1/4/11 -	Postponed to 2/15/2011. Public hearing continued.
2/15/11 -	Tabled.
3/1/11 -	Postponed.

Request for City Council Committee Action
From the Department of Public Works

Date: January 4, 2011

To: Honorable Sandra Colvin Roy, Chair, Transportation & Public Works Committee

Subject: **Graffiti Ordinance Change**

Recommendation:
Receive and File

Previous Directives:
- November 30, 2010 – Public Hearing set for January 4, 2011
- November 19, 2010 – Subject matter referred by the City Council to the Transportation and Public Works Committee

Prepared by: Angela Brenny, Solid Waste & Recycling

Approved by:

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Steven A. Kotke, P.E., City Engineer, Director of Public Works

Presenters: Susan Young, Director of Solid Waste & Recycling

Reviews: Not Applicable

Financial Impact
Action is within Departmental Budget

Community Impact
Neighborhood Notification: NO
City Goals: YES
Comprehensive Plan: NO
Zoning Code: NO

Background/Supporting Information

The proposed Ordinance change will prohibit any markings that were not "authorized in advance by the property owner". Public Works has concerns about the practicality of consistently administering this requirement. After consulting with the City Attorney's Office, we believe that the ordinance would need to be administered as described below.

When a property owner receives an order to remove graffiti, the property owner is advised that if the markings were authorized by the property owner they must contact the office of Solid Waste and Recycling to appeal the order to remove the markings. As

part of the Appeal Process the owner would be required to submit a notarized affidavit to the office of Solid Waste and Recycling affirming that permission was given for the markings to be applied. Once received, the property owner will be allowed to leave the markings in place. If the property owner does not submit a notarized affidavit to the office of Solid Waste and Recycling the markings will be abated at the direction of the City. Described below are four examples of real cases in the city and how the cases would be administered under the process described above.

Sample Case 1
The property owner receives a Graffiti Enforcement Letter advising them to effectively abate the graffiti from the alley facing wall of their garage. The property owner contacts the office of Solid Waste and Recycling to advise the City that the markings were done by one of their children and they wished the markings to remain. An affidavit is mailed to the property to be notarized but is never returned to the office of Solid Waste and Recycling. Under the new process these markings would be abated at the cost of the property owner, even though the City is aware that the markings were applied by the property owner’s child, with the property owner's permission.

Sample Case 2
The property owner receives a Graffiti Enforcement Letter advising them to effectively abate the graffiti from the rear wall of their commercial property. The property owner contacts the office of Solid Waste and Recycling to advise the City that the markings were applied by a well known local artist and that they wished the markings to remain. The owner is advised that a notarized affidavit is necessary to preserve the artwork. The owner states that the City has been advised that this is artwork through their phone call and refuses to accept or return an affidavit. Under the new process these markings would be abated at the cost of the property owner, even though the City is aware that the markings were applied with the property owner's permission and by an artist who may be of recognized stature.

Sample Case 3
The property owner receives a Graffiti Enforcement Letter advising them to effectively abate the graffiti from the overhead door of their garage. The property owner contacts the office of Solid Waste and Recycling to advise the City that the markings were present when they purchased the property and they wish the markings to remain. The process to assert prior authorization is not available to this property owner. Under the new process these markings would be abated at the cost of the property owner, even though the City is aware that the property owner wishes the markings to remain.

Sample Case 4
The property owner receives a Graffiti Enforcement Letter advising them to effectively abate the gang graffiti from the alley wall of their home. The property owner contacts the office of Solid Waste and Recycling to advise the City even though well known gang graffiti is visible on their property they have added to the original graffiti making it a piece of art and wish it to remain. An affidavit is mailed to the property to be notarized. The affidavit is notarized and returned. The markings are allowed to remain.