



WHAT'S INSIDE:	<u>Page</u>
Calendar Details	2
<u>Agenda Notes:</u>	
Citizens Forum – November 23 rd Citizens Forum Speaker Regarding City Public Auction – Follow-Up	2-4
Citizens Forum – November 23 rd Citizens Forum Speaker Sandra Pettiford.....	4-6
Agenda Item #14 – Towing and Booting Business Ordinance Amendment.....	6-7

WEEK IN REVIEW:

Mon (Nov 23)	Tues (Nov 24)	Wed (Nov 25)	Thurs (Nov 26)	Fri (Nov 27)
12:00 PM Governance & Accountability Committee, Room 280				
5:00 PM Council Business Meeting, Room 267			Thanksgiving Day	Thanksgiving Holiday
6:30 PM Citizens Forum, Meeting Chamber				

CALENDAR DETAILS:

Monday, November 23

- 12:00 PM Governance & Accountability Committee, Room 280
AGENDA: Disclosure requirements – Civil Service Board, Citizen’s Review Board;
Annual audit update
- 5:00 PM Council Business Meeting, Room 267
- 6:30 PM Citizens’ Forum, Meeting Chamber

Thursday, November 26-Friday, November 27

Thanksgiving Holiday (City offices closed)

November and December calendars are attached.



Nov - Dec 2015.pdf

AGENDA NOTES:

Citizens Forum - November 23rd Citizens Forum Speaker Regarding City Public Auction – Follow-Up

Staff Resource: Randy Harrington, Management & Financial Services, 704-704-336-5013 – rjharrington@charlottenc.gov

Robert Campbell, Management & Financial Services, 704-336-7905 – rcampbell@charlottenc.gov

Rex Dye, Management & Financial Services, 704-432-5285 – rdye@charlottenc.gov

During the Citizens’ Forum at the October 26, 2015 Council meeting, Mr. Phil Fortuna of North Fort, New York, spoke before Council regarding the City’s Asset & Recovery Disposal (ARD) program and use of funds. Staff provided Council with a follow-up response via the Council-Manager Memo dated October 29, 2015. Staff has continued to receive questions and fulfill additional requests for information from Mr. Fortuna including providing a copy of the current auction service contract and a response to his additional questions shown below.

Additional Questions

In summary, Mr. Fortuna wanted to know if anyone else besides him paid storage fees for items claimed late after the auction. Mr. Fortuna was the only bidder and eventual buyer out of 638 registered bidders who left purchased items unclaimed after the established auction pick-up grace period the week of September 28, 2015 – October 2, 2015, with final pickup not occurring until October 9, 2015.

Mr. Fortuna subsequently requested information regarding the historical collection of storage fees from prior auctions. Staff research for the past five years including 2011 - 2015 auctions indicates that ten (10) buyers paid a total of \$2,250 in storage fees for vehicles and/or equipment left beyond the original one-week grace period. The table below details the buyer, the number of vehicles and the total storage fee charged:

Auction Date	Buyer	Storage Fees Collected	Days Late / # of Vehicles Stored	Total Buyer Spend (Last 5 years)
9/26/2015	Red Apple Auto Sales P. Fortuna	\$700	4 days <i>(7 vehicles)</i>	\$155,900
4/18/2015	Deep South Trucks & Equipment, C. White	\$25	1 day <i>(1 vehicle)</i>	\$146,500
	J. Allen	\$25	1 day <i>(1 vehicle)</i>	\$80,825
	J. Montenegro	\$700	14 days <i>(2 fire trucks)</i>	\$31,000
4/5/2014	D. Baskin	\$200	8 days <i>(1 vehicle)</i>	\$28,000
	Specialty Truck LLC, P. Huntington	\$350	7 days <i>(2 garbage trucks)</i>	\$94,500
4/13/2013	Specialty Truck LLC, P. Huntington	\$180	18 days <i>(1 vehicle)</i>	\$94,500
4/9/2011	S. Thongneramitchai	\$10	1 day <i>(1 vehicle)</i>	\$4,750
	J. Wilt	\$50	5 days <i>(1 vehicle)</i>	\$130,000
	EZ to Buy Cars Corp., C. Porras	\$10	1 day <i>(1 vehicle)</i>	\$291,000

Mr. Fortuna inquired about the guidelines used for assessment of storage fees and records supporting the final disposition of funds. The City is now able to collect storage fees via credit card payment with administration through our third party service provider. Since early 2015, the storage fee has been mandatorily charged on purchases left beyond the initial one week grace period.

City staff has diligently managed the after-auction pickup process. Over time, the following challenges have been identified and remedied with a more standardized protocol and supporting payment strategies:

- Limited space that impacted the City's ability to receive vehicles and equipment scheduled for commission, decommission and/or surplus from City, County, and other affiliate entities;
- The need to maintain the most secure chain of custody possible around new, used, seized and surplus vehicles and equipment;

- Liability related to vehicles and equipment being left on City property that have already been purchased (i.e. security, weather related damage);
- City staff and third party service provider availability to support pick-up schedules; and
- Scheduled maintenance to the auction facility and/or yard.

Staff routinely communicates the storage and fee assessment requirements before, during and after the auction with a multitude of communications strategies. For the September 26 auction, staff made special efforts to let all buyers know that the lot had to be cleared by October 2 with the knowledge that planned maintenance on the auction yard, specifically surface grading and gravel replenishment, was required and scheduled by the facility owner.

Mr. Fortuna signed acknowledgement of the terms and conditions including the storage schedule and fees assessment and was repeatedly contacted for pick-up which did not occur until October 9, 2015. Records regarding the disposition of all charged storage fees were also provided to Mr. Fortuna.

Auction Results

In summary, the September 26, 2015 auction was well attended onsite and online by 638 registered bidders. The day-long auction resulted in sales of 269 used and surplus items including 223 vehicles, 13 pieces of heavy equipment, and 33 miscellaneous other items (e.g. compressors, generators, site lights, mowers, utility carts, trailers, floor scrubbers, spare parts, etc.). Proceeds and expenses are as follows:

Gross proceeds	\$845,175.00
Commissions (9.5% of gross proceeds)	(\$80,291.62)
Cashiering expenses	(\$1,283.38)
Advertising costs	(\$11,510.56)
Third party reimbursed expenses	(\$11,230.19)
Net proceeds	\$740,859.25

Information

Mr. Fortuna has signed up to speak at the November 23, 2015 Council.

Citizens Forum - November 23rd Citizens Forum Speaker Sandra Pettiford

Staff Resources: Coerte Voorhees, Major, CMPD, svoorhees@cmpd.org

John Joye, Senior Assistant City Attorney – CATS, jjoye@ci.charlotte.nc.us

A resident signed up to speak at the November 23, 2015, Citizens Forum. She wants to address Council on a relative being arrested recently for an unpaid LYNX Blue Line fare dating back to 2012. She has also contacted members of Council regarding her concerns. The following is the background information.

CATS Interaction:

- On March 27, 2012, an Allied-Barton Company police officer issued a North Carolina Uniform Citation to the speaker's relative for fare evasion.
- The officer was checking fares on the LYNX Blue Line when he encountered the speaker's relative.
- The speaker's relative was not arrested. Instead, she was required to appear in Mecklenburg County Court on May 3, 2012. This was in keeping with normal fare enforcement procedures.
- Once the criminal citation is issued, North Carolina Court procedures control the process. Fare evasion is a Class 3 misdemeanor.
- The speaker's relative failed to appear at a court hearing on June 28, 2012. An Order for Arrest (OFA) was issued by the court. This was in keeping with normal court procedures for a Failure To Appear.

CMPD Interaction:

- On October 18, 2015, two CMPD Eastway officers were on patrol on Seigle Avenue in the 1300 block where a homicide occurred on November 12, 2015.
- A Mini Cooper vehicle pulled out onto Seigle Avenue from an apartment complex with no tag visible or attached to the rear of the vehicle.
- CMPD officers initiated a traffic stop on the vehicle near Belmont Avenue and Seigle Avenue.
- Upon approaching the car, officers noticed a tag lying flat on the rear deck of the vehicle.
- The officers took the information from the driver, the speaker's relative, and found that she had an Order for Arrest (OFA).
- The OFA had been issued for her failure to appear for her original June 28, 2012 court date.
- Often, an OFA for a minor violation, such as failure to pay a fare, is only enforced when the person is encountered by Police under another circumstance such as the above-mentioned traffic stop for no visible tag.
- Police confirmed the OFA was valid and informed her of this and gave her approximately 45 minutes to make arrangements for her child and her vehicle.
- During this time, the speaker's relative was not in handcuffs; she was only placed in handcuffs when it was time to transport her to the Mecklenburg County Intake Center.
- The OFA was for failure to provide proof of fare payment.

Mecklenburg County Sheriff's Office Interaction:

- On November 18, 2015, the speaker sent an email to City Council stating that her relative, at the time of her arrest, was housed with male inmates at the Mecklenburg County Intake Center.
- According to the Mecklenburg County Sheriff's Office (MCSO), it is not uncommon for both males and females to be in the same open area for processing.
- The processing area is staffed by both male and female MCSO staff at all times.

- MCSO reviewed video of the arrest process and found the speaker's concern invalid.

District Court Interaction:

- The speaker's relative was scheduled for court on November 19, 2015.
- The case against the speaker's relative was dismissed due to age.

Charlotte-Mecklenburg Community Relations Follow up:

- Staff from Charlotte-Mecklenburg County Relations contacted the speaker on November 20, 2015.
- Staff explained to the speaker that the fare evasion charge was dismissed on November 19, 2015.
- Staff also offered information on a free expungement clinic that is available through Charlotte-Mecklenburg Community Relations Committee.
- Staff also informed the speaker to contact Charlotte-Mecklenburg Community Relations should she require additional assistance.

Agenda Item #14 – Towing and Booting Businesses Ordinance Amendment

Staff Resource: Rusty Perlungher, CMPD, 704-336-6115, rperlungher@cmpd.org

At Monday night's meeting, Council is asked to approve the Community Safety Committee's recommendation to amend the City's "Towing and Booting Businesses" ordinance. The Committee unanimously approved these changes at its September 10 meeting, and the full Council was briefed at the October 26 Dinner Briefing. The changes are summarized as follows:

- Remove fee caps for services. The results from a North Carolina Supreme Court decision that determined municipalities lack the authority to impose fee caps for nonconsensual towing/booting on private parking lots.
- Requires that notices/signs posted on private parking lots contain:
 - The maximum amount of fees charged for services;
 - A statement that credit and debit cards may be used for payment; and,
 - The amount of percent or additional fees and charges added for the use of credit and debit cards.
- Define "booting service" and require employee identification and motor vehicle marking for booting services.
- Increase the maximum amount of the fine upon criminal conviction for a violation of the ordinance to \$500.
- Exempt driveways, lawns or yards, or property owned or leased as a family resident from the definition of "private parking lots".
- Require that wheel locks also be manufactured and designed to immobilize a motor vehicle.

The Community Safety Committee has tasked staff to research the feasibility of additional notice/signage and vehicle photograph requirements.

A marked up version of the ordinance, with changes, is attached. A final version is included with the Council agenda.



Chapter6ArticleXI(tracked).pdf

November

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
1	2	3	4 10:30am Bojangles' Coliseum reopening press conference	5	6	7
<div style="border: 1px solid black; padding: 5px; background-color: #e0e0e0;"> NLC Congress of Cities and Exposition Nashville, TN </div>						
8	9 2:00pm City Manager's Update Meeting, Room CH-14 3:00pm Transportation Committee Mtg., Room 280 5:00pm Council Business Meeting, Room 267	10 9:30am – 11:30pm New Council Zoning Orientation, 8th Floor Conf. Room 6:00pm Neighborhood Revitalization Listening Tour, 1601 W. Trade St.	11 12:00pm Housing & Neighborhood Dev. Committee Mtg., Room 280 2:00pm Environment Committee Mtg., Room 280	12	13	14 9:00am Neighborhood Revitalization Listening Tour, 1705 Rosa Parks Place
15	16 5:00pm Zoning Meeting, Room CH-14	17 7:00pm Neighborhood Revitalization Listening Tour, 501 W. Arrowood Rd.	18 12:00pm Community Safety Committee Mtg., Room CH-14 1:00pm – 6:00pm New Council Orientation and Reception with Dept. Heads 5:00pm MTC Meeting, Room 267	19 6:00pm Neighborhood Revitalization Listening Tour, 1118 Beatties Ford Rd.	20	21
22	23 12:00pm Governance & Accountability Committee Mtg., Room 280 5:00pm Citizens' Forum/Council Business Meeting, Room 267	24	25	26	<div style="border: 1px solid black; background-color: #e0e0e0; text-align: center; padding: 5px;"> Thanksgiving Day </div>	<div style="border: 1px solid black; background-color: #e0e0e0; text-align: center; padding: 5px;"> Thanksgiving Holiday </div>
29	30					

2015

December

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
		1 8:30am ReThink CLT-2 Town Hall Mtg., Room 267	2	3	4	5
6	7 5:30pm Council Gathering, CH-14 7:00pm Organizational Meeting (Swearing- In Ceremony and Reception), Meeting Chamber and Lobby	8 6:00pm Neighborhood Revitalization Listening Tour, 2415 Lester St.	9	10	11	12
13	14 12:00pm Agenda Review (optional), 15 th Floor Large Conf. Room 4:00pm Combined Zoning & Business Meeting, Room CH-14 6:30pm Neighborhood Revitalization Listening Tour, 2000 Milton Rd.	15	16 5:30pm MTC Meeting, Room 267	17 4:00pm Continued Zoning Mtg., Meeting Chamber	18	19
20	21	22	23	24 Christmas Holiday	25 Christmas Day	26
27	28	29	30	31		

2015

ORDINANCE NO. _____

AMENDING CHAPTER 6

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE XI OF THE CITY CODE,
ENTITLED "TOWING AND BOOTING BUSINESSES"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH
CAROLINA THAT:

Section 1: Article XI. Towing and Booting Business of the City Code is
amended as follows:

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:

Booting 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 booting or immobilization of motor vehicles for compensation.

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. A private parking lot does not include the driveway, lawn or what is commonly referred to as the yard, of property owned or leased as a family residence.

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 manufactured and 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 addition, 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. If parking is

only allowed for a specified time, then the sign shall specifically state the days and hours when parking is permitted.

c. In not less than one-half 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. In not less than one-half inch high letters red in color on a contrasting white background, the maximum fees and charges for booting or immobilizing a vehicle by use of a wheel lock, securing a vehicle to a tow truck by a hook, chain, cable or similar device, a completed trespass tow, and storing a towed vehicle; a statement that credit and debit cards may be used for payment; and the amount or percent of additional fees and charges which may be added for the use of credit and debit cards.

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

Sec. 6-564. ~~Trespass towing of vehicles from private parking lots;~~ Booting service; Fees.

(a) Any booting service engaged in the booting or immobilization of a motor vehicle on a private parking lot shall upon the request of the vehicle owner or operator, display and exhibit a photo identification card issued by the booting service. The photo identification card shall contain a picture of the employee, the first name of the employee, and the name, address and telephone number of the booting service. This subsection shall not apply to booting services in uniform which contains the first name of the employee and the name of the booting service.

(b) Booting service motor vehicles shall be marked with the name and address of the booting service on each side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to North Carolina General Statute § 20-101(d) or 49 C.F.R. Part 390.

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

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 upon payment of the fees and charges noticed pursuant to Sec. 6-563(a)(2)~~d 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.~~

(b) 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 all fees and charges required to be noticed pursuant to this article~~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.

(g) Subject to the express limitations described in this Article, 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.

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;

(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, and subject to a maximum fine of five hundred dollars (\$500.00).

Section 2: This ordinance shall become effective January 22, 2016.

Approved as to form:

City Attorney