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**Public Works Committee  
Meeting Summary**

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**Nov. 6, 2007**                      **1:30 p.m.**    **Room 391**

**Members Present:**                      **Johnson, Brown, Lehmann, López, Nevitt**  
**Members Absent:**                      **None**  
**Others Present:**                      **Faatz, Garcia, Linkhart, Montero**

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**1.     Graffiti penalties bill (CB 629) amendments**

Committee Action

The Committee:

- approved filing a replacement for Council Bill 629; and
- referred a full discussion of “useful public service” to the Safety Committee.

Summary of Discussion

Councilwoman Johnson stated that the Committee discussed the Graffiti Task Force recommendations and approved filing two proposed bills at its meeting on Oct. 16. The bill dealing with abatement procedures, CB 628, was ordered published on Oct. 29. The bill dealing with penalties was held in Committee for further discussion at the request of Councilwoman Faatz.

Councilwoman Faatz explained that she discussed the proposed penalties with several of her colleagues who shared her concern that the proposals were not strong enough. Citizens want enforcement that makes a difference and shows that the City is serious about reducing graffiti with penalties that work as a deterrent.

Councilwoman Faatz said she assembled these ideas and suggestions for penalties from Council members Brown, Lopez, Nevitt and Madison:

- escalating fines and hours of useful public service (UPS) for repeat offenses;
- a mandatory minimum \$100 cash fine (could not be “worked-off” with UPS);
- additional hours of UPS in exchange for suspension any of the fine above \$100;
- UPS for minors structured to allow for regular school attendance; and
- strenuous supervision by a public entity of minors performing UPS.

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Councilwoman Faatz said that taking kids out of school for UPS is sending the wrong message, and better supervision is needed to ensure that all of the hours are completed. UPS is required for other violations as well, and perhaps strengthening the provisions around graffiti could be a pilot, even though relatively few graffiti violators are apprehended. Alternatively, the whole subject of UPS could be deferred for a broader discussion.

Councilwoman Montero, Co-chair of the Graffiti Task Force, said the group was comprised of a cross-section of the community, including residents, property owners, business owners, churches, and the City. The Task Force spent a long time discussing enforcement and how to strengthen penalties, and Council should be mindful of that effort.

Regina Huerter, Task Force Co-chair and staff to the Crime Prevention & Control Commission, and Presiding Judge Armatas, provided the following concerning the current UPS program:

- Ms. Huerter saw only 2 abuses of UPS in 30 years in the system.
- A Community Oversight Board is in place.
- A full system of verification is in place.
- Increased supervision will require additional resources for Sheriff's Dept.
- Twenty-seven public agencies provide UPS opportunities.
- Juvenile Court currently averages 1-2 cases of possession of graffiti materials per week.
- There is 3-week delay to get kids on a crew, and 2-3 months for a Saturday crew, due to the limited number of vans and deputies who can be assigned to UPS.
- Most juveniles work off their fine rather than pay cash.
- Juveniles cannot be arrested for not be able to pay the fine.
- This year to date, 3,865 juveniles sentenced to UPS.
- The Court is currently doing what Council wants in the way of UPS.

Councilman Linkhart said he would schedule a full discussion of UPS in the Safety Committee, with all the players at the table. He asked to what degree Council can direct the courts how to sentence. David Broadwell, Assistant City Attorney responded that Council cannot regulate sentencing under a State law. However, the legislative branch can address mandatory sentencing, and over the years, trends change in how much of that occurs. The State legislature has passed several such laws; Denver has not passed as many.

The Committee discussed whether there should be some minimum cash fine, even if it has to be paid in small installments over time. Some members felt this was imperative to make an impact. Others were concerned about the impact on people who could not pay.

Councilwoman Faatz noted that the Task Force recommended a mandatory minimum fine, but the proposed bill allowed all of the fine to be replaced with UPS. She said that vandalism is never in self-defense, and it causes public expense. Perpetrators have forced us to create a bureaucracy with a public cost, and they should help support it.

The appropriate nature of UPS was discussed, including term phrases such as "hard physical labor", "blood, sweat and tears", "sore muscles" and "not a walk in the park".

Councilman Garcia said that Council respects the Task Force process but can tweak the recommendations as needed. People want something a little more serious, and the measures proposed by Councilwoman Faatz are appropriate. He noted that the City is requiring property owners to remove graffiti more quickly. He supported moving the revised bill today and letting the Safety Committee discuss the public service program.

Councilwoman Lehmann wanted to find some measures to help determine if the stronger penalties make any difference. Dan Roberts, Director of Public Works Operations, responded that they track number of work orders and the square yards of graffiti removed, and he can report to Council on a quarterly basis. The Councilwoman said the number of incidents could decline due to several factors, not necessarily a new mandatory fine. She wants to know how many kids cannot pay the minimum fine, for example. She did not want to vote for a mandatory fine without some way to know if that made a difference.

Councilwoman Montero said the Task Force had covered all of this. There is a concern about the number of indigent people, and Council should have that number. There are concerns about the nature of public service and how the sponsoring agencies are selected.

Councilwoman Faatz said the whole issue of UPS should be referred to the Safety Committee, but these amendments are ready to move to the floor of Council.

Councilman Linkhart was not ready to vote on the amendments. His hesitancy came from not having all of the right people in the room, and policy makers acting without all the information is a dangerous thing.

After more discussion about the nature and supervision of UPS until Councilwoman Faatz recommended severing the language requiring that "the minor's performance of UPS be supervised by a public entity" to be dealt with by the Safety Committee.

Mr. Broadwell noted that UPS is only minimally addressed in the municipal code but it has grown into a huge program. We will be embarking on a "brave new world" to legislate standards.

The Committee referred broader discussion of UPS to the Safety Committee and authorized filing a replacement bill for CB 629 to be filed on Nov. 8, said bill to incorporate the following regarding penalties for possession of graffiti materials:

- Escalating fines and hours of UPS for repeat offenses:
  - 1<sup>st</sup> offence: 10 hours & \$100;
  - 2<sup>nd</sup> offence: 20 hours & \$200;
  - 3<sup>rd</sup> offence: 30 hours & \$300.
- Mandatory minimum \$100 cash fine (cannot be "worked-off" with UPS).
- Additional hours of UPS in exchange for suspension any of the fine above \$100.
- UPS for minors must be structured to allow for regular school attendance.

*Gretchen Williams*

*Council Legislative Services*

*11-07-07*

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