

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

Defacement of Derelict Structures Sub Work Group General Assembly Building, 7th Floor, West August 3, 2010, 2:30 P.M.

Members Present: Andy Friedman, Bob Matthias, Bill Ernst, Wells Freed, Martin Johnson, Ralston King, George Peyton

Staff Present: Elizabeth Palen, Jillian Malizio

I. Welcome and call to order

- **Delegate Ron Villanueva**
 - o The meeting was called to order at 2:30 P.M.

II. HB 790—Removal of defacement from structures (Villanueva, 2010)

- **Discussion/bill revision**
- **Andy Friedman**
 - o Delegate Villanueva introduced this bill in an effort to reduce the costs incurred by the city of Virginia Beach for the removal of graffiti. Currently, the city is removing graffiti at no cost to either individuals or businesses, as a public service.
 - o This issue is unique in that it's the only time that a city will repair damage to property without a cost because graffiti is considered a public nuisance.
 - o Repeated vandalism of large commercial structure results in huge costs to the taxpayer and has made it difficult to continue to fund this service. If the owner doesn't take any initiative to prevent damage, they are taking advantage of this public service.
 - o As the law stands currently, Virginia Beach can charge the owner of a property that is unoccupied for graffiti removal. We would like to change that language so that a locality can charge any property owner for not removing graffiti.
 - o Currently in Virginia Beach the sheriff is using his work force to get rid of the graffiti. However, this is only a temporary solution, because the service will stop when the sheriff no longer provides this service.

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SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
T. K. SOMANATH
MELANIE S. THOMPSON

- **Bob Matthias**
 - What is the breakdown between commercial/private and occupied/unoccupied property?
- **Wells Freed**
 - 10-12% vacant commercial property.
 - 20% is on commercial property which account for 40% of total fund
- **Andy Friedman**
 - We're currently paying at a per square-foot rate. Which becomes an issue the larger the property is; especially with commercial property.
 - An issue with charging private property is, do you charge homeowners too?
- **George Peyton**
 - From a retailers perspective, I understand what you're saying, it's an expense that needs to be covered by someone. Here in Richmond, the responsibility is put on the parents for kids under 18; the parent must pay for damages caused by their children.
- **Bob Matthias**
 - Has this ever been challenged, or was this in the city charter?
- **George Peyton**
 - It's in the Code of Virginia.
 - Some property owners do remove the graffiti themselves, but some business owners just can't afford to do this.
 - Merchants are concerned with quick removal. An area, once tagged, can just keep getting bigger if the problem is not addressed immediately.
 - There is a difference between gang tags and graffiti. It is a slam against a gang to remove their "mark". It is dangerous to remove a gang mark and the police have warned retailers not to remove gang symbols because the retailer may be harmed.
 - We want the retail community to be responsible and remove defacement as quickly and safely as possible. But, retailers feel like they are victimized twice; they are the victims of property damage and then they are being forced to pay for its removal.
 - One possible solution may be to use man power from people who have been assigned court ordered community service.
 - In Richmond, people are already being taxed excessively and don't want to continue to be taxed. They would prefer a broader state-wide solution, available to the localities to use as tools. Whether it's going after the parents, or using the sheriff's man power or people who have been sentenced to community service, each offer a solution.
- **Martin Johnson**
 - This is like a best practices manual for the state.
- **Bob Matthias**
 - Is there anyway we can make the legislation proposed by Delegate Villanueva acceptable?
- **Andy Friedman**
 - The proposed legislation does give the property owner fifteen days to remove the graffiti themselves.
- **George Peyton**
 - That's fine but there are some people who cannot do it physically or fiscally.

- **Elizabeth Palen**
 - Have you thought about separating commercial property versus multifamily property?
- **Martin Johnson**
 - That gets difficult, it may get too complex if we do it that way.
- **Wells Freed**
 - Our original proposal was to separate it out commercial vs. residential.
- **George Peyton**
 - As to the cost of removal, what does it cost to remove graffiti from a large structure, something the size of a Home Depot for example?
- **Wells Freed**
 - A building that size costs around \$4,000.
- **George Peyton**
 - Is it possible to for the localities and the property to share the burden? A possible solution may be where the locality provides the labor and the property owner provides the materials to remove the graffiti.
- **Bob Matthias**
 - How about cost sharing? Localities give the retailers thirty days to remove the graffiti. If in that time they don't clean it up, then locality approaches the retailers and such cost shall be apportioned 50/50 between the owner and the locality.
- **Elizabeth Palen**
 - Would you want this to be permissive legislation?
- **Bob Matthias**
 - Yes, we may add to the language that the "localities may create..."
- **George Peyton**
 - In Richmond, Carytown is a good example of an area that was beginning to look run down. It was getting a reputation for being a gang hangout because of all the graffiti on the buildings. When people are not shopping and buying, the City's tax revenues go down. Merchants are affected, but they can move out and set up shop somewhere else.
 - In this current economy merchants are working very hard to keep their businesses afloat. Whether it means they have to lay people off or not take a paycheck themselves. As for this legislation, timing is a big factor. This is just one more thing they have to do when they are already spread so thin.
- **Martin Johnson**
 - How does the City of Virginia Beach find out or determine there has been vandalism?
- **Wells Freed**
 - We learn of the vandalism a couple of different ways, through patrols, complaints by citizens, permits inspections, we have a hotline, the city's 311, and an online graffiti complaint form.
- **George Peyton**
 - Do you have a specific graffiti unit within the police force?
- **Wells Freed**
 - We have a gang task force that handles the issue if it's gang related. It is turned over to us if is private vandalism.

- **Martin Johnson**
 - Do you know or have a feel for those incidents of graffiti or gang marking that you find versus that which the property owner finds?
- **Wells Freed**
 - We field all the calls that come from people whose private property has been affected.
- **Martin Johnson**
 - Do you try to differentiate between the business owner who does the right thing and calls you to come out and repaint the graffiti and the one who does not call and leaves the graffiti? Is there an incentive for owners who do the right thing?
- **Wells Freed**
 - I don't know if that would help us, what helps us is getting the graffiti off the building. Norfolk has a program where they offer a \$50 incentive to owners who get rid of graffiti themselves.
- **Andy Friedman**
 - We don't want to turn this into a very complex service. I even thought of incentives for all code enforcement because the people who don't do the right thing cost the taxpayers a lot of money. It would be great if we could incentivize everyone who did the right thing and give them each a rebate.
- **Wells Freed**
 - What is currently happening is that people know we are going to do it for free, no matter what kind of public relations effort we make about the importance of removing graffiti, and property owners don't care.
- **George Peyton**
 - Maybe we could use disincentives, ask property owners to please do it yourself, but if you don't do it yourself, you're going to get fined. We need to give owners a reason for why they should remove the graffiti themselves.
- **Andy Friedman**
 - The incentive would have to be pro-rated.
- **Elizabeth Palen**
 - What about the merchant whose property is hit by vandals each week?
- **Martin Johnson**
 - That goes back to my earlier question, is the average property owner contacting Virginia Beach, or is Virginia Beach contacting them?
- **Wells Freed**
 - We can't always tell, we get the complaints and we go out and remove the graffiti.
- **Elizabeth Palen**
 - Is it less detrimental graffiti on a strip mall than a neighborhood?
- **Andy Friedman**
 - No it's detrimental where ever it constitutes a public nuisance.
- **Bill Ernst**
 - What about restitution? If the person is found and convicted by the courts, damages will include restitution, can that be used to pay for the removal of the graffiti?
- **Wells Freed**
 - There have been a number of instances where that has been the case. They found the individual who vandalized the building and ordered them to pay restitution.

- **George Peyton**
 - If there is restitution paid, shouldn't it go to the owner of the property not the locality?
 - If the burden is completely put on the back of the property owner to remove the graffiti, what incentive does the locality have to catch the perpetrator?
- **Andy Friedman**
 - The amendment gives property owners time to fix the nuisance. The way it is written says if the property owner does not remove the graffiti, then the locality will remove it. However, if the owner does not remove the graffiti and the locality is forced to, then the locality is going to charge the owner for the cost of removal.
 - The police are going to enforce the law whether the localities get money for graffiti removal or not.
- **Bill Ernst**
 - What would happen if there was a restitution order and the money was paid to the city? Would the city then pay the owner?
- **Martin Johnson**
 - That's an interesting point, as a business owner I remove graffiti at my cost, and Virginia Beach police catch the perpetrator and he pays restitution, I should get the money.
- **Bob Matthias**
 - Would you go along with it if we said that any restitution would go to the owner of the property if they bore the cost?
 - How many cases of restitution are there a year?
- **Wells Freed**
 - Restitution cases are few and far between.
- **Andy Friedman**
 - Another idea, is that this would only take effect on a second or subsequent occurrence of graffiti on the same location.
- **Bob Matthias**
 - Subsequent within sixty days or a certain time period
- **Andy Friedman**
 - But we're getting killed on these repeat offenses. It's \$1,000 bill after \$1,000 bill.
- **Bob Matthias**
 - The city cleans it up the first time. The second time the same property is tagged the owner has fifteen days to clean it up, but if he/she doesn't then they will be fined. \$1,000 threshold.
 - Would we be willing to take a shot at putting this into bill language?

III. Possible Propose Legislation

- The group discussed the following as possible legislation:
 - **First occurrence of graffiti**
 - Property owner receives 15 days notice from the locality.
 - Property owner may use that time to remove the graffiti in any manner he chooses.
 - If, after 15 days, the property owner does not remove the graffiti the locality will come and remove the graffiti, free of cost.

- **Second and subsequent occurrences of graffiti**
 - Property owner receives 15 days notice from the locality.
 - Property owner may use that time to remove the graffiti in any manner he chooses.
 - If, after 15 days, the property owner does not remove the graffiti the locality will come and remove the graffiti.
 - The locality will remove graffiti from property free of cost until such cost exceeds \$1,000.
 - This includes the cost of the first graffiti removal and the aggregate sum of all subsequent removals.
 - Once the sum of graffiti removal totals \$1,000, the owner will be charged for all subsequent graffiti removal.
- *All parties will speak with their constituencies and verify this is acceptable.*

IV. Adjourn

- The meeting was adjourned at 3:37 PM.