

**Remarks of Councilmember Tim Burgess on Aggressive Solicitation Ordinance
Monday, April 19, 2010**

Policing and criminal justice issues are complicated, often very difficult. They are driven by strongly held and sometimes conflicting opinions.

My goodness, if this stuff were easy, we would have solved our crime problems a long time ago.

I recently proposed five measures to improve the quality of life on our streets, including more police foot patrols, continued hiring of officers to increase police presence in our neighborhoods, enhanced efforts to connect those in need with appropriate social services and making more “housing first” units with support services a priority in order to give those who have been chronically homeless a real opportunity to find a safe place to call home. The plan includes adoption of a new ordinance to make aggressive solicitation a civil infraction.

This initiative came together after the release of Seattle’s 2009 Part I major crime statistics that showed a citywide overall increase of 7% compared to 2008, and a much worse—and very troubling—22% increase in our downtown area stretching from South Lake Union to Pioneer Square. Those statistics demand attention and action.

The aggressive solicitation ordinance is based on three principles of crime reduction—concentrated deterrence which is all about paying attention to the few who create the most problems; sanctions that are swift and certain but not severe; and taking small steps to address street disorder by encouraging a community orientation in which everyone appreciates our basic expectations of one another.

But, this new law has been misinterpreted by those who oppose it.

- It does not ban panhandling at any time or in any place.
- It does not violate free speech rights.
- And it certainly does not criminalize the homeless or others who struggle with poverty.

The proposed ordinance says we will not tolerate intimidating behavior that causes fear or the compulsion to give while soliciting for money or anything of value. It regulates behavior, not speech. Panhandling *per se* is not banned. And the provisions of the ordinance do not apply to signature gathering or political canvassing.

The proposed ordinance establishes a civil infraction for aggressive solicitation in contrast to the current city code that makes aggressive begging a criminal misdemeanor. The Council will compare the effectiveness of the proposed ordinance—with its lesser sanctions—against that of the existing criminal code. We will repeal the existing criminal law if the civil measure proves effective.

Just like the current criminal law, the proposed ordinance requires either a police officer or a citizen to initiate an enforcement action. Just like the current criminal law, it requires evidence of intimidating behavior that causes fear or the compulsion to give, a legal definition found acceptable under the U.S. Constitution by our Federal District Court.

There has been criticism that the proposed ordinance violates due process. The procedures and protections for civil infraction violations are spelled out in Washington state law and the ordinance follows those precisely.

There has also been criticism that the proposed ordinance criminalizes the homeless or others who are poor. Critics reach this conclusion because someone who fails to respond to a citation may be charged with the criminal misdemeanor “failure to appear.” Of course, failure to respond to the Municipal Court for *any* civil infraction or criminal charge may result in a misdemeanor charge of failure to appear. But the charge is not automatic as has been suggested. The City Attorney decides whether to charge failure to appear on a case-by-case basis.

Some suggest that the new ordinance gives our Municipal Court the authority to force involuntary drug or mental health treatment. This is incorrect. However, judges may apply conditions or offer community court or other probation alternatives to criminal defendants including those who come before them as a result of a failure to appear. Those alternatives include treatment services.

Why is this aggressive solicitation ordinance necessary?

The evidence before us suggests that Seattle has a problem with increased crime and street disorder. The evidence also shows that downtown residents are concerned with aggressive solicitation and that citywide many residents avoid downtown because they are fearful. Business owners—many with small operations critical to the economic health and vibrancy of our city—are very concerned about the declining quality of life on our streets. And our police commanders have asked for another tool to help them respond to problems on our streets.

At the end of the day, the proposed ordinance is designed to change behavior on our streets, to make our streets and sidewalks safe for everyone, including the homeless and others who are poor. We want to reassert Seattle’s community standards that reject intimidating and threatening behavior.

And, frankly, that’s why leaders of many of our human service organizations—the people who serve the homeless and poor on a day-in and day-out basis—support this legislation. You know these leaders and their fine organizations and you know they would not support this measure if they didn’t sincerely believe it would benefit their clientele. These leaders include:

- Bill Hobson of the Downtown Emergency Service Center,
- Rick Friedhoff of the Compass Housing Alliance,
- Paul Lambros of the Plymouth Housing Group,
- Jeff Lilly of Union Gospel Mission,
- Gary Wyckoff of the YMCA and
- Rita Ryder of the YWCA.

Ignoring our crime and street disorder problems won’t make them go away. We should take actions and adopt laws that are measured and for which there is evidence of effectiveness. I believe that means that together as a community, we must reassert norms of appropriate behavior—starting with a commitment to not allow aggressive and intimidating solicitation—and begin to make headway in reducing other street disorder and criminal behavior that threatens the vitality of all our neighborhood business districts.

There is no doubt that the proposed ordinance is controversial. Good people disagree about its merits. If it is passed today, over time, we will determine if it is an effective measure.

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In 2007, Tacoma’s City Council passed a law regulating panhandling. It is far more restrictive than what we propose here. In 2008 and 2009, Tacoma took 14 enforcement actions under their ordinance—less than one per month in a two-year period. Why so few? Because Tacoma police engaged in a community outreach and education effort that reset norms of behavior related to panhandling. Tacoma police officers distributed fliers that clearly explained the new law and officers *still* prefer to use that law to warn and caution offenders. If you listen to Mayor Strickland, Tacoma has cured its problem. This is exactly what we are hoping for here in Seattle.

Maribeth Ellis, executive director of the Chinatown International District Business Improvement Area, testified in a sworn affidavit that is part of our record: “The current level of aggressive solicitation is slowly choking the life out of this business district. If the current street environment continues, businesses cannot survive and they will simply close or move.”

Angela Stowell, co-owner of four restaurants (Union, Tavolata, How to Cook A Wolf and Anchovies and Olives) said in her affidavit: “We have witnessed an increase in street crime and disorder and this has had a direct negative impact on our customers and employees. We deal with aggressive panhandling on a daily basis. At times it is simply an annoyance. At other times it has led to violent outbursts and threatening behavior toward us, our customers and our employees.” She ends with this: “I have concluded that our city has allowed an almost anything goes environment to exist on our streets. This intimidating behavior should not be allowed.”

Captain Steve Brown, commander of the West Precinct, said in his affidavit: “I know from my personal observations and from the reports I receive from officers in my command that aggressive solicitation is a daily issue with people on the street and is one of our most perplexing and troublesome disorder issues. The aggressive and hostile behaviors often involve a solicitation for money where the solicitors use verbal tactics and ‘in your face’ gestures and physical posturing that scare and intimidate citizens. Aggressive solicitors regularly invade the normally acceptable social distances that strangers extend to each other during mutually agreeable social contacts, an invasion of personal space that causes intimidation and fear for personal safety. Some aggressive solicitors accost motorists who are parking their vehicles on the street or in private parking lots and solicit financial contributions in exchange for offering to ‘guard’ or ‘watch’ the parked vehicle.”