

**LEGAL AND LEGISLATIVE COMMITTEE
DECEMBER 14, 2010
3:30 P.M.**

Councilman Murphy, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilmen Rico, Scott, Ladd, Benson, Robinson, Berz, Gilbert and McGary present. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Chip O'Dell, Karen Rennich, Greg Haynes, John Bridger, Daisy Madison, Paul Page, Richard Beeland, Alice Cannelli, Chief Parker, Gary Hilbert, Mike Patrick, Chief Maffett, Larry Zehnder, Lee Norris, Bill Payne, Rusty Rymer, Jeff Eldridge, Dickie Hutsell, Steve Leach, Dennis Malone, Ulystein Oates and Crystal Freiberg.

VEHICLES FOR HIRE

On motion of Councilwoman Robinson, seconded by Councilwoman Berz, the minutes of the previous meeting were approved as published.

Councilman Benson directed attention to the proposed Ordinance, with Attorney McMahan noting that Ms. Freiberg could make the necessary changes. Councilman Benson asked if any wrecker operators were present and one was accounted for. Councilman Benson stated that his being here was a recognition of the problem; that the Wrecker Board was recommending \$150 maximum for releasing a vehicle; that a winching fee would be charged only if the vehicle is over-turned. The fee is \$150 maximum, excluding the storage fee. He asked the wrecker operator to speak.

Rick Rutherford stated that he owned R & D Wrecking Service, and they had sent a letter to John Collins; that he was in agreement with a flat fee, which should take out arguments.

Councilman Benson noted that this would be for 24 hours a day, and we would not determine day and night.

Mr. Rutherford noted that there would only be an after-hours fee.

Attorney McMahan questioned the after-hours fee for pick-up? Mr. Rutherford explained that after hours they did charge a gate fee, which typically was \$50.00; that some might be higher, but he thought \$50.00 was reasonable.

Councilwoman Scott stated that one thing we ought to define is "what is after hours"? She stated that most of the time big wrecker companies have some semblance of business hours

but one could say they would only be open one hour a day, which would automatically mean after hours for every car.

Mr. Rutherford stated that normally it is the same as city hours—8:00 a.m. to 5:00 p.m.

Councilwoman Scott still felt that after hours should be defined, stating that she was also not sure what we are defining as the time storage begins.

Mr. Rutherford stated that the time should be after 24 hours; that he was fine with 24 hours.

Councilman McGary asked about winching and if the \$150 excluded winching? Councilman Benson stated that winching would not be necessary unless the vehicle was turned over on its side. Councilman McGary asked if the vehicle is overturned, what would be the charge?

Mr. Rutherford explained that they got this raised; that any excessive winching would be an extra \$50.00 but with \$150 flat, there should not be extra winching. Councilman McGary confirmed that it was only used on over-turned vehicles. Mr. Rutherford stated that it would be very rare that an illegally parked vehicle (non-consensual towing) would be over-turned.

Councilman Rico pointed out that someone had said that it takes two to three days to go through the process and the wrecker company keeps on charging for storage; that this particular person went back the next day to get his vehicle and was charged for two to three days storage, when it was not his fault. Mr. Rutherford asked “not his fault”, stating that he knew nothing about a two to three day process.

Councilwoman Scott stated that she agreed with what was being proposed; that we are trying to avoid predatory practices, and this sounds good. She questioned storage after 24 hours that could be added to the flat fee of \$150. Mr. Rutherford responded that there would be no add-on fees—that \$150 is fair; that the only additional thing to the cap would be an after hours fee. Councilwoman Scott asked him if he thought 8:00 a.m. to 5:30 p.m. Monday through Friday or between 8:00 a.m. and 5:00 p.m. would be regular hours, where one would not be charged for after hours?

Councilwoman Ladd noted that if a wrecker company does not want to participate in a gate fee, feeling that \$50.00 would not pay them enough to come in, then the person would have to wait to get their vehicle on the next business day; that they did not have to provide middle of the night service if \$50.00 was not enough; that this would be up to the wrecking company on whether or not they wanted to participate in a gate fee in the middle of the night.

Councilwoman Berz stated that she thought this was a 24-hour service. Mr. Rutherford noted that office hours are only from 8:00 a.m. to 5:00 p.m. Councilwoman Berz noted that when

they deliver service it is a 24-7 business; that the majority of the tows would be after 5:00 p.m. Mr. Rutherford explained that he towed for apartment complexes and 90% was after hours. Councilwoman Berz noted that if it is a 24-7 business, it should not be after hours; that winching fees are usually on police calls; that towing for private companies there would be a flat fee of \$150. She wanted to know where was an add-on, if not for storage? Mr. Rutherford explained that we were doing away with the winching fee and there would be a \$150 flat fee with no extras; that they were available 24 hours a day, but there would be an agreement on an after hours gate fee. Councilwoman Berz asked if the \$150 across the board took care of the gas? Mr. Rutherford noted that the vehicle being towed would be abandoned. Councilwoman Berz stated that she was not talking about the storage fee but the \$150 fee—if that took care of the gas?

Councilman McGary wanted to know what the public would read on the signs? Attorney McMahan responded that the Ordinance does not define signs—only a telephone number. Councilman McGary questioned if the sign should say only \$150 for the tow? Councilwoman Berz stated that she wanted people to have notice. Councilman McGary stated that it could read \$150 maximum. Attorney McMahan pointed out that this is non-consensual towing and not police towing. Councilman McGary felt that all signs should be uniform.

Attorney McMahan asked that this be deferred until the January meeting.

Chairman Murphy noted that the cost could be lower than \$150—that \$150 was maximum.

Councilman Benson thanked Mr. Rutherford for representing the industry and helping to clear this up—that the wrecking industry had really taken a beating.

Councilwoman Scott asked that the change be clarified as to after hours and wanted to know if this was possible and the fairness of saying you can't get your car, but you will be charged an additional storage fee.

Councilwoman Ladd noted that a storage fee is charged only after 24 hours.

Councilwoman Scott noted that there would be no office hours on the weekend, and if a person's car was towed on Friday night, and he wants it after-hours, then should the business open up? Attorney McMahan stated that if they are not open for business, they can't charge a storage fee.

The meeting adjourned at 3:50 p.m.