



**Public Works and Safety Committee**  
**Standing Committee Meeting Agenda**  
**Tuesday, February 19, 2013**  
**5:00 PM**

**Location:**

Municipal Office Building  
701 N 7th Street  
Kansas City, Kansas 66101  
6th Floor Training Room

<u>Name</u>	<u>Absent</u>
Commissioner John Mendez, Chair	<input type="checkbox"/>
Commissioner Ann Brandau-Murguia	<input type="checkbox"/>
Commissioner Angela Markley	<input type="checkbox"/>
Commissioner Tom Cooley	<input type="checkbox"/>
Commissioner Butch Ellison	<input type="checkbox"/>
Loretta Colombel - BPU	<input type="checkbox"/>

**I.**      **Call to Order / Roll Call**

**II.**      **Approval of standing committee minutes from January 14, 2013.**

**III.**      **Committee Agenda**

**Item No. 1 - ORDINANCE: GRAFFITI**

**Synopsis:**

An ordinance amending the graffiti ordinance to increase the penalties for violations, increase possible rewards, and impose additional signage and display requirements on retailers, submitted by Ryan Haga, Legal.

**Tracking #: 130048**

**Item No. 2 - RESOLUTION: KDHE LOAN UNDER KS WPC REVOLVING FUND ACT**

**Synopsis:**

A resolution authorizing filing of an application with the Kansas Department of Health and Environment for a loan under the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 thru 65-3329), submitted by Lori Mundhenke, Public Works, Engineering. The loan amount requested is \$20M to be used for overflow control program management, sewer system studies, and sewer system repair and rehabilitation projects to be completed from 2013-2017. This work is necessary to comply with the pending Department of Justice/EPA consent order and the Clean Water Act.

**Tracking #: 130065**

**IV.      Adjourn**

**PUBLIC WORKS AND SAFETY  
STANDING COMMITTEE MINUTES  
Monday, January 14, 2013**

The meeting of the Public Works and Safety Standing Committee was held on Monday, January 14, 2013, at 5:00 p.m., in the 6th Floor Human Resources Training Room of the Municipal Office Building. The following members were present: Commissioner Mendez, Chairman; Commissioners Cooley, Markley, Murguia, and Ellison and BPU Board Member Loretta Colombel.

**Chairman Mendez** called the meeting to order. Roll call was taken and all members were present as shown above.

Approval of standing committee minutes for December 17, 2012. **On motion of Commissioner Ellison, seconded by BPU Board Member Colombel, the minutes were approved.** Motion carried unanimously.

Committee Agenda:

**Item No. 1 – 130028...**      **Three resolutions authorizing submission of an application to KDOT for transportation enhancement program funds for the following projects, submitted by Bill Heatherman, County Engineer. KDOT's share would be 80% with the UG paying 20% plus design costs. This is in keeping with the Sidewalk Plan and strategy and the Complete Street policy.**

- **Kaw Point Park Connector Project**
- **Missouri River Bridge/Jersey Creek Connector Project**
- **State Avenue/Village West Connector Project**

**Bill Heatherman, County Engineer,** said the first item is approval of three resolutions related to an upcoming transportation enhancement grant opportunity. I want to explain we likely only

would expect to get at best one, but we wanted to have three so that when the State is looking at them, our priorities and their priorities, we have the best chance of getting something secured.

Also, with regard to the Kaw Point Connector Project, in the process of negotiating with the State on the Lewis and Clark Viaduct Concept Study, it was articulated that the master plan in the downtown division included the trail and recreations component. We had already put on KDOT's agenda our request long-term for them to support the next version of the Kaw Point Connector. As you know we tried once and it became a difficulty to complete that project.

The State, in particular, is hoping that we do apply through the transportation enhancement grants because they want to see how they think they could best fulfill our goal of seeing that project completed. If you like I do have on the board there the general area of these three different projects that we're proposing and I can answer any more detailed questions you may have (indicates presentation board).

The first board shows the general location of the Kaw Point Connector which I think most of you know would come off of the edge of the existing Woodsweather Bridge where the Riverfront Heritage Trail is. The new concept of that project would actually stay on grade sidewalk at street level and what is the Minnesota Avenue/Fairfax Bridge actually has a sidewalk that takes you up and over the railroad tracks. Most people don't know it's there but there is, in fact, a sidewalk. We would propose to actually relocate the concrete barrier. There's enough width on that bridge or do some work to actually extend the decking of the bridge to put a trail section. That would eliminate the need of having a separate bridge structure which has been the real difficulty all along. So that's the Kaw Point Connector option.

The second would be to complete the State Avenue/Village West connector. What we show there would be as much as project from 130<sup>th</sup> Street on the west to at least 110<sup>th</sup> Street and a spur north to connect to the new trail and apartment complex, Delaware Ridge, and also then provide the automatic connection into Village West and/or as a possibility continue some pedestrian routing on the north side of State Avenue to as close as perhaps the stadium.

Then the third option is shown actually on two different boards (indicating) and would be the Missouri River/Jersey Creek Connector. This would allow a future connection to what's proposed as the replacement of the U.S. 69 Missouri River bridges which would be happening in around 2017. Missouri and KDOT have already anticipated providing some kind of bike/ped. facility across that bridge which would allow connections to the north side of the river including the Riverside Trail system. What we're proposing here would actually extend the 5<sup>th</sup> Street

Connector which is under construction now. Right now 5<sup>th</sup> Street is under construction from State Avenue up to Parallel. We would continue that concept starting at Parallel going north all the way up to John Garland Park. That would be a side path. Then there would be a short little side connection down Boswell onto 7<sup>th</sup> Street, itself. 7<sup>th</sup> Street being state highway we're trying to minimize the length of it that we would need to negotiate with KDOT on, but it's the best then connection over the railroad tracks through Fairfax and up to the U.S. 69. That northern section we anticipated being sharrow markings in the traffic lane. Those are special markings that are placed in a traffic lane that help all parties more firmly understand that the commuter cyclist is doing what they're supposed to do when they ride in the center of the line and then do some sidewalk improvements and select intersection improvements for the pedestrians that would also want to continue on to the north.

That's the basic idea. We have a lot of details that we're still vetting on what these projects mean, but we do need to get the resolutions through the process so that all that can be ready for February 15<sup>th</sup> when these grant applications are due to KDOT.

**Commissioner Cooley** said Bill, what you're basically seeking is a resolution for all three, but you're only expecting maybe one possibly two to be funded? **Mr. Heatherman** said there are three separate resolutions and we anticipate turning in three separate grant applications, but we would not expect to receive three grants. **Commissioner Cooley** said when we turn them in do we put any kind of a ranking to KDOT that this is our number one, this is our number two, this is our number three? **Mr. Heatherman** said yes they will expect that from us.

**Commissioner Murguia** said what made these three projects priority projects for grant funding? **Mr. Heatherman** said each of the three are in the sidewalk and trails master plan. They each represent projects that have been discussed at some level, either internally or externally. In the case of the Kaw Point Connector that's been a project that even had construction funding and was almost ready to go if we could have had a design that would work. In the case of the Missouri River/Jersey Creek, we've already done the 5<sup>th</sup> Street trail up to Parallel so it's a logical extension and it would also connect then well to what's been proposed for the U.S. 69 bridge replacements. Frankly making sure that MDOT and KDOT see that we're committed to a trail section could help push them to continue to make sure they provide the best possible facility over the Missouri River. Then the State Avenue/Village West Connector continues this investment we've been making on State Avenue. Once we complete the projects that are already underway, you will have an exercise pathway type trail section all the way from

Kansas City Kansas Community College to 94<sup>th</sup> Street. It is certainly envisioned to keep that going.

That project, while it has some expenses is probably the simplest of any potential trail we have. One of the criteria's for this grant is we have to be under construction by 2014. So in terms of do-ability it's probably the safest option we have of being fairly straightforward to get underway. Those are the reasons that we identified these three. Again, the Kaw Point Connector was actually the first main one we were trying and we just wanted to have some backups to go with it. **Commissioner Murguia** said we meaning Public Works. The Public Works Department identified these three? **Mr. Heatherman** said Public Works staff in conjunction with Rob and Urban Planning. If there are other trail segments that the Committee wants us to kind of also rise to the top for future grant applications, we certainly appreciate knowing.

**Commissioner Cooley** said will you need a motion from us? **Mr. Heatherman** said yes please. **Commissioner Markley** said for one or for each separate? **Jody Boeding, Chief Legal Counsel**, said if you want to vote differently. If you think you're going to approve them all, you can do it in one motion, but if you think you want to deal with them separately, that would be fine too.

**Action:** **Commissioner Ellison made a motion to approve all three resolutions, seconded by Commissioner Cooley, and forward to full commission.** Roll call was taken and there were six "Ayes," Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

**Item No. 2 –130029...** **A communication requesting approval of Chester Owens, with the Historic Northeast-Midtown Association (NBR), request to list the UG owned retaining wall at 5<sup>th</sup> & Washington on their application for consideration for UMB's "More Than" community mural, submitted by George Brajkovic, Economic Development Director.**

**George Brajkovic, Economic Development Director**, said Chester Owens is here tonight as well. Chester sent a request to staff on behalf of the Historic Northeast-Midtown Association as that NBR was going to reply to an RFP put out by UMB concerning I guess is contest the right

word Chester? **Mr. Owens** said an opportunity. **Mr. Brajkovic** said they're celebrating their 100<sup>th</sup> year of business. A site will be selected in each city of Kansas City, St. Louis and Denver. The request from the Historic Northeast-Midtown Association was they wanted to submit the retaining wall at 5<sup>th</sup> & Washington which is UG owned property. I think as staff reviewed the request, they're doing all the work. So what we wanted to see is there any cost to the UG. There isn't. We wanted to verify with Public Works if the wall was in good shape and okay to do the mural. It is. UMB is again funding the cost for the artist, the supplies and dedication if the site is selected and ultimately going through UG Planning for final approvals if the site is selected.

It is the southeast corner of 5<sup>th</sup> & Washington if you guys are familiar. I think there's an aerial in your packet. In your packet is a copy of the RFP from UMB as well. The deadline you might notice was December 31, but they got extended to last Friday. What staff did was gave a conditional approval that staff was okay with it, but ultimately had to come through standing committee which follows a process we did previously with the mural at 30<sup>th</sup> & Metropolitan. There is a conditional approval. They did submit the application and Mr. Owens can maybe give you an update from there.

**Commissioner Cooley** said before Mr. Owens, is time sensitive? Will it come up Thursday night? **Mr. Brajkovic** said no, we didn't fast track it unless there's an issue tonight. **Commissioner Cooley** said should we? How long's your extension Mr. Owens? **Chester Owens, Historic Northeast-Midtown Association**, said it was until the 11<sup>th</sup>, but they said they would wait. **Commissioner Cooley** said I don't want to cheat you out of the time is what I'm going for. If we can streamline this maybe we can. **Mr. Owens** said we told them that Public Works would be meeting on the 14<sup>th</sup> so they said that's fine. I do have a statement I'd just like to read.

Chairman Mendez and Commissioners thank you for allowing us to appear before this committee. It's kind of an interesting process. We received the first notification regarding this "More Than A" community mural project sponsored by UMB December 17<sup>th</sup>. That was right during the Christmas holidays. We inquired about the RFP, but we actually did not receive the RFP until December 27<sup>th</sup>. That was during the Christmas holidays. A lot of our people were out of place, but we did meet and so we said well we'll give it a shot. But realizing that the deadline for submission was December 31<sup>st</sup>, we contacted UMB, sent them an email and stated that we would not have sufficient time to properly respond to the RFP.

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They immediately responded and said well we're going to extend the deadline until January 11. We don't know if that meant if there were other areas and other groups that were not submitting a proposal and maybe ours was the only one. We hope so. We put in our letter we declined but then we put in our letter we would offer our assistance to any community group in Kansas City, Kansas because we think this is a great opportunity for somebody in Kansas City, Kansas. Things went from there.

At this point we contacted Mr. Brajkovic who has been of invaluable assistance. I mean he has just been so gracious and I'm sure he's doing a lot of work. We looked at several sites all over the area where the NBR is located. This is by far the best site for our proposal. I want to thank Mr. Brajkovic again. I bugged him, but he just did a great job, a great job.

The theme that we're submitting is entitled "Remembering the Past, Utilizing the Present and Working toward a Bright and Glorious Future." That's the theme that we submitted to them. We're excited about the possibility of being chosen as a recipient. As I say again, we don't know if anybody else has submitted. We don't know if it's been one or ten, but hopefully that someone in Kansas City, Kansas would be the recipient of this opportunity.

They will choose the artist. We will have people to work with them. You see in here, there are many things that we have to have such as a place where the people would come to work. First Baptist Church at 5<sup>th</sup> & Nebraska is right across the street. The Pastor has graciously consented that that could be the location. I'm sure that the UG would be concerned as to what's going to go on the mural so certainly the UG would be involved I'm sure. We want them at the table to assist if they would do that.

We're excited and I might add that being a new NBR, it provided us an opportunity to really work hard. We put a lot of work in this the last two and one-half weeks. During the holidays we met and we've gotten to know each other a little better. Linda Quinn who's here and the Executive Director of our NBR is in the hospital. As a matter of fact she had surgery this morning. We were kidding her and said did this really put you in the hospital. But we really did a lot of work. Thank you again for allowing us to come before the group.

**Commissioner Ellison** said I'd like to say this, and I think about it all of the time. That area is rich in history that very few of our white residents in other parts of this City are even aware of. We just recently buried Abel Sykes who was the first black president of any community college in the United States, Compton Community College. There are many guys who have gone on—you know I get a little angry at times at the Community College because

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when the Educator of the Year is mentioned, we've had many people at Sumner, Rebecca Bloodworth, Scotty P. Davis, Ian Taylor, and these people are never recognized. I want to complement Chet because Chet has been a stalwart and a hard worker for the community. Probably could have been a millionaire if he hadn't stayed with H.W. Sewing.

You don't remember, but insurances were hard for blacks to obtain auto insurance. H.W. Sewing was the first insurance agency who underwrote insurances for blacks. Chet was right in the middle of that at old Douglass Bank. We have attorneys who were in that building, J.P. Davis, Bill Towers who lived on Washington Boulevard. We've had many, Miles Stevens.

That area is rich in history. Our kids need to see that rather than deal drugs on the street to see where they've come from. Chet's legacy is going to be, once we die and I hope you don't die soon. I've known Lillie since 9<sup>th</sup> & Freeman, his wife. So there are plenty of positive images that we have to make the broader community aware of the fact that there was, and I think about the statement that my man made, Ghetto or Gold Mine in Kansas City, Missouri, what's his name, Bernard Powell, those were kids when we came on them. Bernard Powell, Pete O'Neal and people like that were so far behind us and they really didn't give the positive images that we need in our community. Chet I want to hug you because that area is just full and rich.

Basically when we destroyed and integrated the schools it killed a community. When we got rid of Dunbar South, Dunbar North, Stowell School and Grant School it destroyed a whole community. Chet lives at 12<sup>th</sup> & Washington Boulevard on the corner. That's five blocks from where he lived when he was a kid. Lillie is three blocks. All their lives have been there.

**Mr. Owens** said I might add that on the mural, this is one of the emphasis to Kansas City, Kansas. I won't talk too long, but also the Native American heritage is right here. As a matter of fact, the first house built by Native Americans, John and Lucy Armstrong, and that's where Armstrong Avenue, is at 5<sup>th</sup> & New Jersey. We intend to depict what the area is like, tie it into Lewis and Clark, the Native Americans, the Exodusters, we've picked some other things from Kansas City, Kansas. We're excited about it. We just hope we're the recipient.

**Action:** **Commissioner Ellison made a motion, seconded by Commissioner Murguia, to approve and forward to full commission.** Roll call was taken and there were six "Ayes," Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

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**Commissioner Cooley** said Mr. Owens I think we need to fast track this, maybe see if we can't put it on the agenda for Thursday night. **Mr. Owens** said okay, that'll be fine. Thank you.

Adjourn

**Chairman Mendez** adjourned the meeting at 5:25 p.m.

**mls**



# Staff Request for Commission Action

Tracking No. 130048

Revised  
 On Going

**Type:** Standard

**Committee:** Public Works & Safety

Date of Standing Committee Action: 2/19/2013

(If none, please  
explain):

**Proposed for the following Full Commission Meeting Date:**

**Confirmed Date:** 3/7/2013

3/7/2013

**Changes Recommended By Standing Committee (New Action Form required with signatures)**

Date:	Contact Name:	Contact Phone:	Contact Email:	Ref:	Department / Division:
1/16/2013	Ryan Haga	5075	rhaga@wycokck.org		Legal

Item Description:

Ordinance amending the Graffiti Ordinance to increase the penalties for violations; increase possible rewards; and impose additional signage and display requirements on retailers. The proposed amendments were discussed at the 11/13/12 Standing Committee Meeting and the attached ordinance was subsequently drafted.

Action Requested:

adopt ordinance

Publication Required

Publication Date:

Budget Impact: (if applicable)

Amount: \$

Source:

Included In Budget

Other (explain) Policy decision

File Attachment

File Attachment



**LEGAL DEPARTMENT of the UNIFIED GOVERNMENT OF  
WYANDOTTE COUNTY/KANSAS CITY, KANSAS**

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Jennifer Myers**

**MEMORANDUM**

February 14, 2013

**To: Unified Government Commissioners**

**From: Jennifer Myers, Legal Department**

**Re: PROPOSED CHANGES TO THE GRAFFITI ORDINANCE**

- Generally prohibits the possession of graffiti implements by juveniles at any time.
- \$250 fine for the first offense, and \$500 for subsequent offenses.
- Rewards will increase from \$100 to \$250.
- Retailers are required to display spray paint and broad tip markers in areas which can be continually observed by employees or in areas which are not accessible to the public without employee assistance.
- Fines for anyone selling spray paint to a minor increased from \$100 to \$250 for a first offense and \$500 for subsequent offenses.
- District Attorney now able to file charges under the city ordinance for possession of graffiti implements.

Published \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**An ordinance** relating to the reduction of defacement of public and private property through the application of graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees and other real and personal property; amending Section 22-87.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:**

**Section 1.** That Section 22-87 it is hereby amended to read as follows:

- (a) *Definitions.* Except as is otherwise required by the context, as used in this section, the following words and terms shall have the meanings ascribed to them as follows:

*Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

*Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

*Etching equipment* means any tools, device or substance that can be used to make permanent marks on any natural or manmade surface.

*Graffiti* means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface on public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the public officer.

*Graffiti implement* means a paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

*Paint stick or graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark thereon.

*Person* means any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

- (b) *Legislative determination.* The unified government board of commissioners hereby declares as a matter of legislative determination that:
- (1) The increasing incidents of the defacement of public and private property through the application of graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees and other real and personal property within the corporate boundaries of the city constitute a blight on this community, and, in the interests of health, safety and general welfare of the residents and taxpayers of the city, immediate steps must be taken to remove this blight.
  - (2) Based upon reports which the unified government board of commissioners has received, such defacement of property is most often committed by persons under the age of eighteen years using aerosol containers of spray paint and broad tipped indelible markers.
  - (3) When appropriate, the courts should require those who commit acts of defacement of public or private property through the application of graffiti to restore the property so defaced, damaged or destroyed.
  - (4) Obtaining convictions for the application of graffiti is difficult due to the fact that the offense can be committed so very quickly and secretly that witnesses to the act are frequently nonexistent.
  - (5) The public should be encouraged, through the promise of a reward, to cooperate in the elimination of graffiti by reporting to the proper authorities the incidents of the application of graffiti which the members thereof observe.
  - (6) The public should be encouraged to cooperate in the removal or abatement of graffiti by undertaking to provide for the painting or repair of areas where graffiti is located.
- (c) *Right of entry.* Whenever necessary to make an inspection of or abate graffiti or to enforce any provision of this section, the public officer, his agent, or any other unified government employees may enter onto property at all reasonable times to inspect or abate the graffiti.
- (d) *Prohibited.* It shall be unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" without the permission of the owner or operator of such property.
- (e) *Violation of subsection (d) of this section; penalty.* Violation of subsection (d) shall be unlawful and shall be punished by a fine not to exceed \$1,000.00, by imprisonment for a term of not to exceed one year, or by any combination of such fine and imprisonment. In addition to such punishment, the court may, in imposing sentence, order the defendant to restore the property so defaced, damaged or destroyed or order the defendant to make restitution to the victim for damages or loss caused directly by the defendant's offense. In the case of a minor, the parents or legal guardian shall be ordered jointly and severably

**Deleted:** Any person who is convicted of violating subsection (d)

**Deleted:** of this section shall

liable with the minor to make such restitution. If the graffiti has previously been abated by a person other than the defendant, the court may, in addition to any other punishment, order the defendant to perform community service work (in an amount equal to the cost of abatement). Imprisonment shall include placement in a juvenile facility.

(f) *Reward for information leading to arrest of perpetrator.*

(1) The unified government will pay to any person who provides information which leads to the arrest and conviction of any person who applies any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" to any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property a reward in the amount of \$~~250.00~~. In no event shall rewards be paid beyond the amount allocated by the unified government board of commissioners for this expenditure.

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(2) The reward shall be paid to the person who provides such information immediately upon the conviction of the person so arrested.

(g) *Unlawful to maintain building with graffiti, notice, etc.* It shall be unlawful for any person to maintain any building or structure in a condition whereby graffiti is allowed to remain on said building or structure for a period of time in excess of ten days. Said ten days shall commence with written notice being given to said person by the public officer, and if said person fails to remove the same, then, upon conviction, the owner shall be punished by a fine of not less than \$250.00, by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Said ten-day period can be extended at the discretion of the public officer due to inclement weather conditions.

(h) *Nonliability of unified government.* Neither the unified government, its employees or agents, nor any party assisting the unified government shall assume any liability in the inspection or abatement of graffiti found within the city.

(i) *Possession of graffiti paraphernalia.*

(1) It shall be unlawful for any person under the age of 18 to possess any graffiti implement while on public or private property without the express consent of the owner of such property. Any person violating this provision shall be guilty of a misdemeanor.

Deleted: between the hours of 9:00 p.m. and 6:00 a.m. the following day

(2) A person under the age of 18 is not guilty of a violation of subsection (i)(1) of this section if:

- a. Such person is under the direct supervision and in the presence of a parent, legal guardian or teacher;
- b. Such person, at the time, is within the scope and course of such person's employment or involvement with an activity sanctioned by a school, church or legally recognized nonprofit organization; or
- c. Such person has the prior express consent of a responsible party or is in the presence of a responsible party.

(3) It is unlawful for any person to have in his possession any graffiti implement while:

- a. In, upon or about any public park, playground, swimming pool, public recreational facility, or publicly owned building;
- b. In or within 100 feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure; or
- c. On private property without the written consent of the owner.

(4) Violations of Section (i) shall be unlawful and shall result in a fine of \$250.00 for the first offense and \$500.00 for subsequent offenses.

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(j) *Sale of spray paint and markers.*

(1) No person or firm shall sell or cause to be sold to any person under the age of 18 years, and no person under the age of 18 years shall buy any aerosol container of spray paint or broad-tipped indelible markers. Evidence that a person, his employee, or agent demanded and was shown bona fide evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution thereof.

(2) Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall:

- a. Place a sign in clear public view at or near the display of such products stating, in lettering at least 3/8 of an inch high:

"GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO ONE YEAR AND/OR A FINE OF UP TO \$1,000.00."

- b. Place a sign, in lettering at least 3/8 of an inch high, in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint or broad-tipped indelible markers.

"IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18 YEARS OF AGE, PUNISHABLE BY A FINE OF \$250.00."

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(3) No person who owns, conducts, operates, or manages a retail commercial establishment where aerosol containers of spray paint or broad-tip makers are sold, nor any person who sells or offers to sell aerosol containers of spray paint or broad-tip markers, shall store, display, or cause to be stored or displayed, such

aerosol paint containers or broad-tip markers in an area that is not continually observable, through direct observation, by employees of the retail establishment during the regular course of business.

(4) In the event that a commercial retail establishment is unable to store the aerosol containers of spray paint or broad-tip markers in the area as provided in subsection (3) of this section, the establishment shall store the aerosol paint containers, paint sticks, and broad-tipped markers in an area not accessible to the public in the regular course of business without employee assistance.

(5) Violation of subsections (j)(1), (j)(2), (j)(3) and (j)(4) of this section shall be unlawful and shall result in a fine of \$ 250.00 for a first offense and \$ 500.00 for subsequent offenses. When three violations of subsections (j)(1), (j)(2), (j)(3) or (j)(4) occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tipped markers for a period up to two years.

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(k) *Liability of parents.* Every parent, guardian or other person having lawful physical custody or right to control a minor person under the age of 18, having actual or constructive knowledge of the minor's act and having a present reasonable ability to restrain, control or thwart a minor from committing such prohibited damage, destruction or defacement, as defined in this section, shall be guilty of a violation of this section.

**Section 2.** That said original Section 22-87 is hereby repealed.

**Section 3.** This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the Wyandotte Echo.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,**

**THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

\_\_\_\_\_  
**Joe Reardon, Mayor/CEO**

**Attest:**

\_\_\_\_\_  
**Unified Government Clerk**

Approved As To Form:

Assistant Counsel

Deleted: , Deputy Chief

Published \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**An ordinance** relating to the reduction of defacement of public and private property through the application of graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees and other real and personal property; amending Section 22-87.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:**

**Section 1.** That Section 22-87 it is hereby amended to read as follows:

- (a) *Definitions.* Except as is otherwise required by the context, as used in this section, the following words and terms shall have the meanings ascribed to them as follows:

*Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

*Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

*Etching equipment* means any tools, device or substance that can be used to make permanent marks on any natural or manmade surface.

*Graffiti* means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface on public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the public officer.

*Graffiti implement* means a paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

*Paint stick or graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark thereon.

*Person* means any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

- (b) *Legislative determination.* The unified government board of commissioners hereby declares as a matter of legislative determination that:
- (1) The increasing incidents of the defacement of public and private property through the application of graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees and other real and personal property within the corporate boundaries of the city constitute a blight on this community, and, in the interests of health, safety and general welfare of the residents and taxpayers of the city, immediate steps must be taken to remove this blight.
  - (2) Based upon reports which the unified government board of commissioners has received, such defacement of property is most often committed by persons under the age of eighteen years using aerosol containers of spray paint and broad tipped indelible markers.
  - (3) When appropriate, the courts should require those who commit acts of defacement of public or private property through the application of graffiti to restore the property so defaced, damaged or destroyed.
  - (4) Obtaining convictions for the application of graffiti is difficult due to the fact that the offense can be committed so very quickly and secretively that witnesses to the act are frequently nonexistent.
  - (5) The public should be encouraged, through the promise of a reward, to cooperate in the elimination of graffiti by reporting to the proper authorities the incidents of the application of graffiti which the members thereof observe.
  - (6) The public should be encouraged to cooperate in the removal or abatement of graffiti by undertaking to provide for the painting or repair of areas where graffiti is located.
- (c) *Right of entry.* Whenever necessary to make an inspection of or abate graffiti or to enforce any provision of this section, the public officer, his agent, or any other unified government employees may enter onto property at all reasonable times to inspect or abate the graffiti.
- (d) *Prohibited.* It shall be unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" without the permission of the owner or operator of such property.
- (e) *Violation of subsection (d) of this section; penalty.* Violation of subsection (d) shall be unlawful and shall be punished by a fine not to exceed \$1,000.00, by imprisonment for a term of not to exceed one year, or by any combination of such fine and imprisonment. In addition to such punishment, the court may, in imposing sentence, order the defendant to restore the property so defaced, damaged or destroyed or order the defendant to make restitution to the victim for damages or loss caused directly by the defendant's offense. In the case of a minor, the parents or legal guardian shall be ordered jointly and severably

liable with the minor to make such restitution. If the graffiti has previously been abated by a person other than the defendant, the court may, in addition to any other punishment, order the defendant to perform community service work (in an amount equal to the cost of abatement). Imprisonment shall include placement in a juvenile facility.

(f) *Reward for information leading to arrest of perpetrator.*

- (1) The unified government will pay to any person who provides information which leads to the arrest and conviction of any person who applies any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" to any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property a reward in the amount of \$ 250.00. In no event shall rewards be paid beyond the amount allocated by the unified government board of commissioners for this expenditure.
- (2) The reward shall be paid to the person who provides such information immediately upon the conviction of the person so arrested.

(g) *Unlawful to maintain building with graffiti, notice, etc.* It shall be unlawful for any person to maintain any building or structure in a condition whereby graffiti is allowed to remain on said building or structure for a period of time in excess of ten days. Said ten days shall commence with written notice being given to said person by the public officer, and if said person fails to remove the same, then, upon conviction, the owner shall be punished by a fine of not less than \$250.00, by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Said ten-day period can be extended at the discretion of the public officer due to inclement weather conditions.

(h) *Nonliability of unified government.* Neither the unified government, its employees or agents, nor any party assisting the unified government shall assume any liability in the inspection or abatement of graffiti found within the city.

(i) *Possession of graffiti paraphernalia.*

- (1) It shall be unlawful for any person under the age of 18 to possess any graffiti implement while on public or private property without the express consent of the owner of such property. Any person violating this provision shall be guilty of a misdemeanor.
- (2) A person under the age of 18 is not guilty of a violation of subsection (i)(1) of this section if:
  - a. Such person is under the direct supervision and in the presence of a parent, legal guardian or teacher;
  - b. Such person, at the time, is within the scope and course of such person's employment or involvement with an activity sanctioned by a school, church or legally recognized nonprofit organization; or
  - c. Such person has the prior express consent of a responsible party or is in the presence of a responsible party.

- (3) It is unlawful for any person to have in his possession any graffiti implement while:
- a. In, upon or about any public park, playground, swimming pool, public recreational facility, or publicly owned building;
  - b. In or within 100 feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure; or
  - c. On private property without the written consent of the owner.
- (4) Violations of Section (i) shall be unlawful and shall result in a fine of \$250.00 for the first offense and \$500.00 for subsequent offenses.

(j) *Sale of spray paint and markers.*

- (1) No person or firm shall sell or cause to be sold to any person under the age of 18 years, and no person under the age of 18 years shall buy any aerosol container of spray paint or broad-tipped indelible markers. Evidence that a person, his employee, or agent demanded and was shown bona fide evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution thereof.
- (2) Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall:
- a. Place a sign in clear public view at or near the display of such products stating, in lettering at least 3/8 of an inch high:

"GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO ONE YEAR AND/OR A FINE OF UP TO \$1,000.00."

- b. Place a sign, in lettering at least 3/8 of an inch high, in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint or broad-tipped indelible markers.

"IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18 YEARS OF AGE, PUNISHABLE BY A FINE OF \$ 250.00."

- (3) No person who owns, conducts, operates, or manages a retail commercial establishment where aerosol containers of spray paint or broad-tip makers are sold, nor any person who sells or offers to sell aerosol containers of spray paint or broad-tip markers, shall store, display, or cause to be stored or displayed, such

aerosol paint containers or broad-tip markers in an area that is not continually observable, through direct observation, by employees of the retail establishment during the regular course of business.

- (4) In the event that a commercial retail establishment is unable to store the aerosol containers of spray paint or broad-tip markers in the area as provided in subsection (3) of this section, the establishment shall store the aerosol paint containers, paint sticks, and broad-tipped markers in an area not accessible to the public in the regular course of business without employee assistance.
  - (5) Violation of subsections (j)(1),(j)(2), (j)(3) and (j)(4) of this section shall be unlawful and shall result in a fine of \$ 250.00 for a first offense and \$ 500.00 for subsequent offenses. When three violations of subsections (j)(1), (j)(2), (j)(3) or (j)(4) occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tipped markers for a period up to two years.
- (k) *Liability of parents.* Every parent, guardian or other person having lawful physical custody or right to control a minor person under the age of 18, having actual or constructive knowledge of the minor's act and having a present reasonable ability to restrain, control or thwart a minor from committing such prohibited damage, destruction or defacement, as defined in this section, shall be guilty of a violation of this section.

**Section 2.** That said original Section 22-87 is hereby repealed.

**Section 3.** This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the Wyandotte Echo.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT  
OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,**

**THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

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**Joe Reardon, Mayor/CEO**

**Attest:**

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**Unified Government Clerk**

**Approved As To Form:**

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**Assistant Counsel**



# Staff Request for Commission Action

Tracking No. 130065

- Revised  
 On Going

**Type:** Standard

**Committee:** Public Works and Safety Committee

Date of Standing Committee Action: 2/19/2013

(If none, please explain):

**Proposed for the following Full Commission Meeting Date:**

**Confirmed Date:** 3/7/2013

3/7/2013

**Changes Recommended By Standing Committee (New Action Form required with signatures)**

Date:	Contact Name:	Contact Phone:	Contact Email:	Ref:	Department / Division:
1/30/2013	Lori Mundhenke	5708	lmundhenke@wycokck...		Public Works/Engineering

Item Description:

This action is merely a financial tool to fund Commission approved CMIP projects. Water Pollution Control has used this tool over the last ten years. This will be the fifth loan from the State.

The state revolving loan fund (SRF) program administered by the Kansas Department of Health and Environment (KDHE) provides financial assistance in the form of loans to Kansas municipalities, at below market interest rates for design and construction of water pollution control infrastructure. The attached Resolution authorizes Robert D. Roddy, P.E., Director of Public Works to execute and file an application on behalf of the UG and sign all necessary documents, to furnish such assurances as may be required by law or regulation, and to receive payment on behalf of the applicant.

The loan amount requested is \$20,000,000. The loan funds will be utilized for Overflow Control Program Management, Sewer System Studies and Sewer System Repair and Rehabilitation projects to be completed from 2013 through 2017. This work is necessary to comply with the pending Department of Justice/EPA consent order and the Clean Water Act.

Action Requested:

Adopt Resolution

Publication Required

Budget Impact: (if applicable)

Amount: \$

Source:

- Included In Budget  
 Other (explain) Funded by sewer enterprise fund

	File Attachment	File Attachment	File Attachment
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**RESOLUTION NO. \_\_\_\_\_**

**Resolution authorizing filing of application with the Kansas Department of Health and Environment for a Loan under the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 through 65-3329).**

**WHEREAS** under the terms of the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 through 65-3329), the State of Kansas has authorized the making of the loans to authorized applicants to aid in the construction of specific public projects,

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AS FOLLOWS:**

1. That Robert D. Roddy, P.E. Director of Public Works, be and he is hereby authorized to execute and file an application on behalf of the Unified Government of Wyandotte County/Kansas City, Kansas with the Kansas Department of Health and Environment for a loan to aid in the implementation of an Integrated Overflow Control Program to address combined and separate sanitary sewer overflows.

2. That Robert D. Roddy, P.E. is hereby authorized and directed to furnish such information as may be reasonably requested in connection with the application which is herein authorized, to sign all necessary documents on behalf of the applicant, to furnish such assurances as may be required by law or regulation, and to receive payment on behalf of the applicant and is hereby authorized and directed to take such action as may be necessary to implement this Resolution.

**ADOPTED** by the Governing Body of the Unified Government of Wyandotte County/Kansas City, Kansas on the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

**UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS**

**By: \_\_\_\_\_  
Joe Reardon, Mayor/Chief Executive**

(SEAL)

**ATTEST:**

\_\_\_\_\_  
**Unified Government Clerk**