CHARLOTTE

Charlotte City Council
Community Safety Committee
Meeting Summary for December 14, 2010

COMMITTEE AGENDA TOPICS

I. Subject: **FY2012 Focus Area Plan**
Action: None

II. Subject: **Towing Ordinance**
Action: Motion made to forward proposed ordinance to full Council. (Passed unanimously)

III. Subject: **Noise Ordinance**
Action: None

IV. Subject: **2011 Meeting Schedule**
Action: Poll the Committee to look for a meeting date other than the third Thursday

COMMITTEE INFORMATION

Present: Patrick Cannon, Patsy Kinsey, Michael Barnes, Edwin Peacock
Time: 12:10 pm – 1:45 pm

ATTACHMENTS

1. Agenda Package
2. Key Man Building Handout
3. Mr. Jeff Brown's proposed ordinance

DISCUSSION HIGHLIGHTS

Acting Chairwoman Patsy Kinsey called the meeting to order and asked everyone in the room to introduce themselves. She stated that Chairman Cannon would be there shortly and she requested to change the agenda around so that the Chairman can be in attendance during the

Towing Ordinance discussion. She then turned it over to Assistant City Manager Eric Campbell who said that it would be best to start with the 2011 meeting schedule.

I. 2011 Meeting Schedule

Chairwoman Kinsey stated that in their agendas they received a proposed schedule and asked the Committee if they had any concerns with it. Council member Peacock requested to look at a different meeting date besides the 3rd Thursday of every month because it conflicts with the CMDC Board meetings, which the Mayor appointed him. They requested that Angela Maynard poll the Committee to find a better date, perhaps the 3rd Wednesday of every month. The other Committee members present agreed to that request.

Mr. Campbell then said the next item to review is the Noise Ordinance.

II. Noise Ordinance

City Attorney Mac McCarley said that today he will give the Committee a quick update on the process and status of the Noise Ordinance. They (himself, Eric Campbell, Bob Hagemann, and Alicia Davidson) have met with most of the stakeholders on this issue, individually. He said they are grinding down toward the end of the discussions with most folks. There are some successes and some difficulties. He said they have had great conversations with the owners and operators of the outdoor concert venues. There are very few complaints about them and he thinks they'll have a proposal, which will work for them, to have an annual permit that is tailored specifically to their location and their noise issues and the neighborhoods they are close too. He said we will not have a one size fits all.

Kinsey: Will they get "x" number of events per year or unlimited?

McCarley: It would be more about how they operate and what mitigation measures they put in place. They are sophisticated about this. It was more a matter of keeping the sound on their site.

Kinsey: The most recent complaint I have seen is in Uptown on a vacant lot. Does that fit into this category?

McCarley: No. When we talk about outdoor concert venues we are really looking at three specific places: Verizon, Music Factory and the Symphony Park. The lot you are talking about will probably be blended into the festival rules.

Mr. McCarley said he thought they were getting close to working out most of the issues with the conflict between the bars and hotels Uptown. They may be able to handle that with some noise mitigation requirements on the bars. He said they have also met with the neighbors and they are adamant that they have had enough. The Zoning Ordinance would not allow a bar within 400 feet of residentially zoned property. He said they started using that as a functional testing position to see if it would work. He thinks it will work for neighbors. He stated that they then met with bar owners and even the cooperative bar owners, who would like to be good neighbors, say this will put a hardship on them. They will probably protest and ask Council to make some

kind of compromise. Mr. McCarley said that on the assumption they will do that, they are trying to think through some compromised positions. He said that they don't feel comfortable proposing the compromise because the neighbors are so adamant about no amplified noise.

Barnes: Can you give me an idea of the geography at issue and how big the problem is?

McCarley: We started with a complaint database that consists of Philosopher's Stone on 7th Street. The CMPD is pulling together and analyzing hotspots of places that generate a fair number of calls for service on noise complaints. It looks like it's very few other bars, but apartment complexes that have a high number of students and the complaints are parties. We are still working on analyzing the impact. We are trying to find a way to let a restaurant that has a deck have a T.V. outside for football games or have background music for dining, but doesn't reach the level of a band outside aggravating a neighborhood. We will be honest and say that we will probably bring this to you with a 400 foot prohibition and if you are inclined to look at a compromise, we would be ready to help you think about that. The balance is so tilted against the neighbors that they don't want to hear anything about compromising.

Barnes: Does Philosopher's Stone violate the decibel levels?

McCarley: They violate everything.

Barnes: Why aren't we focusing more attention on them as opposed to punishing every bar in the City?

McCarley: There are enforcement issues that need to be dealt with. The Police tell us that given the size of the City, the small number of noise meters and how it plays out when they go to enforce, it turns into a cat and mouse game of turning the volume down and then right back up when the officer leaves. It's a waste of police resources. We are looking at a different set of enforcement mechanisms and even asking questions about who should be enforcing this. Those conversations are not yet complete, but what we are trying to get to is a simple yes or no question on whether this is a violation. It shouldn't be subjective. We are looking at objective measures such as; what day of the week it is, what time it is, and how far you are from a neighborhood.

Peacock: Why can't it be that if you have a residential bar within 400 feet of neighborhoods that you can't go above a certain level, past a certain time, on these days?

McCarley: We are headed that way, minus the above a certain level because it's the noise level reading in the neighborhoods that invite the cat and mouse game. The officers have asked for us to find a different measure.

Kinsey: The owner of Philosopher's Stone ignores all rules and regulations. There are a couple of other restaurants and bars in close proximity that are great.

Barnes: Help me to understand the objective standard you would establish by saying date, time, and distance. What is it that I can't do on a particular day during a particular time?

McCarley: What we are probably going to bring to you is a flat prohibition of outdoor amplified sound within 400 feet of residentially zoned property.

Barnes: So, no T.V.'s on the patio, no band, no comedian or violinist?

McCarley: They can have a comedian or violinist, as long as there is no amplification. They could have a person playing a guitar also, as long as it's not amplified. The neighbors have said that is fine. The bars say they want a little more than that; even the owners that are considered the good neighbors.

Barnes: That's where I'm struggling because then you get into the subjective issue.

McCarley: We are struggling too. There is no perfect answer. We hope to have a draft to start going through in time to have this done by spring.

Campbell: One of the challenges when we talk about decibel measurement is we are finding that the ambient noise alone breaks the barrier of what the current ordinance says.

Barnes: How about if we say, for the good guys, you can pay for a special license on a Friday or Saturday from 7:00 – 9:00 p.m. (or some period of time) and you can have amplified music? I'm trying to avoid punishing the folks that have not been a problem.

McCarley: Some of the bars on 7th Street have suggested giving them some number of afternoon permits for a set number of hours, Saturdays only, and let them have these events because they do draw a large enough crowd to be financially successful. That's the kind of compromise I suspect some of the bar owners will come back to you with and then you will have the pleasure of hearing what the neighbors think of having anymore amplified music in their neighborhood.

Kinsey: Have we heard from anywhere else other than the Elizabeth neighbors?

McCarley: It's a very short list and we will track each one of those all the way down to make sure we really understand the situation. In a couple of situations, it is clear to us there was one especially sensitive neighbor. I'm less inclined to think that's a public policy problem. If we discover anymore, we will go meet with them too. The interesting thing about this project is every time we meet with somebody, we find somebody else we need to meet with. We are committed to getting this wrapped up by late spring.

Kinsey: Thank you for the update. Let's move onto the Focus Area Plan.

III. FY2012 Focus Area Plan

Mr. Campbell said the Focus Area Plan draft (copy attached) is the first rough cut. This is a Council document, but staff wanted to wait for CMPD to hold their retreat to get some of their high priority issues that they felt were things that needed to be considered. Ultimately, it's the Committee's recommendation that will go to the Council Retreat, which will be held on January 31 and February 1. He then turned it over to Darrellyn Kiser.

Ms. Kiser said the initial draft represents the direction CMPD is going to go, based on the discussions at CMPD's retreat. The theme of the retreat was sustainability. They are looking at how to sustain the double-digit decreases in crime. The clear focus is working with enablers of crime and those conditions in neighborhoods that allow crime to flourish in some areas and not in others. They are trying to target relationships and partnerships; some include strengthening partnerships with other City departments, like CDOT, Neighborhood Development and Code Enforcement. It's also looking at leveraging the resources of other federal agencies. The new District Attorney talked to CMPD at the retreat and they have identified some issues that they can work on together to strengthen that partnership. She said they also talked a lot about juvenile crime and juvenile diversion.

Ms. Kiser said that in this draft they left most of the issues in broad form. They established 6 workgroups that are working on each of the 6 issues. In the next 4 weeks, they will be working on specific targets, objectives and goals.

Chief Monroe added that they have to do a better job of focusing on some of the enablers of crime in this community. Some of the problems may be a particular house or location that is feeding a certain issue within a community. It could be a lighting issue in a community or rental properties. Those types of things are feeding the fear of a lot of communities, but when you match it with actual crime statistics, they aren't there. He said they need to do a better job addressing the enablers to allow them to affect the fear of crime. As it relates to their federal partners, they are focusing on bringing them back to the neighborhoods and not the national type issues.

Peacock: Which one of the CS. 1 – 5 reflects focusing on the enablers?

Kiser: It would be CS.1 & CS.3 and ultimately, if we are successful, it would reflect on the outcome of CS.2.

Peacock: What are the 6 workgroups?

Kiser: They are Juvenile Crime, Juvenile Diversion, Larceny from Auto, City Partners, Federal Partners, and Neighborhood Leadership Council.

Peacock: Are we likely to see more measures in the next series of drafts?

Kiser: Yes, we just didn't have time to get them all in before now. The schedules are not quite in sync.

Peacock: I'd love to see more detail and allow us to narrow it down a little more and let us cut stuff out. I'd like to see other ideas that maybe the officers are thinking about and see how much more we can integrate here. The FAP's read pretty bland. I want a citizen to be able to quickly read through this and see where we are as a City. Are there other measures that we can use that aren't quite so statistically driven?

Monroe: If you look at the juvenile diversion category, those are very large issues. We are locking up too many of our kids. We are using the ability to arrest a kid as a disciplinary measure and as a parenting tool. We have to do a better job of diverting the kids out of the justice system that way we are better able to address kids that need to be in the system. We need to tell that entire story and what the actual impact is especially, when you are looking at the 6 areas we are concentrating on.

(Chairman Cannon entered the meeting)

Peacock: The more detail the better. This document should tell the story of what you are trying to accomplish and if we can put a target on it, it would be great to have that. I think there is a lot more that you all are doing that is not reflected in this document.

Monroe: I agree. There is a vision statement that is associated with all 6 of those conditions that really talk about why it's important to focus on these particular areas.

Kiser: The reason this is formatted this way is because it's the way it's been mandated by the Budget & Evaluation office. You have a one page introduction and no more than 5 objectives.

Peacock: You can have 5 objectives, but give me a lot more of the outline. We have 5 objectives and very little items underneath it.

Kinsey: This is this Committee's document and if we want more, we'll tell Budget & Evaluation that we want more. This needs to reflect what this Committee supports and believes in.

Kiser: Are there any topics that you would like to talk about that you don't see in here?

Cannon: Is reentry in there?

Kiser: No, not specifically.

Cannon: Well, I'd want to add that in.

Peacock: Is the Rental Property Ordinance in here with a target and measure?

Monroe: That would be inclusive in CS.3 where we talk about collaboration with other departments. That could be an outcome measure that we use in each one of the 13 divisions. On the reentry issue, that's a pretty large issue. We would like to try to craft the focus amongst juveniles for reentering into the community and have that as the initiative and outcome measures.

Cannon: One of the things we are faced with are inmates coming out of the jails and coming right back into the community with no skills and it makes the community uneasy about their reentry. We have to work with a lot of agencies and find ways to collaborate and help us to come up with things that may not be costly. We need to pay attention to a broader piece. Yes, we want to concentrate on the juveniles and try to get them on the right path, but I can tell you that the community, at large, is concerned about the hard offenders that are coming back into this

community.

Monroe: The reason I point to the juvenile is because we do have some ownership over that. We have the ability to direct resources and personnel to address those juveniles; we have a funding stream for that. On the adult side, those programs are spearheaded by the Sheriff's Departments. We can be partners, but we can only be a supporting agency for adults versus a lead agency for juveniles. My concern is those other entities that we can't control the actual outcomes may set us up for some false measurement. I assure you we will be engaged and would be more than happy to list those engagements with those organizations.

Cannon: Okay, I understand. Collaborating is what I'm really talking about and placing emphasis on that. I'd like to see what we can do to mention collaboration with adult reentry.

Kiser: We can certainly put that in the narrative, even if we don't have a measurable target.

Cannon: That would be fine. I just don't want to lose sight of it.

Peacock: To Chairman Cannon's point, couldn't CS.1 and/or CS.3 have language inserted to address the concern about reentry? Or you could insert language to create a target and a measure and let the Chief and CMPD tell you whether that's doable.

Monroe: We will build something out in reference to that.

Peacock: The other subjects I want to see reflected in here is the new District Attorney in the DA's office. Is there a measure or target around a new relationship or new alliance? That is a critical component. The next piece is we tend to leave Fire out of this a lot. I'd like to know the measures on arson. We had also heard from the Mayor about merging Medic and Fire. Is there any effort there?

Hannan: For arson, the Task Force runs about twice the clearance rate of the national standard. We try to keep it about 34% where most cities this size have a 16% rate. It's a tough crime to prove, but we keep the heat on that. For the Medic and Fire consolidation, under N.C. law it was written to the power of county government to provide Medic. The County is in the driver's seat. The County Manager hasn't had the staff time to pursue it yet. We are in neutral until that happens.

Peacock: I'd like to see more detail from Fire and then let the Committee edit it out if we don't want it in there. We don't hear enough of what the initiatives are at the Fire Department. I know you have more than 3 inches on the paper.

Hannan: We will do that. Chief Monroe and I are working on bringing the communication centers together. That will save some money and resources and cut response time down.

Cannon: Thank you for trying to work close together. We know there are other politics over Medic.

Hannan: Dr. Blackwell is retiring and Dr. Sweeney is currently the interim. They haven't named a replacement yet. Dr. Sweeney has been very cooperative with the Fire Department. He's participated in the Urban Search and Rescue training and is qualified to deploy with our people. I feel good about the direction everything is going.

Kinsey: What is the timing for this? It doesn't sound like this will be ready before the Council Retreat.

Campbell: Last year, we had to do a called meeting before the Retreat and that may be the case this year as well. We will go back and take the information you gave us today and see where we are and get it back out to you in your packets.

Cannon: This Committee needs to be on board at the Retreat to readily articulate where we are on this. We need to claim this as our document and an extra meeting may be necessary. Thank you all for your input. Let's move on to the Towing Ordinance.

IV. Towing Ordinance

Mr. Campbell said that in the Committee's packets they received a copy of the redlined proposed Towing Ordinance, as well as a clean version (copies attached). After the last Committee meeting, staff incorporated the feedback from the Committee into the draft ordinance. There was a compromised solution to the notification of a tow issue and Mark Newbold and Major Eddie Levins will walk the Committee through the document.

Mr. Newbold began reviewing the redline version. He said they changed some of the whereas statements and used some of the suggestions that came from Mr. Jeff Brown. The other changes in the definitions are just some fine tuning. The next significant change that was put in was based on the Committee's comments that the key to solving the problem is good signage. Section 6-563 2(c) discusses the color of the letters, which should be red on a white background. That will require that some of the folks that have signs up may have to change their signs. Sec. 6-564 adds in the Committee's fee suggestion of $120 or less and $500 for a vehicle over 9,000 lbs; however, if the law requires that vehicle be towed separately (tractor trailers) they could get $500 for each piece.

Kinsey: Under Sec. 6-563 (3) it talks about the bottom of the sign being not less than 1 foot above the ground. Could someone complain that they didn't see it and it was too low?

Campbell: But it does increase the sign itself.

Newbold: The sign is bigger.

Barnes: I agree. If you park a Suburban in front of the sign, someone else won't be able to see it. I was thinking you would say the bottom should not be less than 3 feet above the ground and not more than 8 feet above the ground. That way it's at eye level. Just replace the "1" with a "3".

Kinsey: Is it the bottom not more than 8 feet or the top?

Levins: The bottom at 3 feet and the top at 8 feet.

Kinsey: Yes. Add the "top".

Barnes: In Sec. 6-563 2(d) it addresses the language that should be on these signs and states that unauthorized parking is prohibited. Will there ever be such a thing as authorized prohibited parking?

Newbold: I suppose if I were trying to get out of paying the fee I would make that argument.

Barnes: I'm suggesting here that we use language in the ordinance that the owners of the lots can refer to, to specifically know what they should be saying on those signs. Otherwise, there will be subjectivity on what the sign really means.

Newbold: Perhaps 2(d) can be stricken and put back in 2(b). In (b) you see requirements of specific language to be placed on the signs. This is from some recommendations provided from the industry that have parking lots providing space for a fee.

Barnes: You may not need 2(d). It could be reworked under 2(b).

Kinsey: In Sec. 6-564 1(e), it addresses payments for booting, but we are talking about the towing section. Should we say a "booting and towing service" must accept cash, etc.?

Newbold: You think the section on booting ought to be included at the same section, tying them in?

Peacock: I agree. Also in Sec. 6-564 1(a), is the $120 the agreed upon number from the industry?

Levins: No, that was the number that was already in place.

Peacock: The $500 fee is the one that Council member Barnes suggested. Has that been agreed upon in the industry? My concern is putting a number out there like that. The tow company may have to tow over 30 miles and it would cost more than $500.

Levins: There was no agreement on the $500. That came from me calling several other companies to ask what the base rate of the towing a tractor trailer would be. I was told $500 and the industry spoke back and said that should be per piece.

Peacock: Okay, then I would agree with the figure if that's where you got your number.

Barnes: Remember, they can always decline a tow. Back to Council member Kinsey's comment about Sec 6-564 1(e), the reason I thought it was okay there is because of the title of the section. It's addressing what is included in the title, which are fees. It's addressing a methodology of

payment. I thought (e) was okay there.

Kinsey: I don't disagree. It's just at the beginning of the section they talk about towing, and then they go to booting and talk about the booting service fee.

Barnes: Where do we address the payment methods for towing?

Newbold: That's in Sec. 6-565 (c).

Barnes: So you are suggesting we move (e) into (c)?

Kinsey: I just don't want any wiggle room.

Newbold: A solution is having a separate section for booting. We can do that. (All Committee members agreed)

Peacock: Explain the insertion 6-564 (b) where it talks about allowing the collection of past due charges for parking violations.

Newbold: That was put in after some discussion with Mr. Brown and others to help deal with the current problem they have of repeated parking violators. They are parking there repeatedly and not paying for it. We looked to see if before the vehicle is towed, is there some way they can recoup the fee through this ordinance. I'm not sure we can do that. I did tell Mr. Brown that if his folks are willing to go to the state legislator and there is a clear remedy they can point to and do that, this ordinance wouldn't prohibit them from colleting the parking fees that were due, but it wouldn't be through the tow fee.

Peacock: I'd like permission for Mr. Brown to address the recommended language he submitted and what Mr. Newbold has put here.

Cannon: Mr. Brown, please address Council member Peacock's question.

Brown: Thank you for the opportunity to respond. Mr. Newbold was trying to give us an opportunity for the ordinance to not prevent parking lot owners the ability to seek past due tickets owed. We are simply asking, with the new wording, to ask for the ticket to be paid for repeat offenders. In order to get a lien on a property, we may have to go to the state legislator and ensure that parking operators can get a lien on a piece of personal property, but we don't believe that the wording that Mr. Newbold added clearly allows the operators to ask for the past due tickets to be paid. The wording I'm asking for allows us to at least ask for the payment.

Cannon: Pay them in order for release or just pay them?

Brown: Just pay them. The ordinance doesn't even allow the operator to ask the question. We should be able to say, "you owe these past due tickets, here are the evidence of those tickets." My client, Levine Properties, does not tow on the first instance. They take photographs and issue tickets and don't start towing until after repeated violations. A person may owe $60 in past due

tickets, but to force a private operator to gear up and file a lawsuit is expensive.

Barnes: So, the City is saying, "we don't want to be involved in helping lot owners collect past due fees?"

Newbold: Correct.

Barnes: Mr. Brown is saying, "we would like a local ordinance that will allow us to collect old fines."

Brown: We would like to be able to ask. We would like for Council to consider putting it on the legislation agenda.

Barnes: Here's the problem. They come in and give you the $120 on the Visa card and you say, "by the way, you owe another $45" and then that causes a dispute and 911 is called. Has Mr. Levine considered towing on the first violation?

Brown: Mr. Levine is trying to avoid being thrown into the camp of predatory towing. Respectfully, we are talking about a mechanism where people have gone onto the lot and clearly violated, by parking illegally in a paid lot in downtown Charlotte, which is a premium. We don't feel like it's too much to be allowed to say, "You owe these past tickets." If they say, "I'm not paying them, release my car," then we release the car.

Barnes: I understand where you are coming from, but why is it he doesn't tow the first time they are there. That sends the message right there.

Brown: He may have to make that decision to move in that direction.

Barnes: He won't be the bad person because he'll be in compliance with the ordinance.

Cannon: You both are talking about how any one company should enforce how they get their fees. If the desire of the parking lot owner is to let some things pass and/or stack up, then that's a private industry call. Government should not interfere. I haven't seen where a parking lot owner can't say to the violator, "you have past due tickets with us."

Brown: This ordinance will prevent them from asking the question because they cannot ask for more than $120. That's the point we were trying to make.

Peacock: I need to leave so I wanted to make this point. When you get to the end in Sec. 6-564 (b), I think it should be edited to say; "at law regarding the enforcement and if any charges are due the amount of the fee described in subsection 1 (a) above may be increased by the amount owed, upon presentation by such owner/lessee or agent or the towing service of documentation evidencing such past due violation." His language is much more specific because he's saying he may be increased by the amount they owe.

Cannon: I don't think it's a bad suggestion. If there is no real issue with the parker that may be

in violation, they can be asked without having be held hostage of not being able to have their car released, based on the $120. We aren't mandating anyone has to pay "x" amount over and above whatever they might owe.

Newbold: All we are regulating is the cap on the fee and that's all inclusive. If there were a separate process in place and the vehicle wasn't towed, that's not covered in this ordinance.

Cannon: So, you are suggesting they just move forward and go to the State?

Newbold: That's why I have the wording like that. Mr. Brown and I disagree on how far it should go. My goal is to make sure the police officer can manage this process. I do not think the police officer should manage the process of how much someone owes somebody for past tickets.

Kinsey: We aren't asking the police officers to do it, but are we asking the tow truck drivers to do it?

Brown: We are allowing the tow truck drivers, if they have evidence of past due tickets, to say to the parker, "you owe these also, we would like for you to pay them." If they say no, then the car is still released.

Kinsey: I don't think we should put that on the driver. I would highly recommend Mr. Levine start towing those cars the first time.

Cannon: What is the will of the Committee to make a recommendation?

Barnes: I think we should use (b) as proposed by Mr. Newbold and on a parallel track work on adding this issue to our legislative agenda.

Brown: That would be very beneficial.

Barnes: Maybe we can refer it to the Governmental Affairs Committee (GAC). If we could change the lien law, that might help. I make the motion to approve (b) as written by Mr. Newbold, and also as a part of this Committee's work, make a referral to GAC to explore the issue of the lien law implications for further consideration as part of our legislative agenda.

Peacock: Second with no opposition. *(Motion passed unanimously)*

(Council member Peacock left the meeting)

Cannon: If the tow company is in violation of the ordinance, what is the repercussion?

Newbold: It would be a misdemeanor.

Cannon: Is the idea to leave it the way it is going forward?

Newbold: Yes.

Cannon: What about doing both booting and towing? Was that corrected?

Newbold: Yes, it's now an all inclusive fee and you can't do both. There is just one other section that was changed that we quickly need to discuss. Under Sec. 6-565 (f), there was some discussion on whether or not the owner or agent has to sign a contemporaneous written authorization. What we put in there was that still had to occur during the hours of 7:00 a.m. and 7:00 p.m. There was no consensus on that, but I wanted to make sure you saw that.

Barnes: I'm okay with this. I move to forward this ordinance to the full Council for consideration and approval.

Kinsey: Second. *(Passed unanimously, Cannon, Barnes & Kinsey (Peacock left the meeting))*

Kinsey: Please get this back to the Committee before it goes to Council.

Cannon: Also, provide the grid we had at the other Committee meeting with comparisons of how we stack up to other municipalities. I'd like that to be included as an attachment when this goes to the full Council.

Campbell: We will do that.

Chairman Cannon adjourned the meeting at 1:45 p.m.

Community Safety Committee

Tuesday, December 14, 2010; 12:00 – 1:30 pm

Room CH-14

Committee Members:	Patrick Cannon, Chair Patsy Kinsey, Vice Chair Michael Barnes Andy Dulin Edwin Peacock
Staff Resource:	Eric D. Campbell

AGENDA

I. Towing Ordinance

Staff Resources: Mark Newbold & Major Eddie Levins

CMPD staff will present a proposed Towing Ordinance to the Committee for review and consideration. If desired, the Committee may refer the proposed ordinance to the full City Council.

Attachment: 1. Draft Towing Ordinance
2. Red Lined – Draft Towing Ordinance

II. Noise Ordinance

Staff Resources: Mac McCarley & Bob Hagemann

Staff will continue to review the current Noise Ordinance and facilitate Committee discussion regarding community noise issues. No decisions or recommendations are requested at this meeting.

III. FY2012 Focus Area Plan

Staff Resource: Eric Campbell

The Committee will continue discussions on the proposed FY2012 Community Safety Focus Area Plan. No decisions or recommendations are requested at this meeting.

Attachment: 3. FY2012 Draft Focus Area Plan

IV. 2011 Meeting Schedule

Staff Resource: Eric Campbell

Action: Approve proposed meeting schedule

Attachment: 4. 2011 Proposed Meeting Schedule

Next Scheduled Meeting: TBD

Distribution:	Mayor/City Council	Curt Walton, City Manager	Leadership Team
	Mac McCarley	Stephanie Kelly	Rodney Monroe
	Jon Hannan	Bob Hagemann	

ORDINANCE NUMBER: _____ AMENDING CHAPTER 6

AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE ENTITLED "BUSINESSES AND TRADES"

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, some practices related to the trespass towing of motor vehicles from private property have resulted in the public and members of the towing industry being exposed to harm; and

WHEREAS, the owner and lessors of private parking lots depend on the availability of their parking spaces to conduct their businesses and activities, and should have the ability to remove motor vehicles parked in those lots without authorization; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse effects that occur during the trespass towing of motor vehicles while not interfering with the ability of owners and lessors of private parking lots to conduct their businesses, including removal of unauthorized vehicles;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Chapter 6, Article XI "Businesses and Trades" of the Charlotte City Code entitled "Towing and Booting Businesses" is amended in its entirety to read as follows:

"ARTICLE XI. Towing and Booting Business

Sec. 6-561. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Completed trespass tow means a trespass tow resulting in the complete removal of the motor vehicle from a private parking lot or private property.

Motor Vehicle means a Class A, B, or C Motor Vehicle as defined in G.S. 20-4.01(23).

Private parking lot means any parking lot or area owned by a private entity or individual that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment or condominium complex.

Tow means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.

Towing or tow service includes any person or other entity, whether licensed or not, that engages in or who owns or operates a business which engages, in whole or in part, in the towing or removal of motor vehicles for compensation.

Trespass towing or trespass tow means the towing or removal of a motor vehicle, without the consent of the motor vehicle's owner or operator, that is parked on a private parking lot without the property owner's or agent's consent.

Wheel lock means a boot, wheel lock or any other device that is attached to a motor vehicle that is designed to immobilize the motor vehicle.

Sec. 6-562. Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a motor vehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the city without complying with the provisions of this article.

Sec. 6-563. Trespass towing of vehicles from private parking lots; signs required.

(a) It shall be unlawful to tow or remove or immobilize by use of any wheel lock or other method, a motor vehicle that is parked on private property or private parking lot without the permission of the owner or lessee of the motor vehicle unless notice is posted in accordance with the provisions of this section on the private property from which the towing, removal, or immobilization occurs. The notice shall meet the following requirements:

(1) The notice must be in the form of a sign structure and not less than 24 inches by 24 inches and not larger than 6 square feet and constructed of metal, plastic or other type of material that is enduring in nature. The notice shall be prominently posted on the private property at each access or curb cut allowing vehicle access to the property and within five feet of the street right of way line. If there are no curb or access barriers, notices shall be posted not less than every 50 feet facing the frontage of the public

street and facing the private parking lot. In the alternative, a sign not less than 12 inches by 18 inches in size may be posted with lettering on both sides at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters red in color on a contrasting white background, the words “tow-away-zone” or “towing enforced.”

b. In not less than one inch high letters red in color on a contrasting white background, a statement that parking is never authorized by stating “private property - no parking” or where parking is permitted under limited circumstances, by stating “authorized parking only” or “leased parking only”, or “parking for _____customers only”, or “parking for residents only”, or a similar phrase that specifically identifies the conditions under which someone may park on the property.

c. In not less than one inch high letters red in color on a contrasting white background, the phone number that a person can call to retrieve the towed vehicle and the name and address of the storage facility where the vehicle is stored.

d. If parking is not prohibited on a 24 hour continuous basis, then the notice shall state the days of the week and the hours of the day during which unauthorized parking is prohibited. The notice shall also state the costs for the tow or booting of the vehicle.

(3) The sign displaying the required notices shall be permanently installed with the bottom of the sign not less than 1 foot above ground level and not more than 8 feet above ground level.

<u>Sec. 6-564.</u> Trespass towing of vehicles from private parking lots; fees

(a) It shall be unlawful to engage in trespass towing of motor vehicles except in accordance with the following provisions:

(1) Fees

a. The fees for a completed trespass tow shall be $120.00 or less for any motor vehicle weighing less than 9,000 pounds. For motor vehicles weighing 9,000 pounds or more the fee shall be $500.00 or less. If the motor vehicle weighing 9,000 pounds or more is required by law to be towed separately, then the fees shall be

$500.00 or less for each portion of that motor vehicle that is towed. The weight of a motor vehicle shall be determined by its Gross Vehicle Weight Rating as defined in G.S. 20-4.01(12b).

b. The fee for each tow shall be all inclusive. There shall not be any additional fees assessed by the towing service for booting or for a private parking violation. No additional fees may be charged for using dollies, trailers, lifts, slim jims or any other equipment or service. Subject to the express limitations described above, towing services and owners, lessees and agents of private parking lots shall be entitled to pursue all rights and remedies available at law regarding the enforcement and collection of past due charges, for parking violations.

c. The fee for storing a towed motor vehicle shall be $15.00 a day and shall not begin for 24 hours from the time the motor vehicle enters the lot.

d. The fee for booting a vehicle shall not exceed $50.00. A fee for booting shall not be charged if a completed trespass tow has occurred.

e. A booting service must accept cash and at least two major credit and debit cards.

Sec. 6-565. Trespass towing of vehicles from private parking lots; Practices.

(a) Any towing service that has initiated a trespass tow by, securing the motor vehicle to the tow truck by a hook, chain, cable or similar device, but has not completely removed the trespass motor vehicle from the private parking lot, shall upon the request of the vehicle owner or operator, release said vehicle without a charge.

(b) Any towing service that is engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle without paying a fee. If personal items are removed from the motor vehicle by the towing service, then upon request those items will be returned to the owner or operator at no cost.

(c) Any towing service that engages in a trespass tow or any storage facility that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall accept cash and at least two major credit cards and any debit card for any fee established by this Article. Upon request, the

employee for the towing service or storage facility will provide a receipt to the owner or operator of the towed motor vehicle.

(d) Any towing service that engages in a trespass tow or any storage yard that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall have a person on call 24 hours every day who acknowledges requests to retrieve a towed motor vehicle within 15 minutes of receiving an inquiry from the owner or operator of the towed motor vehicle. If the owner or operator wishes to retrieve the motor vehicle, then the towing service or storage facility must make the vehicle available within 45 minutes of the request.

(e) The lot or facility to which a trespass towed vehicle is removed shall be located within the city limits of the City of Charlotte.

(f) No towing service shall remove a motor vehicle from a private lot from the hours of 7:00 a.m. to 7:00 p.m. unless the owner or agent of the private lot signs a contemporaneous specific written authorization for such removal which is presented to the wrecker driver of the towing service. The agent must be someone other than an employee of the towing service. The written authorization shall contain the reason for the tow, the make, model, year, color, vehicle identification number (VIN) and license plate number. The wrecker driver shall contact the non-emergency number for the Charlotte-Mecklenburg Police Department and provide the above information. The motor vehicle will not be removed from the private lot until the driver has been advised of a complaint number.

Sec. 6-566. Interference with a towing service.

(a) It shall be unlawful for anyone to obstruct or interfere with a towing service that is carrying out a trespass tow on private property or a tow conducted pursuant to a contract with the City of Charlotte except:

(1) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to this Article; or

(2) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to the provisions of a towing contract with the City of Charlotte; or

(3) When the owner or operator verbally requests the towing service to retrieve personal property from their motor vehicle.

<u>Sec. 6-567.</u> Penalty.

Any person who violates a provision of this article shall be guilty of a misdemeanor as provided by G. S. 14-4.”

ORDINANCE NUMBER: _____ AMENDING CHAPTER 6

AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE ENTITLED "BUSINESSES AND TRADES"

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, some practices related to the ~~non-consensual~~ trespass towing of motor vehicles from private property have~~s~~ resulted in the public and members of the towing industry being exposed to harm; and

WHEREAS, the owner and lessors of private parking lots depend on the availability of their parking to conduct their businesses and activities, and should have the ability to remove vehicles parked in those lots without authorization; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse effects that occur during the ~~non-consensual~~ trespass towing of motor vehicles while not interfering with the ability of owners and lessors of private parking lots to conduct their businesses, including removal of unauthorized vehicles;~~; and~~

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Chapter 6, Article XI "Businesses and Trades" of the Charlotte City entitled "Towing and Booting Businesses" is amended to read as follows:

"ARTICLE XI. Towing and Booting Business

Sec. 6-561. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Completed trespass tow means a trespass tow resulting in the complete removal of the motor vehicle from a private parking lot or private property.

Formatted: Font: Not Bold

Formatted: Underline

Formatted: Font: Not Bold, Underline, Font color: Auto

Formatted: Font: Not Bold, Underline

CSC draft 3

Motor Vehicle means a Class A, B, or C Motor Vehicle as defined in G.S. 20-4.01

Private parking lot means any parking lot or area owned by a private entity or individual that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment or condominium complex.

Tow means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.

Towing or tow service includes any person or other entity, whether licensed or not, that engages in or who owns or operates a business which engages, in whole or in part, in the towing or removal of motor vehicles for compensation.

Trespass towing or trespass towi~~ng~~ means the towing or removal of a motor vehicle, without the consent of the motor vehicle's owner or operator, that is parked on a private parking lot without the property owner's or agent's consent.

Wheel Lock means a boot, wheel lock or any other device that is attached to a motor vehicle that is designed to immobilize the motor vehicle.

<u>Sec. 6-562.</u> Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a m~~M~~otor v~~V~~ehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the city without complying with the provisions of this article.

<u>Sec. 6-563.</u> Trespass towing of vehicles from private parking lots; signs required.

(a) It shall be unlawful to tow or remove or immobilize by use of any wheel lock or other method, a motor vehicle that is parked on private property or private parking lot without the permission of the owner or lessee of the motor vehicle unless notice is posted in accordance with the provisions of this section on the private property from which the towing, removal, or immobilization occurs. The notice shall meet the following requirements:

(1) The notice must be in the form of a sign structure and not less than 24 inches by 24 inches and not larger than 6 square feet and constructed of metal, plastic or other type of material that is enduring in nature. The notice shall be prominently posted on the private property at each access or curb cut allowing vehicle access to the property and within five feet of the street right of way line. If there are no curb or access barriers, notices

csc draft 3

shall be posted not less than every 50 feet of the frontage of the public street. In the alternative, a sign not less than 12 inches by 18 inches in size may be posted at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters red in color on a contrasting white background, the words "tow-away-zone" or "towing enforced."

b. In not less than one inch high letters red in color on a contrasting white -background, a statement that-parking is never authorized by stating "private property - no parking" or where parking is permitted under limited circumstances, by stating "authorized parking only" or "leased parking only", or-"parking for _____ ----customers only",or "parking for residents only", or a similar phrase that specifically identifies the conditions under which someone may park on the property.

c. In not less than one inch high letters red in color on a contrasting white background, the phone number that a person can call to retrieve the towed vehicle and the name and address of the storage facility where the vehicle is stored.

~~c~~d~~.~~ If parking is not prohibited on a 24 hour continuous basis, then the notice shall state the days of the week and the hours of the day during which unauthorized parking is prohibited. The notice shall also state the costs for the tow or booting of the vehicle.

(3) The sign displaying the required notices shall be permanently installed with the bottom of the sign not less than 1 foot above ground level and not more than 8 feet above ground level.

<u>Sec. 6-564.</u> Trespass towing of vehicles from private parking lots; fees

(a) It shall be unlawful to engage in trespass towing of motor vehicles except in accordance with the following provisions:

(1) Fees

a. The fees for a completed trespass tow ~~(the complete removal of a motor vehicle from a private lot)~~ shall be $120.00 or less for any motor vehicle weighing less than 9,000 pounds. For motor vehicles weighing 9,000 pounds or more the fee shall be $500.00 or less If the motor vehicle weighing 9,000 pounds or more is required by law

CSC draft 3

to be towed separately, then the fees shall be $500.00 or less for each portion of that motor vehicle that is towed. The weight of a motor vehicle shall be determined by its Gross Vehicle Weight Rating as defined in G.S. 20-4.01 (12b)~~.~~

~~1. --------- or less for any Class A Vehicle~~

~~2. --------- or less for any Class B Vehicle~~

~~3. $120.00 or less for any Class C Vehicle~~

b. The fee for each tow shall be all inclusive ~~and includes the fee charged for towing a trailer attached to a motor . There~~vehicle. There shall not be any additional fees assessed by the towing service for booting or for a private parking violation. No additional fees may be charged for using dollies, trailers, lifts, slim jims or any other equipment or service. Subject to the express limitations described above, towing services and owners, lessees and agents of private parking lots shall be entitled to pursue all rights and remedies available at law regarding the enforcement and collection of past due charges, for parking violations.

Formatted: Font: Not Bold, Font color: Auto

c. The fee for storing a towed motor vehicle shall be $15.00 a day and shall not begin for 24 hours from the time the motor vehicle enters the lot.

d. The fee for booting a vehicle shall not exceed $50.00. A fee for booting shall not be charged if a completed trespass tow has occurred.

e. A booting service must accept cash and at least two ~~and all~~ major credit and debit cards.

Sec. 6-565. Trespass towing of vehicles from private parking lots; Practices.

(a) Any towing service that has initiated a non consensual trespass tow by, securing the motor vehicle to the tow truck by a hook, chain, cable or similar device, but has not completely removed the trespass vehicle from the private parking lot, shall upon the request of the vehicle owner or operator, release said vehicle without a charge.

(b) Any tow service that is engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle without paying a fee. If personal items are removed from the motor

CSC draft

vehicle by the towing service, then upon request those items will be returned to the owner or operator at no cost.

(c) Any towing service that engages in a trespass tow or any storage facility that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall accept cash and at least two~~all~~ major credit cards and any~~and~~ debit card~~s~~ for any fee established by this Article. Upon request, the employee for the towing service or storage facility will provide a receipt to the owner or operator of the towed motor vehicle.

(d) Any towing service that engages in a trespass tow or any storage yard that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall have a person on call 24 hours every day who acknowledges requests to retrieve a towed motor vehicle within 15 minutes of receiving an inquiry from the owner or operator of the towed motor vehicle. If the owner or operator wishes to retrieve the motor vehicle, then the towing service or storage facility must make the vehicle available within 45 minutes.

(e) The lot or facility to which a trespass towed vehicle is removed shall be located within the city limits of the City of Charlotte.

(f) No towing service shall remove a motor vehicle from a private lot from the hours of 7:00 a.m. to 7:00 p.m. unless the owner or agent of the private lot signs a contemporaneous specific written authorization for such removal which is presented to the driver of the towing service. The written authorization shall contain the reason for the tow, the make, model, year, color, vehicle identification (VIN) and license plate number. The wrecker driver shall contact the non-emergency number for the Charlotte-Mecklenburg Police Department and provide the above information. The motor vehicle will not be removed from the private lot until the driver has been advised of a complaint number.

<u>Sec. 6-566.</u> Interference with a towing service

(a) It shall be unlawful for anyone to obstruct or interfere with a towing service that is carrying out a trespass tow on private property or a tow conducted pursuant to a contract with the City of Charlotte except:

(1) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to this Article; or

(2) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to the provisions of a towing contract with the City of Charlotte; or

(3) When the owner or operator verbally requests the towing service to retrieve personal property from their motor vehicle.

CSC draft

<u>Sec. 6-567.</u> Penalty

Any person who violates a provision of this article shall be guilty of a misdemeanor as provided by G. S. 14-4.

CSC draft 3

Charlotte will Provide a Safe and Secure Environment for Its Citizens through a Community-Based Approach to Public Safety

Community safety is one of the key priorities for Charlotte's city government. City government agencies, led by Police and Fire, partner with citizens to create a safe and secure environment in all areas of the community.

The Police Department takes a neighborhood-based approach to crime prevention and reduction. This is accomplished by a high level of police visibility throughout the city and the data-driven deployment of police resources in response to emerging crime trends and individuals who are chronic offenders. Police officers build active partnerships with the citizens and businesses in their assigned areas to exchange information, identify shared priorities and take joint ownership and responsibility for safety in Charlotte's neighborhoods.

Charlotte has experienced significant decreases in crime in the last two years and must accept the challenge of sustaining the progress that has been made. Long-term crime reduction is most effectively accomplished by addressing the enablers of crime-those conditions that allow crime to flourish in some of the City's neighborhoods. These conditions can include houses in disrepair, poor lighting, and trash in yards. Crime is also enabled when citizens are not empowered to access the services they need to effect change in their neighborhoods.

To that end, community safety will be a shared priority for all City key businesses with each key business making its unique contribution to community safety. Key businesses will develop strategies and share resources as they address problems at the neighborhood level, thereby reducing opportunities for crime to occur.

Building a safe community will also require leveraging the resources of other state and federal law enforcement agencies to deal with chronic offenders, gangs, and drug enforcement issues. Police will play an active role in forming and maintaining partnerships with other law enforcement agencies that add value to Charlotte's crime reduction efforts. Police will also work with other components of the criminal justice system to develop priorities that address the safety concerns of Charlotte's citizens.

The Fire Department also plays a major role in creating a safe and secure environment for the citizens of Charlotte. The Fire Department preserves life and property through proactive inspections, educating the public on fire and life safety hazards and by rapid response to fire and medical emergencies. Fire and Police are collaborating on the consolidation of E-911 and the CAD dispatch system to achieve operational efficiencies and better customer service.

With City government and citizens partnering in crime reduction efforts, Charlotte can be a city where its citizens and visitors feel safe as they go about their daily activities and have confidence in the agencies that address their public safety needs.

DRAFT

Community Safety

CS.1 Focus Area Initiative: Decrease crime throughout Charlotte-Mecklenburg through enforcement and problem solving strategies that target criminal activity and chronic offenders at the neighborhood level

FY12 Measure:	Crime rate per 100,000 population for FBI Uniform Crime Report Part One offense categories (Homicide, Rape, Robbery, Aggravated Assault, Burglary, Auto Theft, Larceny and Arson)
FY 12 Target	------% reduction in crime rate per 100,000 population
FY11 Target:	5% reduction in crime rate per 100,000 population
FY11 Actual:	-2.8% per 100,000 population through November 30, 2010
FY12 Measure:	Rate of larcenies from vehicle per 100,000 population
FY12 Target:	
FY11 Actual:	-5.18% reduction through November 30, 2010

CS2: Focus Area Initiative: Enhance citizen safety through increased police visibility and engagement of citizens as active partners in crime reduction

FY12 Measure:	Survey ratings on citizen satisfaction with police service and safety in their neighborhoods in May 2011
FY12 Target:	Ratings of 7 or above on a 10 point scale on questions related to police services and citizen perception of safety
FY11 Target:	Ratings of 7 or above on a 10 point scale on questions related to police services and citizen perception of safety
FY11 Actual:	(FY11 Survey not yet conducted)

CS3: Focus Area Initiative: Partner with other City and County agencies as well as other members of the criminal justice system in enforcement and prevention efforts that reduce crime and enhance the quality of life in our community

FY12 Measure:	Reduction in national and international gangs operating in

DRAFT

	Charlotte-Mecklenburg
FY12 Target:	Work with other state and federal law enforcement agencies to make significant progress in dismantling one gang per year
FY11Target:	Work with other state and federal agencies to make significant progress in dismantling one gang per year.
FY11 Actual:	730 Murder Mob Gang has been dismantled
FY12 Measure:	Partner with other city agencies in addressing specific neighborhood issues that are enablers of crime
FY12 Target:	---- number of neighborhood issues targeted and addressed

DRAFT

CS4: Focus Area Initiative: Develop recruitment strategies that attract a more diverse applicant base to the Police Department

FY12 Measure:	Percentage of women and minorities in police officer applicant pool
FY12 Target:	-----% of applicants that are females and minorities
FY11 Target:	Number of women and minorities in applicant pool
FY11 Actual:	

CS5: Focus Area Initiative: Reduce loss of life and property damage through proactive fire code enforcement and rapid response to working fires

FY12 Measure:	Percent of CMS 3rd Grade classrooms that received fire education programs
FY12 Target:	80%
FY11 Target:	80%
FY11 Actual:	71%
FY12 Measure:	Percent of alarms first–due responder companies on scene within 6 minutes of call receipt
FY12 Target:	80%

FY11 Target:	80%
FY11 Actual:	80.2%
FY12 Measure:	Percent of fire code inspections conducted within state-mandated frequencies
FY12 Target:	85%
FY11 Target:	85%
FY11 Actual:	88.4%

DRAFT

2011 Proposed Meeting Schedule for City Council Community Safety Committee

3rd Thursday of each month at 12:00 pm
Room 280

January 20

February 17

March 17

April 21

May 19

June 16

September 15

November 17
(reschedule – conflicts with Manager's Retreat)

Notes:
No July or August meetings due to Council's summer schedule
No December meeting pending new Committee assignments

ROBERT HAYWOOD MORRISON FOUNDATION
dba Key Man Building
1409 East Boulevard
Charlotte, NC 28203
704 332-7767 FAX 704 377-6123

December 14, 2010

TO WHOM IT MAY CONCERN:

Robert Haywood Morrison Foundation owns the Key Man Building at 1409 East Boulevard, Charlotte, NC. There are 125 office spaces in the building which we lease. Some offices have several employees all with cars. We have approximately 77 parking spaces in the rear of the building of which we lease 12 to Starbucks Coffee. We have 24 NO PARKING signs throughout the parking lot advising people they are parking on private property. The tenants in Key Man Building pay rent for their office space and a space to park their car. Each tenant is issued a Key Man Building parking sticker for their car. If we did not allow towing our tenants would not have a space to park their car.

If you have any questions please feel free to call me at 704-333-9645.

Barbara R. Scruggs
Property Manager

ORDINANCE NUMBER: _____ AMENDING CHAPTER 6

AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE ENTITLED "BUSINESSES AND TRADES"

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, some practices related to the trespass towing of motor vehicles from private property have resulted in the public and members of the towing industry being exposed to harm; and

WHEREAS, the owner and lessors of private parking lots depend on the availability of their parking spaces to conduct their businesses and activities, and should have the ability to remove motor vehicles parked in those lots without authorization; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse effects that occur during the trespass towing of motor vehicles while not interfering with the ability of owners and lessors of private parking lots to conduct their businesses, including removal of unauthorized vehicles;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Chapter 6, Article XI "Businesses and Trades" of the Charlotte City Code entitled "Towing and Booting Businesses" is amended in its entirety to read as follows:

"ARTICLE XI. Towing and Booting Business

Sec. 6-561. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Completed trespass tow means a trespass tow resulting in the complete removal of the motor vehicle from a private parking lot or private property.

Motor Vehicle means a Class A, B, or C Motor Vehicle as defined in G.S. 20¬4.01(23).

Private parking lot means any parking lot or area owned by a private entity or individual that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment or condominium complex.

Tow means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.

Towing or tow service includes any person or other entity, whether licensed or not, that engages in or who owns or operates a business which engages, in whole or in part, in the towing or removal of motor vehicles for compensation.

Trespass towing or *trespass tow* means the towing or removal of a motor vehicle, without the consent of the motor vehicle's owner or operator, that is parked on a private parking lot without the property owner's or agent's consent.

Wheel lock means a boot, wheel lock or any other device that is attached to a motor vehicle that is designed to immobilize the motor vehicle.

Sec. 6-562. Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a motor vehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the city without complying with the provisions of this article.

Sec. 6-563. Trespass towing of vehicles from private parking lots; signs required.

(a) It shall be unlawful to tow or remove or immobilize by use of any wheel lock or other method, a motor vehicle that is parked on private property or private parking lot without the permission of the owner or lessee of the motor vehicle unless notice is posted in accordance with the provisions of this section on the private property from which the towing, removal, or immobilization occurs. The notice shall meet the following requirements:

(1) The notice must be in the form of a sign structure and not less than 24 inches by 24 inches and not larger than 6 square feet and constructed of metal, plastic or other type of material that is enduring in nature. The notice shall be prominently posted on the private property at each access or curb cut allowing vehicle access to the property and within five feet of the street right of way line. If there are no curb or access barriers, notices shall be posted not less than every 50 feet facing the frontage of the public street and facing the private parking lot. In the alternative, a sign not less than 12 inches by 18 inches in size may be posted with lettering on both sides at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters red in color on a contrasting white background, the words "tow-away-zone" or "towing enforced."

b. In not less than one inch high letters red in color on a contrasting white background, a statement that parking is never authorized by stating "private property - no parking" or where parking is permitted under limited circumstances, by stating "authorized parking only" or "leased parking only", or "parking for _____customers only", or "parking for residents only", or a similar phrase that specifically identifies the conditions under which someone may park on the property.

c. In not less than one inch high letters red in color on a contrasting white background, the phone number that a person can call to retrieve the towed vehicle and the name and address of the storage facility where the vehicle is stored.

d. If parking is not prohibited on a 24 hour continuous basis, then the notice shall state the days of the week and the hours of the day during which unauthorized parking is prohibited. The notice shall also state the costs for the tow or booting of the vehicle.

(3) The sign displaying the required notices shall be permanently installed with the bottom of the sign not less than 1 foot above ground level and not more than 8 feet above ground level.

Sec. 6-564. Trespass towing of vehicles from private parking lots; fees

(a) It shall be unlawful to engage in trespass towing of motor vehicles except in accordance with the following provisions:

(1) Fees

a. The fees for a completed trespass tow shall be $120.00 or less for any motor vehicle weighing less than 9,000 pounds. For motor vehicles weighing 9,000 pounds or more the fee shall be $500.00 or less. If the motor vehicle weighing 9,000 pounds or more is required by law to be towed separately, then the fees shall be $500.00 or less for each portion of that motor vehicle that is towed. The weight of a motor vehicle shall be determined by its Gross Vehicle Weight Rating as defined in G.S. 20-4.01(12b).

b. The fee for each tow shall be all inclusive~~. There~~ **and there** shall not be any additional fees assessed by the towing service for booting or **other activities such as use** for ~~a private parking violation. No additional fees may be charged for using~~ dollies, trailers, lifts, slim jims or any other equipment or service~~. Subject~~**; provided, however, a service charge as described below may be charged for payments made with credit cards or debit cards; and provided, further, that payment of past due parking violation tickets or other obligations of the owner or lessee of the towed motor vehicle to the owner, lessee or agent of the private parking lot or private property are permitted, and if any such charges are due, the amount of the fee described in subsection 1a. above may be increased by the amount owed upon presentation by such owner, lessee, agent or the towing service of documentation evidencing such past due violation (such documentation to include a copy of the past ticket and/or notice of violation). In addition, subject** to the express limitations described above, towing services and owners, lessees and agents of private parking lots shall be entitled to pursue all rights and remedies available at law regarding the enforcement and collection of past due charges, for parking violations.

c. The fee for storing a towed motor vehicle shall be $15.00 a day and shall not begin for 24 hours from the time the motor vehicle enters the lot.

d. The fee for booting a vehicle shall not exceed $50.00. A fee for booting shall not be charged if a completed trespass tow has occurred.

e. A booting service must accept cash and at least two major credit and debit cards**; provided, however, a processing charge of $10.00 may be charged for payments made with credit cards or debit cards**.

Sec. 6-565. Trespass towing of vehicles from private parking lots; Practices.

(a) Any towing service that has initiated a trespass tow by, securing the motor vehicle to the tow truck by a hook, chain, cable or similar device, but has not completely removed the trespass motor vehicle from the private parking lot, shall upon the request of the vehicle owner or operator, release said vehicle ~~without a charge~~**upon the payment of one-half (½) of the fee for such tow referenced in Section 6-564 above**.

(b) Any towing service that is engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle without paying a fee. If personal items are removed from the motor vehicle by the towing service, then upon request those items will be returned to the owner or operator at no cost.

(c) Any towing service that engages in a trespass tow or any storage facility that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall accept cash and at least two major credit cards and any debit card for any fee established by this Article. Upon request, the employee for the towing service or storage facility will provide a receipt to the owner or operator of the towed motor vehicle.

(d) Any towing service that engages in a trespass tow or any storage yard that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall have a person on call 24 hours every day who acknowledges requests to retrieve a towed motor vehicle within 15 minutes of receiving an inquiry from the owner or operator of the towed motor vehicle. If the owner or operator wishes to retrieve the motor vehicle, then the towing service or storage facility must make the vehicle available within 45 minutes of the request.

(e) The lot or facility to which a trespass towed vehicle is removed shall be located within the city limits of the City of Charlotte.

(f) No towing service shall remove a motor vehicle from a private lot from the hours of 7:00 a.m. to 7:00 p.m. unless **either (i)** the owner or agent of the private lot signs a contemporaneous specific written authorization for such removal which is presented to the ~~wrecker~~ driver of the towing service~~. The agent must be someone other than an employee of the towing service. The written authorization shall contain~~ **or (ii) the towing service has in its possession standing written authorization from the owner, lessee or agent of the private parking lot regarding the authority of such towing service to engage in trespass towing at the property in question. The towing service shall contact the non-emergency number for the Police or send an electronic communication to the Police in accordance with Police procedures setting forth** the reason for the tow, the make, model, year, color, vehicle identification ~~number~~ (VIN) and license plate number.~~ The wrecker driver shall contact the non-emergency number for the Charlotte-Mecklenburg Police Department and provide the above information. The motor vehicle will not be removed from the private lot until the driver has been advised of a complaint~~

~~number~~ **The towing service must also send all of the required police information to a specified electronic email or internet based repository. The Police will respond with the corresponding authorization/complaint number either by telephone or electronic communication**.

Sec. 6-566. Interference with a towing service.

(a) It shall be unlawful for anyone to obstruct or interfere with a towing service that is carrying out a trespass tow on private property or a tow conducted pursuant to a contract with the City of Charlotte except:

(1) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to this Article; or

(2) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to the provisions of a towing contract with the City of Charlotte; or

(3) When the owner or operator verbally requests the towing service to retrieve personal property from their motor vehicle.

Sec. 6-567. Penalty.

Any person who violates a provision of this article shall be guilty of a misdemeanor as provided by G. S. 14-4."