, but it would be difficult. Ms. Huerter noted that the Task Force had this same discussion and struggled with the timeframes and the due process requirement. She reiterated that the fact is that someone might want what they consider artwork to remain on their property, and due process is necessary to allow that person time to appeal a Notice of Violation if they so choose.

Abatement of graffiti on vacant and abandoned buildings tend to be magnets for graffiti, and methods of ensuring the owners pay the costs of abatement rather than the taxpayers need to be explored. Mr. Price said that Solid Waste makes every attempt to find and bill these owners.

Committee members said graffiti on property owned by other entities, such as the Colorado Dept. of Transportation, DPS and Excel, as well as City agencies such as Parks & Recreation and Traffic Operations, is a problem.

Councilman Garcia said formal agreements are needed with these other entities to ensure that quick graffiti removal is taken seriously. He emphasized the need for the City to respond to graffiti on its property in the same timeframe as required of residents and businesses. Ms. Huerter said the Task Force recommended that all City agencies adopt graffiti removal policies and that the other entities, including CDOT and the utilities, be notified of graffiti. DPS was represented on the Task Force and wants to partner with the City in this effort.

Mr. Price replied that Solid Waste does notify other entities when graffiti on any of their property is reported, and the department tries hard to clean graffiti from City property as quickly as possible.

### **Enforcement and Penalties**

Ms. Huerter said the Task Force spent a long time discussing enforcement and penalties. The recommendations are meant to strengthen the penalties and make them more consistent.

The proposed changes would:

- Adopt a mandatory \$100 minimum fine for conviction of possession of graffiti material.
- Require that the minimum fine be suspended by the court only if useful public service is ordered and payment for that service is credited toward the fine.
- Adopt a new ordinance dealing specifically with any crime involving graffiti that would:
  - Require supervised probation
  - Require restitution for the cost of abatement
- Require the minimum hours of public service and fines:
  - 1<sup>st</sup> offense: 40 hours of service + \$500
  - 2<sup>nd</sup> offense: 80 hours of service + \$750
  - 3<sup>rd</sup> offense: 160 hours of service + \$999
- Require that the fine be suspended by the court only if useful public service in excess of the minimum hours stated is ordered and payment for that service is credited toward the fine.

The proposed minimum fines and public service hours are double the penalty for other offenses.

The Committee discussed whether cash fines or public service is more effective. Ms. Huerter said that Task Force members expressed a wide range of opinions on how to deal with violators, especially kids, ranging from “give them a hug” to “cut off their hand.” The range of possible penalties was discussed for months, and the Task Force members struggled to reach agreement on these recommendations.

Committee members said kids caught doing graffiti should be ordered to clean up graffiti as their public service. This was compared to taking a burglar to a locksmith shop, teaching kids good places for graffiti and which materials are hardest to remove.

Some members expressed concern that fines could be paid off with public service with no cash payment. Other members though that public service was a stronger deterrent.

Parental responsibility was discussed, but only the state juvenile court has any jurisdiction over the parents. Neither municipal nor county courts are allowed to require anything of parents.

Councilwoman Montero said the Task Force and the Enforcement sub-committee worked long and hard to craft the recommendations it is proposing, and she wants Council to honor those recommendations. If after a time it is necessary to make changes, Council can do that later. She does not want to send the message that the Task Force members’ work is not good enough.

The Committee moved both proposed bills forward.

Ms. Huerter noted that these proposed ordinance amendments came from the Abatement and the Enforcement sub-committees. The Graffiti Task Force’s Prevention sub-committee has the steepest curve and is taking longer because that area has never before been addressed.

*Gretchen Williams  
Council Legislative Services  
10-30-07*

*s:committees/2006-2007/public works/agenda*