

**ORDINANCE COMMITTEE
MEETING AND PUBLIC HEARING
SEPTEMBER 10, 2007**

The Ordinance Committee of the Board of Aldermen held a meeting and public session on Monday, September 10, 2007. Chairman V. Ditchkus, Jr. called the meeting to order at 7:08 p.m. and read the public notice as posted in the New Haven Register on September 5, 2007

MEMBERS PRESENT

V. Ditchkus, Jr., Chairman
J. Garbus, Vice Chairman
B. Blake
J. Politi
N. Veccharelli

Chairman V. Ditchkus, Jr. opened the public session of the Ordinance Committee at 7:09 p.m. regarding the following Ordinance:

1. An Ordinance Enacting Chapter 9A of the Milford Code of Ordinances Prohibiting Graffiti, Declaring Graffiti as Public Nuisance, Mandating Removal of Graffiti by Property Owners, and Authorizing Removal of Graffiti by City and Liening of Property; Appeal Procedure.

Speakers in Favor:

R. Chapman – 44 Riverdale Road – stated he would like to know what the penalty is that goes with this.

Chairman Ditchkus stated this is not a question and answer session, however, he pointed out where in the Ordinance it is stated and that it is \$90.00 for each citation.

Mr. Chapman asked if the language is “could” be or “will” be. He stated he read in the paper that they *could* be fined and stated if they could be fined that is a big loophole. He stated he would like to see the language “will be fined”. He also commented he agrees with this Ordinance.

Chairman Ditchkus noted for the record the language does say “shall be fined”.

Joseph Prisco – did not state address – stated he wished to speak against this ordinance.

Chairman Ditchkus interjected stating there were still speakers in favor.

Mr. Prisco stated this matter should be tabled and looked into further.

N. Bodick – 26 High Street – stated she also runs Milford Boat works. She stated customers have stated to her “its coming to Milford – graffiti”. She stated they have also stated to her if you don’t stop graffiti it will take

over. She also commented if we want to continue with the quality of life we enjoy here in Milford this needs to stop now.

Speakers Opposed – None.

T. Marquis – 67 Point Beach Drive – stated she also has a building in the center of town. She referred to an article in the newspaper regarding the clean up of the graffiti and stated she has an issue with that. She stated her building is not just a painted building; it is covered with foam like substance. She also commented when she purchased it, it was completely derelict. She explained they have to wait for a specific weather and that a kit is required to fix the building, therefore they would be unable to comply with the 7-day mandate. She stated the law must be equitable to all.

N. Seltzer – 74 Camden Street – stated the perception of this Ordinance is that it is an unfinished mandate and that she equates it to a NCLB mandate. She also stated she looks at this as a multi-level situation. She asked the Committee to think about this and think outside the box.

Chairman Ditchkus closed the public session at 7:16 p.m.

Ald. Garbus commented there was no mention of the 5-day appeal process, only the 7-day clean up.

Mayor Richetelli interjected stating there is an appeal procedure. He stated he anticipated that procedure would be rarely used, but that they would go to great lengths to accommodate the person so that they are not inconvenienced. He stated this is the last piece of a comprehensive program. He also stated they do realize that business owners are already victims and that the intent is not to victimize them further. He stated there needs to be a piece to be able to remove the graffiti. He commented graffiti breeds more graffiti and takes away the pride of the community. He encouraged homeowners to contact the police if they have been affected by graffiti. He also stated he spoke with the Public Works director and they will also help with supplies if necessary. He expressed the need to make this a priority in our community and that it is a quality of life issue. He spoke of the anti-graffiti task force the police department has set up and that they have made 17 arrest, 6 of which have been processed through the court system. He also stated he has had discussions with the prosecutor and they have agreed to allow the city to have the perpetrators clean up the graffiti. He stated 6 of those arrested spent the summer cleaning the graffiti as well as weeding, etc. throughout the city and that he believed it taught them a valuable lesson. He stated he wished to have our community remain clean, safe and beautiful and that the City Attorney crafted this Ordinance very tactfully. He also stated Milford is not the only community experiencing this and that other towns are grappling with this proliferation of graffiti. He stated this is something everyone should take very seriously.

Attorney Lipton stated she envisioned the process working draft similar to how the city enforces zoning issues, health issues, etc. and just as a zoning person is cited and they come in for compliance hearing it would work in a similar way. She added the Public Works Director would work with the victim of graffiti but most importantly you just don't want to ignore it.

Ald. Garbus and Ald. Politi made and seconded a motion to approve an Ordinance enacting Chapter 9A of the Milford Code of Ordinances Prohibiting Graffiti, Declaring Graffiti as Public Nuisance, Mandating Removal of Graffiti by Property Owners, and Authorizing Removal of Graffiti by City and Liening of Property; Appeal Procedure.

Ald. Veccharelli stated he is wrestling with some of the same feelings of our citizens. He asked of the 17 arrests what the age was.

Mayor Richetelli responded he did not have specific ages, except that they were all juveniles.

Ald. Veccharelli commented those individuals that graffiti feel they are expressing their artistic attributes and also he has heard it is a way of marking ones territory. He stated he himself has often wondered why they do this and expressed hope our agencies would get together with our schools and explain that this behavior is not acceptable. He expressed the need to reach out to their peers and the schools and send a message. He also commented the City Attorney did a pretty good job, but he would like to see it more lenient. He stated he would like to have our community cleaned up, especially abandoned buildings, but he felt a 7 day clean up was not realistic. He stated he believed they should extend the time and cited an example if a person is on vacation, one week just would not be enough time. He also spoke as to the language that no person shall clean up before the police have been afforded the opportunity to come out. He stated he did not wish to disallow a homeowner from removing the graffiti immediately. He stated he just did not agree with that issue and reiterated he just isn't happy with the 7 days. He also expressed concern with the items he believe cause graffiti. He also stated he had concerns with the language it is unlawful to possess these items near a bridge, building, etc. He asked if he has a can of spray pain in his car is this language then saying he could be in violation. He stated he would like to see this Board chew on this and the possibly amend some of these points he has raised.

Ald. Politi stated she wished to follow up with Ald. Veccharelli. She asked if when looking at other models if the 7 day limit was the norm.

Attorney Lipton responded it ranged from 5 days and up. She explained many communities maintained the right to go on the property immediately. She reiterated the number really is arbitrary.

Ald. Politi commented she too felt sympathy for the storeowner who would be penalized. She asked if there were some communities that opted not to penalize the storeowner.

Attorney Lipton stated all the towns had removal provisions set up and that some had funds set up. She stated that was an option but the city does not have a fund. She stated you cannot have an Ordinance without a mandatory cleanup, otherwise it just is not a law.

Ald. Politi asked what is deemed as evidence.

Attorney Lipton responded when the police make an arrest they generally have witnesses statements, photographs and dust for prints, etc. She stated a report just would not be enough.

Ald. Politi asked about the forensics part of this.

Attorney Lipton replied the police would be the ones to ask that type of question.

Ald. Politi asked about the "indelible marker".

Attorney Lipton explained it was specifically referenced because of its size. She stated anything above a ½” tip would not commonly be used in school. She added these definitions were taken from the International Municipal Lawyer’s Association.

Ald. Blake commented it is admirable to fight against graffiti and that it is a great idea for the city to loan out equipment and have something in place to fight to help out. He stated the problem with the Ordinance is that it targets the victim. He stated this Ordinance make criminals out of the folks that are victims of another crime. He also commented it is bad public policy to kick people when they are down. He stated he believed they could come up with another policy and that this just is not the one. He stated no other municipality in the State of Connecticut that has implemented this type of Ordinance.

Ald. Garbus expressed concern over the buildings that have had graffiti there for years and years and the owner just doesn’t seem concerned with it. He stated that just shows that they do need something that enforces the law and also helps the victim. He stated he believed this Ordinance could be tweaked to make it work.

Chairman Ditchkus spoke as to the person “tagged” or hit with graffiti but asked about the rights of the person who has to look at it in their neighborhood day after day. They too have become a victim.

Ald. Veccharelli stated he has several amendments. He stated he is in favor of a graffiti Ordinance but would like to make some amendments and then vote to forward it to the full Board for consideration. He spoke of graffiti implements and referenced Section 9A-3 and stated he would recommend that Paragraph to removed entirely. He stated he was making that in the form of a motion.

Ald. Veccharelli and Ald. made and seconded a motion to Section 9A-3 in its entirety.

Ald. Politi deferred to the City Attorney for and explanation.

Attorney Lipton stated that paragraph was recommended by the Police Department.

Mayor Richetelli added the police department recommended that portion because they felt if you are in your vehicle and on your way home from a hardware store, it assists them as a tool that you may be up to something.

Ald. Veccharelli commented there is a storm drain on just about every city street. He stated it sounded ambiguous. He stated just because you have some of this paraphernalia you could be arrested. He asked what if you are innocent. He stated it is his job to protect our citizens and that this is just setting the stage and spoke s to the ability for an arrest.

Mayor Richetelli replied if this section were removed it would not change the ability but would weaken the Ordinance but would affect the police department’s ability to make arrests. He referenced a memo from Police Chief Mello dated July 23, 2007, which basically spelled out this language in his memo. He stated if it is this Committee’s recommendation, it would be fine.

Ald. Politi stated she would have no problem voting to forward this to the full Board to see what her fellow aldermen feel about this Ordinance.

By roll call vote the amendment fails 3 no (Politi, Garbus, Ditchkus) and 2 yes (Blake, Veccharelli).

Ald. Veccharelli referred to Section 9A-4 and stated he wished to remove the language from the last sentence of this paragraph. He stated a person should be able to remove the graffiti from their home if they wish to without having to wait for the police.

Ald. Poliit asked for an explanation as to removing this sentence from the paragraph.

Mayor Richetelli stated if the police department does not have the chance to photograph it affects their efforts to make an arrest. He stated the police department usually responds in a very short time and that he would expect it would be within a 24-hour period. He stated removing this could further weaken it. He suggested perhaps the language read “it is strongly recommended that no person”.

Ald. Veccharelli stated he should read “it is further recommended no person should clean up or otherwise cleanup the graffiti” or “it is recommended that no person remove, clean up or otherwise cover up.. “

Ald. Ditchkus stated he could understand what Ald. Veccharelli is saying but asked what if it is a dumpster, you might just wish to clean it.

Ald. Veccharelli and Ald. Blake made and seconded a motion to insert the word “allowable” into the language of the last paragraph of Section 9A-4. Therefore to read, “It is recommended no person cleanup, however it is allowable to clean up or otherwise cover graffiti”.

Motion carried unanimously.

Ald. Veccharelli referred to Section 9A-7 and stated he wished to change the first sentence to read “14 days” and that he wished to make that in the form of a motion. Ald. Politi seconded the motion.

Mayor Richetelli asked if it was 14 business days or 14 days.

Ald. Veccharelli replied 14 business days.

Mayor Richetelli stated that would equate to 3 weeks.

Ald. Veccharelli stated the primary goal is to remove graffiti. He stated in some cases the stuff has been up in some cases for years and years. He stated the need to give them time to remove it and that they should not be handcuffed down.

Ald. Ditchkus stated they keep taking the bite out of this Ordinance. He stated if someone has been graffitied for over 3 months you are just aiding them to do nothing. He stated the public is tired of looking at graffiti. He also commented if you are “tagged” over the weekend, with this new language you could be tagged again over three weekends.

Ald. Politi asked for clarification and asked if other policies were over the Board or what.

Attorney Lipton replied there were a few that had 14 days, Meriden had two weeks, West Hartford had 72 hours. She suggested the Board pick a number and stay with it.

Ald. Garbus and Ald. Politi made and seconded a motion to amend Section 9A-7 to read “10 business days”. Motion carried 3 yes (Ditchkus, Garbus, Politi) and 2 no (Blake, Veccharelli).

On the main motion, to forward to the full Board, motion carried 3 yes (Ditchkus, Garbus, Politi) and 2 no (Blake, Veccharelli).

Ald. Garbus and Ald. Politi moved to adjourn. Motion carried unanimously.

The Committee adjourned at 8:08 p.m.

Respectfully submitted,

Kathleen K. Huber
Board Secretary