



6

NEIGHBORHOOD SERVICES
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

812 TENTH STREET
SACRAMENTO, CA
95814-2694

NEIGHBORHOOD IMPROVEMENT
DIVISION

916-264-5948

October 21, 1993

Neighborhood & Public Safety Committee
of the City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: ANTI-GRAFFITI MASTER PLAN

LOCATION: Citywide.

RECOMMENDATION

It is recommended that the Neighborhood and Public Safety Committee approve the proposed Anti-Graffiti Master Plan and forward this report to the City Council with a recommendation for staff to implement the City of Sacramento Anti-Graffiti Master Plan.

CONTACT PERSON

Michael Hanamura, Neighborhood Improvement Manager, 264-7150

FOR COMMITTEE MEETING OF

November 10, 1993

SUMMARY

The City of Sacramento has been experiencing an increase in the problem of graffiti on both private and public properties. This report recommends a comprehensive approach in the fight against graffiti. The proposed plan includes strategies to allocate a Special Program Coordinator to focus on anti-graffiti programs, create an Anti Graffiti Community Task Force; provide a connection network for citizens, business owners, schools, neighborhood associations, service organizations, and churches; provide educational and "clearing house" assistance for prevention and graffiti clean up information; and explore means of funding anti graffiti activities.

BACKGROUND

In May of 1989, the City Council adopted a resolution authorizing graffiti abatement and the assessment of graffiti removal costs to property owners. The City's Parks and Recreation Department then created the "Graffiti Busters" team to paint out graffiti on weekends. This team, consisting of a Supervisor, up to three youth members, one van, cost approximately \$55,000 per year.

Concurrent to the establishment of this new work team, the City Managers Office initiated a graffiti complaint process for taking citizens graffiti complaints and sending a request for compliance letter to the appropriate property owner. Either the return of a waiver statement by the owner or lack of response triggered a referral to the "Graffiti Busters" for an abatement. The owner was then billed a minimum charge for the paint out. This complaint process was transferred to the Neighborhood Improvement Division in July of 1992.

The "Busters" service has been utilized on residential, commercial, and some public properties. City Departments such as Parks and Public works, assign their work crews as fast as staffing will allow to paint out graffiti on all City buildings or facilities. Last year alone, the City spent approximately \$172,625 to eradicate graffiti. This cost is outlined as follows:

. Graffiti Busters	\$55,000
. Workrecreation	\$ 4,500
. Parks Maintenance	\$70,125
. Facilities Maintenance	\$20,000
. Streets Division	\$23,000

Reports of graffiti on private business operations including PG&E, SMUD, PAC BELL, or State Agencies such as CALTRANS, are referred directly to their maintenance departments.

It has been estimated that over \$4 Billion is spent in the United States each year to clean up and remove graffiti. Over \$25 Million was spent in Los Angeles in the removal of graffiti and this problem is spreading in all of our communities.

DISCUSSION OF ANTI GRAFFITI STRATEGIES

Those "taggers" or "writers" of graffiti do not respect jurisdictional lines. This is a community wide problem. The following recommendations propose there be a coordinated effort between our various government operations, our legal and enforcement communities and private citizen and business sectors. There also needs to be an increased educational effort to support the notion that prevention is just as important as intervention.

There is also, in these tight budgetary times, the problem of funding special programs. However, one must weigh the overall

costs of time and effort of abatement programs with the negative messages graffiti leaves in the neighborhoods. This report suggests researching sources of anti graffiti program funding from utilization of existing resources to the taxing of spray paint.

What are other Cities and Counties doing?

Cities and Counties across the country are utilizing a variety of methods in trying to stem the tide of increasing graffiti. Some of these are:

San Francisco - \$400,000 general funds for equipment and 20 Public Works crew members to paint out and clean up graffiti

Berkeley - hires four homeless persons to paint out graffiti in downtown

San Jose - uses a mobile paint mixing trailer. They are able to mix and match paint. The leased trailer is towed by a city sandblasting truck. Trailer lease alone is \$50,000. Total budget for graffiti removal is \$600,000.

Salt Lake City - has a paint removal soda blasting unit; allocates \$150,000 for clean up; has a full time coordinator

Fresno - Lock up on spray containers and felt tip markers; planning to purchase a mobile sandblaster; assign full time staff person; establish Anti-Graffiti Committee; establish a hot line; estimate of costs \$50,000.

Chicago - \$3.5 Million with 68 full time city crew members for graffiti clean up.

County of Sacramento - The Board of Supervisors recently adopted a plan to utilize juvenile work crews to paint out graffiti. This is a six month pilot program to be implemented in one targeted problem neighborhood. Additional cost of \$15,000 for law enforcement supervision.

Other jurisdictions have adopted new local ordinances or enforcing state laws that require the property owners to clean up, paint out, or pay for removal of graffiti; require retailers to control the sale of aerosol spray paints; and making the parents of minors responsible for damages. Cities that have ordinances requiring owners to clean up graffiti include: Mt.View; Fremont; West Sacramento; Brea; San Clemente; San Jose; Hayward.

Anti Graffiti educational programs have also been identified as an important prevention activity. Such programs have been initiated in schools in San Diego County, New York, San Jose, Anaheim, Denver, and by San Francisco Mini Railroad.

In addition, many communities have active citizen, neighborhood, church, and business communities volunteering hundreds of hours of time spent on graffiti clean up and paint out efforts. Sacramento is no exception.

Sacramento Neighborhood Associations and individuals throughout the City are contributing labor and their own funds to paint out graffiti on buildings, fences, soundwalls, sidewalks, and even graffiti found in City parks. Many Sacramento area businesses are contributing paint, equipment, funds, and sometimes their own employees volunteering to help on special paint out weekends.

The paint industry through organizations such as the National Paint and Coatings Association and the California Paint Council has shown its willingness to assist local jurisdictions with their graffiti problems. Examples of assistance has been sharing of resource information such as ordinances and individuals to contact regarding effective anti graffiti programs throughout the country. They have also supported and emphasized "responsible retailing" to those retailers selling spray paints.

What is the City of Sacramento doing?

At the present time, the Neighborhood Improvement Division takes citizen complaints as to locations of graffiti throughout the City. If the graffiti is on semi-public businesses such as PAC BELL, SMUD, RT, or PG&E, they are advised of the need for removal as soon as possible.

If the graffiti appears on private property, a letter requesting removal is sent to the property owner. There is no follow up program. During the past several years, the "Graffiti Busters" program did the follow up work and painted out the graffiti when either the owner requested it or the owner did not respond. Billing the property owners for painting services did not cover the cost of the Busters crew. Approximately \$4557 was billed in FY 1993 of which \$3560 has been recovered through this program. This program had been eliminated from the Parks and Recreation budget as a cost cutting measure.

City Parks and Public Works maintenance crews continue to clean up and remove graffiti whenever it appears on any City property.

OPTIONS FOR THE CITY OF SACRAMENTO

The options for the City of Sacramento are obviously based on economics. A successful anti graffiti program will depend on the commitment and budget dedicated to this community wide problem. Included below are a number of options for the committee to consider:

- I. Do Nothing. No cost to the City, but not a desirable option.

- II. Reinstitute the "Graffiti Buster" Program. This was a successful program that accomplished several things. It employed a number of young people. It provided a paint out program that was responsive to a limited number of graffiti problems. The cost of reinstatement is approximately \$55,000, for a van, supervisor, equipment, and hiring young people for week end work.
- III. Utilize the Juvenile Offender Program. This will require the funds for hiring law enforcement personnel to supervise the youth crews. This is a program that could be coordinated with the Counties anti graffiti program. As the County is just implementing this program there is insufficient information as to how responsive this program would be to citizens complaints. An estimated six month program cost to the County for this program is \$15,000.
- IV. Stricter Enforcement of Anti Graffiti Laws. This will require more policing and a commitment from our legal system to prosecute the violators and to seek restitution from either the violator or parents in the case of minors. (more detailed information on anti graffiti laws is contained in the attached Exhibits A and B)
- V. Tax aerosol cans for funding anti graffiti programs. This process will require a 2/3 voter approval for instituting a special tax on paint spray cans and wide blade felt tip pens. (See Exhibit C)
- VI. Implementation of other Local Laws. A number of jurisdictions have adopted ordinances that either require spray paint to be displayed behind locked panels or behind counters or to be displayed in direct sight of a cashier or other countered employees. Others have taken the option to require retailers to post signs near displays of spray paint or markers that clearly state that "Graffiti is a Crime", etc. and to obtain commitments from the business community to be responsible retailers.

RECOMMENDATIONS FOR THE CITY OF SACRAMENTO

In light of the continuing budgetary difficulties of the City, staff recommends an Anti Graffiti Master Plan that could be implemented in phases. The first phase will be initiated at no additional costs to the City and will develop ideas and/or resources necessary to implement the second and third phases. The initiation of Phase 1 will begin with your approval. During this phase a work plan will be developed which identifies the projected timetable for implementation of the Master Plan.

ANTI GRAFFITI MASTER PLAN

- PRIMARY GOALS:
1. ELIMINATE GANG SIGNS
 2. ELIMINATE VISUAL BLIGHT
- OBJECTIVES:
1. CREATE A COMPREHENSIVE ANTI GRAFFITI PROGRAM
 2. APPOINT AN ANTI GRAFFITI COORDINATOR FROM EXISTING RESOURCES
 3. ESTABLISH A COMMUNITY WIDE ANTI GRAFFITI TASK FORCE
 4. REFINE AND IMPLEMENT PHASED MASTER PLAN
 5. RESEARCH AND SECURE FINANCIAL SUPPORT FOR ANTI GRAFFITI PROGRAMS

PHASE I.

- . Appoint Special Program Coordinator within existing resources
- . Reestablish a partial and limited Graffiti Busters type program utilizing existing resources; explore utilization of youth recreation program activities for special paint out projects.
- . Develop Community Wide Task Force; consider representatives from: business; neighborhoods; churches; schools; SHRA; City; County; State; apartment owners; law enforcement; judicial system; Paint Council
- . Research spray paint tax issue for possible voter action
- . Research new code(s) on enforcement of anti graffiti laws; restriction on sales of graffiti tools, i.e., spray paint and felt markers
- . Research and identify sources of revenues to fund anti graffiti programs; possible areas include:
 - . Lighting and Landscaping Assessment Fee
 - . Neighborhood Improvement District funds
 - . Funds from aggressive prosecution and restitution efforts
- . Establish "clearing house" service for volunteer groups who want to donate time and labor
- . Establish information resource center for anti graffiti materials, methods, etc.

- . Continue to take complaints and identify troublesome graffiti areas; send letters to property owners
- . Coordinate anti graffiti education needs with existing Police and Fire department public relations programs and materials

PHASE II.

- . Consider utilization of County Juvenile Probation Program in City neighborhoods, if additional funding is identified to pay for law enforcement supervisor
- . Establish active recruitment of volunteer groups as source of work pool
- . Coordinate special graffiti paint out days in various parts of the City
- . Actively obtain the participation of large business, including the paint industry, in supporting Sacramento's anti graffiti effort
- . Continue to review and evaluate existing resources within the Neighborhood Services Department for support of anti graffiti programs
- . Work with citizens and Police Department to determine feasibility of volunteer surveillance programs

PHASE III

- . Explore the utilization of a City operated "Graffiti Wagon". Facility Management has estimated a vehicle equipped with a sand blaster, water blaster, paints and equipment could be provided for approximately \$50,000. The total costs including personnel to operate this vehicle would be approximately \$170,000.
- . Develop educational anti graffiti "road show" and materials

FINANCIAL CONSIDERATIONS

The initial implementation of this Master Plan will utilize existing resources. This report does not request any increase to the approved budget.

POLICY CONSIDERATIONS

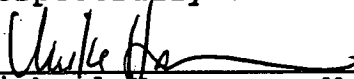
This report is consistent with the City Council and this Council Committee's commitment to improving the quality of life in the

City's neighborhoods by removal of all signs of gang graffiti and visual blight.

MBE/WBE

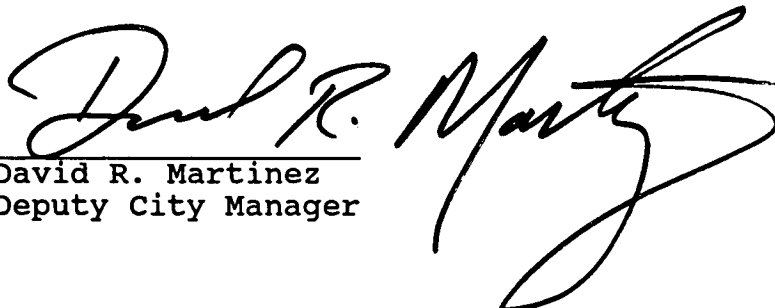
Not Applicable

Respectfully Submitted,



Michael Hanamura, Manager
Neighborhood Improvement Division

APPROVED FOR COMMITTEE ACTION:



David R. Martinez
Deputy City Manager



OFFICE OF THE
CITY ATTORNEY

SHARON SIEDORF CARDENAS
CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

October 22, 1993

921 TENTH STREET
SUITE 700
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95814-2717

PH 916-264-5346
FAX 916-264-7455

MEMORANDUM

TO: Mayor and Council Members

FROM: Sharon Siedorf Cardenas, City Attorney
Diane B. Balter, Deputy City Attorney *DBB*

RE: Penalties and Liability for Graffiti Crimes

Graffiti crimes are regulated by the Penal Code. The provisions of the Penal Code are comprehensive and probably do not allow for local ordinances criminalizing graffiti vandalism.

Penalties for graffiti crimes vary, depending upon the amount of damage done. They are shown on the attached chart. A second chart sets forth the penalties for sale, purchase, and possession of aerosol paint.

In addition to the penalties set out on the attached charts, Vehicle Code Section 13202.6 provides that any minor aged 13 or older who is convicted of a graffiti crime shall have his or her driver's license suspended for one year or shall have initial issuance of his or her driver's license delayed by one year. Repeated convictions can bring repeated suspensions or delays.

Parents and guardians are responsible for graffiti vandalism committed by minors:

(1) Under Civil Code Section 1714.1(b), a minor's graffiti vandalism is imputed to a parent or guardian with custody and control over the minor. The parent or guardian is liable for civil damages, court costs and attorney fees, not to exceed a total of \$10,000.

(2) When a minor is convicted of committing graffiti vandalism amounting to less than \$250 on facilities or vehicles of a governmental entity and the minor is unable to pay any fine levied, the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine by the parent or legal guardian upon a finding of good cause.

DBB/cgd
Attachments

Exhibit A

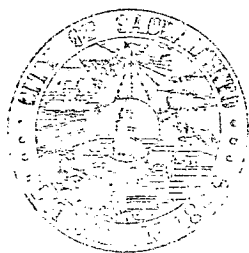
9

PENALTIES FOR GRAFFITI CRIMES

AMOUNT OF DAMAGE	CONFINEMENT (UP TO)	FINE (NOT TO EXCEED)	COMMUNITY SERVICE	OTHER
Less than \$250.00 – government facility:				
1st Offense	--	\$500.00	Up to 100 hours	--
2nd Offense	6 months jail	\$1,000.00	Up to 200 hours	--
3rd Offense	1 year jail	--	Up to 300 hours	--
Less than \$250.00 – not a gov't facility:				
1st Offense	--	\$500.00	Minimum of 24 hours; Maximum of 100 hours	--
2nd Offense	6 months jail	\$1,000.00	Minimum of 48 hours; Maximum of 200 hours	--
3rd Offense	1 year jail	--	Up to 300 hours; No minimum	--
\$250.00 - \$999.00	6 months jail	\$1,000.00	--	May be ordered to repair or pay for repair.
\$1,000.00 - \$4,999.00	1 year jail	\$5,000.00	--	May be ordered to repair or pay for repair.
\$5,000.00 - \$49,999.00	1 year prison or jail	\$10,000.00	--	May be ordered to repair or pay for repair.
\$50,000.00 or more	1 year prison or jail	\$50,000.00	--	May be ordered to repair or pay for repair.

**PENALTIES FOR RELATED
AEROSOL PAINT CRIMES**

OFFENSE	CONFINEMENT (UP TO)	FINE (NOT TO EXCEED)	COMMUNITY SERVICE
SALE TO MINOR	6 months jail	\$1,000.00	--
PURCHASE BY MINOR	6 months jail	\$1,000.00	--
CARRYING BY MINOR IN PLAIN VIEW ON POSTED PUBLIC FACILITY	6 months jail	\$1,000.00	--
POSSESSING FOR THE PURPOSE OF DEFACING PROPERTY IN PUBLIC RIGHT-OF- WAY OR PLACE:			
1st Offense	6 months jail	\$1,000.00	Up to 100 hours
2nd Offense	6 months jail	\$1,000.00	Up to 200 hours
3rd Offense	6 months jail	\$1,000.00	Up to 300 hours



OFFICE OF THE
CITY ATTORNEY

SHARON SIEDORF CARDENAS
CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

October 28, 1993

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FAX 916-264-7455

MEMORANDUM

TO: Mayor and City Council

FROM: Sharon Siedorf Cardenas, City Attorney
Diane B. Balter, Deputy City Attorney *DBB*

RE: **Local Ordinance re: Display and Access to
Aerosol Paints and Broad-Tipped Marker Pens**

State law currently regulates the sale and possession of aerosol paint and broad-tipped marker pens. The one area that is still open to local regulation is in the area of display of these items. The California Supreme Court recently upheld a city ordinance requiring retailers to display aerosol paint and broad-tipped marker pens in a fashion that prevents public access in order to prevent shop-lifting of such items. Sherwin-Williams Company v. City of Los Angeles (1993) 4 Cal.4th 893. The ordinance in question reads as follows:

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four millimeters in width, containing any thing other than a solution which can be removed with water after it dries, shall store or cause such aerosol containers or marker pens to be stored in an area viewable by, but not accessible to, the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers.

In adopting the ordinance, the City of Los Angeles made findings that, notwithstanding the provisions of state law relating to the sale or purchase by minors of aerosol paint containers, graffiti continues to proliferate in the city due in substantial part to theft of aerosol spray paint containers and broad-tipped marker pens, and that supplemental local deterrents to the availability of these products is needed to further inhibit their use for graffiti purposes. Should the

Mayor and City Council
Re: **Local Ordinance re: Display and Access
to Aerosol Paints and Broad-Tipped Market Pens**
October 28, 1993
Page Two

City Council choose to enact such an ordinance, it should likewise adopt findings setting forth the need for such a measure.

A draft ordinance is attached.

DBB/cgd
Attachment

DRAFT

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING _____ TO THE SACRAMENTO
CITY CODE REQUIRING RETAILERS OF AEROSOL CONTAINERS
AND BROAD-TIPPED MARKING PENS TO STORE THEM IN AREAS
NOT ACCESSIBLE TO THE PUBLIC

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council finds as follows:

(a) Notwithstanding the provisions of state law prohibiting the sale of aerosol paint containers to minors, and prohibiting the purchase of aerosol paint containers by minors, graffiti continues to proliferate in the City of Sacramento, due in substantial part to theft of aerosol paint containers and broad-tipped marking pens. The battle to control graffiti continues to grow worse with each day.

(b) Graffiti can be created not only by aerosol paint but also by broad-tipped marking pens.

(c) The deleterious effects of graffiti include the very great direct expenses of removing or covering the graffiti and the negative impact of graffiti on the neighborhoods and businesses where it is found.

(d) A supplemental local deterrent to the availability of aerosol paint containers and broad-tipped marking pens is needed to help insure that aerosol paint containers and broad-tipped marking pens are not stolen from business establishments, thus further inhibiting their use for graffiti purposes.

SECTION 2.

Section _____ is hereby added to Chapter _____ of Title _____ of the Sacramento City Code, to read as follows:

- 1 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. 14

DATE ADOPTED: _____

Sec. _____ **Storage and Display of Aerosol Containers and Marking Pens.**

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marking pens with tips exceeding four millimeters in width, containing anything other than a solution which can be removed with water after it dries, shall store or cause such aerosol containers or marking pens to be stored so that they are not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such aerosol containers or marking pens.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

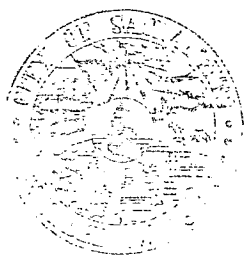
- 2 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

15

DATE ADOPTED: _____



OFFICE OF THE
CITY ATTORNEY

SHARON SIEDORF CARDENAS
CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

October 28, 1993

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PH 916-264-5346
FAX 916-264-7455

MEMORANDUM

TO: Mayor and City Council

FROM: Sharon Siedorf Cardenas, City Attorney
Diane B. Balter, Deputy City Attorney *DBB*

RE: **Local Surcharge or Tax on Retail Sale of Aerosol Paint Containers and Broad-Tipped Felt Tip Markers to Raise Funds for Removal and Prevention of Graffiti**

We have been asked if the City may impose a surcharge on the sale of aerosol paint to raise funds for graffiti removal programs. We conclude that the City may impose a tax on the retail sale of aerosol paint and other items which can be used for graffiti vandalism, but only in accordance with Revenue & Taxation Code Sections 7287 - 7287.10. This statute authorizes such a local tax, upon approval by two-thirds of the local voters.

The state law allows the tax to be imposed on the privilege of selling at retail "...aerosol paint containers, containers of any other marking substance, felt tip markers which have a flat or angled writing surface of one-half inch or greater, or any other marking instruments...." The amount of the tax that can be levied is no more than ten cents (\$0.10) per aerosol paint container or container of any other marking substance, and no more than five cents (\$0.05) per felt tip marker or other marking instrument. The tax may be imposed for no longer than 5 years. It is collected as a sales tax, remitted by the retailer to the State Board of Equalization annually, and distributed annually to the city or county. Proceeds from the tax may be used only for removal and prevention of graffiti, or for educational programs for at-risk youth to combat graffiti vandalism in all its forms.

A factor to be considered in making the decision to seek voter approval of a tax is the amount of revenue likely to be generated compared to the cost of administering the program. The law requires the city to contract prior to the effective date of the tax ordinance with the State Board of Equalization to perform all functions incident to the administration and operation of the tax ordinance. Before any taxes are remitted to the city or county, the State Board of

16

Mayor and City Council
Re: **Tax on Retail Sale of Aerosol Paint
Containers and Broad-Tipped Felt Tip Markers**
October 28, 1993
Page 2

Equalization is to be reimbursed, pursuant to the contract, for its reasonable costs of administering and enforcing the ordinance on behalf of the local entity. We asked the Excise Tax Unit of the State Board of Equalization, which we have been told would administer the tax, for an estimate of their costs of administration, but they could not give us one.

In June of 1991, the City of Los Angeles placed this type of tax measure on its local ballot. Although approved by 59% of the voters, the measure failed to receive the required 2/3 vote. According to the information contained in the ballot, the City of Los Angeles projected its annual net revenue from the tax, after payment of State Board of Equalization costs, at \$550,000.00.

Should the Council decide to place this tax measure on the ballot, it may do so for June of 1994 or November of 1994. The last date upon which the measure could be approved for the June ballot is January 25, 1994 (requiring submittal to the City Clerk by January 19). For the November ballot, the deadline is late June.

If the tax were approved by 2/3 of the voters in June of 1994, we believe that it could take effect no earlier than January 1, 1995, the beginning of the first calendar quarter which is more than 120 days after the election. According to the statute, the retailers' first remittance to the State Board of Equalization would be due in February 15, 1996, for the 1995 calendar year, with distribution to the City by March 15, 1996. The next distribution would take place in March, 1997. Based on approval in November, the tax would take effect April 1, 1994, and the first remittance/distribution in February/March, 1996, would cover the last nine months of 1995 only.

The foregoing schedule demonstrates that even with prompt action by the City Council and approval by 2/3 of the voters, tax proceeds would not be available to the City before March of 1996.

If the Council desires to place a measure on the June, 1994, ballot, the following questions should be answered by the Council so that staff can proceed:

1. On what items shall the tax be imposed?

Select one or more, or all, of the following: aerosol paint containers; containers of any other marking substance; felt tip markers with a flat or angled writing surface of one-half inch or greater; any other marking instruments.

Mayor and City Council
Re: **Tax on Retail Sale of Aerosol Paint
Containers and Broad-Tipped Felt Tip Markers**
October 28, 1993
Page 3

2. What should the tax rate be?

Maximum is ten cents (\$0.10) per aerosol paint container or container of any other marking substance; maximum is five cents (\$0.05) per felt tip marker or other marking instrument.

The City Attorney would then work with the City Clerk to complete all necessary steps.

DBB/cgd