



City of Gainesville Master Report

City Hall
200 East University Avenue
Gainesville, Florida 32601

File Number: 000374

File Number: 000374

File Type: Resolution

Status: Held In Commission

Version: 6

Reference:

Controlling Body: Public Safety
Committee

File Name: Vehicle Towing Ordinance and Roam Towing Fees Review (B)

Introduced: 6/11/01

Requester:

Cost:

Final Action:

Notes:

Title: Vehicle Towing Ordinance and Roam Towing Fees
Review (B)

Indexes:

Sponsors:

Attachments:

History of Legislative File

Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Action Note: City Auditor Alan Ash stated that the City Commission requested that the City Auditor, City Manager and City Attorney further review the rate adjustment issue for roam towing for final review by the Audit & Finance Committee. He stated that a panel to acquire community feedback was established, and introduced Assistant City Auditor Eileen Marzak to present the findings.

Ms. Marzak acknowledged the citizen panel members, towing companies and city staff that participated in the process. She stated the scope, objectives and methodology of the process, as well as the options for a current rate adjustment and possible future adjustments. Ms. Marzak also presented the option of a city administrative fee to private property owners to offset the cost of public funding and future ongoing information enhancements.

Mayor Paula DeLaney recognized Commissioners Chuck Chestnut and Warren Nielsen who gave brief updates as to the discussions of the Public Safety Committee. Tow company representatives Attorney Bob Rountree, Todd Rousseau - Ultimate Towing, Stan Forron - Elite Towing, Jimmy Watson - Gainesville Towing, Charlie Poindexter - Watson Towing, citizens Pete McManus, Dave Kanzler and Ben Techler, and city staff members Captain Robert Mitchell, Ron Combs and Marlene Hanna attended the meeting.

In reviewing the 9 Current Rate Adjustment Options, Mayor-Commissioner Pro Tem John Barrow stated that he thought Option 3 calculated to June 2001 could be appropriate. Commissioner Chestnut also asked that Options 2 and 6 be brought to the full Commission for consideration. It was also suggested that no automatic increase be instituted.

The Mayor and Commissioners agreed that steps need to be taken to (1) Review future complaints of performance and ethics by an appropriate Advisory Board, (2) Review sign language to ensure signage is very clear and understandable as to trespass towing and rates charged, (3) Consider the institution of an Administrative Fee on roam towing contracts for education and publicity, and (4) Require property owners to be accountable.

The Committee recommended that Current Rate Adjustment Options 3, 6, and 2 be made part of the recommendation to the City Commission on May 29, 2001.

City Auditor Ash stated that this is Mayor DeLaney's last committee meeting and he thanked her for her commitment and contribution to the committee over the past 5 years.

City Commission	8/28/00	Referred	Public Safety Committee	2/28/01	6/11/01	Pass
Public Safety Committee	10/19/00	Discussed				

Action Note: GPD staff provided a general overview of the Roam Towing (Towing from Certain Private Property) Ordinance and an historical review of the current rate of \$70 set by Resolution. Attorney Leonard Ireland for Robert Roundtree, representing a local towing company(s), requested the City Commission revisit the \$70 maximum tow rate, providing that increases in fuel, tow trucks, and insurance warranted a review and an increase in the allowable tow rate. Mr. Ireland provided as an example, that some of the other areas they looked at (Pinellas, Orange, Collier and Broward counties) had maximum towing fees of \$100 for this type of tow. Stan Forron, Stan's Towing and Todd Rousseau, Ultimate Towing spoke to the matter. The PSC requested additional information: 1) how did staff/city arrive at the original \$70 rate 2) survey of other municipalities such as Tallahassee, Ocala, and Jacksonville, and 3) explore a tie into the market rate percentages. Further discussion will be placed on the 11/16 PSC agenda, with anticipated recommendations to the CC on 12/11/00.



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Public Safety Committee 11/16/00 Returned Without Recommendation Pass

Action Note: The PSC recognized citizens Matt Blane, Todd Rousseau, Harry Hall, Robert Roundtree, Gene Watson, Mark Adler who spoke to the matter.

GPD staff presented a comparison survey of other municipalities' roam towing rates and provided the requested CPI. Attorney Roundtree referred to his original letter to the PSC of 9/28/00 requesting rate increase consideration and citing as an example of justification for that increase: a 58% increase in the cost of fuel, a 79% increase in the cost of insurance and a 36% increase in the purchase price of new tow trucks, commenting that increasing the maximum fee per tow to \$100 would help offset those costs.

Two students (or student representatives) suggested that roam towing is "predatory towing" and that standards of behavior and unethical practices by some tow companies should be part of this review.

Towing companies are governed by city ordinance and by Florida State Statutes that provides numerous guidelines with which tow companies must comply.

Complaints of illegal tows, although handled by GPD, don't cover complaints of legal tows that involve the behavior or practices of the tow companies during the tow or pick up of the vehicle.

Committee members felt the need to have more information regarding the totality of this issue and the impact with regard to standards, practices and cost.

After much discussion, the PSC recommended that the City Commission hear the presentation of information and take action necessary with regard to the provisions of Resolution #R-94-79.

City Commission 12/11/00 Referred Public Safety Committee 6/11/01 6/11/01 Pass

Action Note: City of Gainesville Assistant City Attorney Ron Combs, GPD Captain Robert Mitchell and City Auditor Alan Ash gave presentations.

Chair Paula M. DeLaney recognized Citizen Ben Tecler, Attorney Robert Roundtree and Reverend Tim Keyes spoke to the matter.

MOTION: The City Commission: 1) Refer the issue of reviewing the Towing Ordinance to the Public Safety Committee; 2) refer the issues associated with roam towing fees to the City Manager, the City Auditor and the City Attorney and bring this information to the Audit and Finance Committee; and 3) bring recommendations back to the full City Commission.

City Commission	12/11/00	Referred	City Manager	6/11/01	
City Commission	12/11/00	Referred	City Auditor	6/11/01	6/13/01
City Commission	12/11/00	Referred	City Attorney	6/11/01	2/22/01
City Commission	12/11/00	Referred	Audit and Finance Committee	6/11/01	6/13/01



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Public Safety Committee 1/25/01 Discussed



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Action Note: The Public Safety Committee recognized Robert Roundtree, Stan Forron, Ben Tecler, Dave Kanzler, Rebecca Ferguson, Marci Silver, Shane Lewis, Gene Watson, Diana Moss, Todd Rousseau, Marc Adler, Chester Zukowski, Randy Batista, Alex Alonso, Cpl. Bruce Giles, Ofc. Marc Plourde and Lt. Sherry Scott who spoke to this matter.

Attorney Roundtree spoke on behalf of several tow companies, stating their commitment to work with the citizens on any problems that are perceived to exist and stating that if there needs to be stronger enforcement or proper standards, they were committed to working together on that.

Members of the Gainesville Police Department were asked to address the PSC with any direct knowledge they had with regard to towing concerns. Lt. Sherry Scott introduced Cpl. Giles and Ofc. Plourde who spoke, after Lt. Scott commented about the valuable role towing companies play in the downtown area, yet acknowledging there does appear to be a number of issues with regards to the complaints received from officers and citizens.

Stan Forron advised that 23% of the vehicles he tows are never picked up, and in return they are sold for \$30-\$35 for metal, after a certificate of destruction is completed. Commissioner Nielsen asked if records were maintained on these destructions and statistics, and requested this be kept on record for potential future discussion.

Ben Tecler, Marci Silver, Dave Kanzler, Rebecca Ferguson, Marc Adler, Chester Zukowski, Randy Batista spoke of personal towing experiences and general complaints with the process, including assistance or lack of from law enforcement.

Diana Moss spoke to her need for roam towing in the apartment complex she manages, stating that it helps ensure that paying residents have a place to park and it deters large parties when crowds can't park illegally.

Commissioner Nielsen noted that apartment owners/managers should be invited to future PSC meetings on this issue.

Mr. Combs advised that even if a citizen does pay the \$70 to get their vehicle returned, they can still pursue civil remedies.

Other general discussion included: a) vehicles being towed that had proper decals and citizens feeling a sense of powerlessness against the towing company, b) who is responsible when the owner of private property has a vehicle towed that the vehicle owner disputes was legally parked on private property?, c) how to address human errors and what penalties/consequences can be put in place if mistakes are made, d) erecting signs in towing businesses that clearly explain how to file complaints, e) issue of a vehicle's dollar value vs the value to the owner, contrasted by the tow fee and storage charge, f) what responsibility do the apartment managers have to their tenants with regard to the towing contracts, g) need for a standard code of ethics, h) the history of roam towing and their role in assisting law enforcement, i) billing options, safety issues for young students stranded without a vehicle.

The Committee agreed on the following tasks/assignments:

- 1) Basis of legal agreements/contracts between the towing companies and the property owners, and what those responsibilities include.
- 2) Procedure and types of signage for roam towing, i.e., are they clear, how are the signs placed, how are they kept current, who is responsible for placement and maintenance, and what are the current flaws?
- 3) Ethics, procedures of the towing process itself. What are the ground rules, what is allowed during a tow and what is not allowed? What should the penalties be when there is a transgression of these rules/procedures?
- 4) Communication process between GPD, the citizens and the towing companies.
- 5) What are the mechanics of the towing process - straps, lights, securing the vehicle, etc.
- 6) How do we ensure that the citizens know as early as possible what is going on throughout the whole towing process, what their rights are from beginning to end.



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- 7) Review of the actual fee process as it compounds itself over time.
- 8) Responsibility of the property owners/apartment complexes with regard to their contract with the tow companies (decals, towing signs, etc.) and how they advise their residents.
- 9) Penalties imposed for breaking the issues of the laws. Can we put some teeth into already existing laws and ordinances?
- 10) Require certain minimum financial stability requirements (bonding/insurance) for the towing business to conduct business.
- 11) Education of the towing process to the citizens.

Staff will return with first drafts for discussion at the next PSC meeting on February 22nd at 2:00 p.m.



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Public Safety Committee 2/22/01 Discussed



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Action Note: The Public Safety Committee recognized Robert Roundtree, Todd Russeau, Gregory Woolley, Gladys Perkins, Ben Tecler, Kimberly Sweigard, Gene Watson, Legal Advisor Ron Combs, Cpt. Robert Mitchell and Chief Norm Botsford who spoke to this matter.

The PSC heard an update from Ron Combs and Cpt. Mitchell on the 11 tasks/assignments made at the January 28, 2001 PSC meeting.

Discussion of those responses from staff included:

- 1) Commissioner Nielsen presented a promotional flyer from Elite Towing he had obtained, and questioned whether the FSS made it illegal for property owners to receive benefits from towing companies who provide roam towing services on their properties. The Legal Advisor advised that it did, unless the towing firm offered that same benefit to all residents. There was a suggestion that the City may want to include a statement of that in the City ordinance, to reinforce that violation. The Committee asked for staff's response or critique to increased enforcement of the FSS that make it illegal for the towing companies to have these "improper" arrangements/benefits with their clients.
- 2) The PSC discussed whether there needed to be other reviews in place for ensuring that the roam towing signs are appropriately placed, noting that GPD provides an initial review when they receive a contract from a towing firm; however, cannot realistically keep up with monitoring the more than 200 contracts in place now.
- 3) The ordinance currently requires the tow companies notify GPD within 15 minutes of hook-up. One of the tow companies asked for the FSS 30 minute notification. The PSC asked staff to give them their recommendations at the next PSC meeting on how most efficiently to get this information to GPD/ASO.
- 4) GPD suggested that all towing companies be required to post a clearly visible sign in their business advising citizens who enter and exit how to register a complaint, both internal to the business and to the GPD. Specific recommended procedures for this will be made by staff at a future meeting.
- 5) Commissioner Nielsen suggested a "towing bill of rights", bullet points presented to citizens as soon as possible after the tow, either on the receipt itself or a separate document. This document would include information on fees, the ordinances and state statutes that regulate the towing, mechanics of the towing, how to file claims- giving them option to follow whether they be civil or criminal in nature, and contact names and numbers for citizens to call. Staff cautioned that the language would have to be vague with regard to giving legal advice to citizens or transferring the anger from the towing companies to GPD.
- 6) Commissioner Chestnut proposed requiring tow companies to purchase permits for roam towing, in part to handle the administrative costs that staff must provide for inspections, compilation of contracts, etc.
- 7) Commissioner Chestnut proposed stricter penalties for violations of the city's roam towing ordinance. Currently, the ordinance provides that 3 convictions of any provision of the ordinance within any 12-month period will result in the automatic revocation of the owner's or operator's privilege to engage in trespass towing for one month.
- 8) There was citizen comment regarding excessive speeding by the tow company drivers in the Porter's neighborhood, and concern that if the towing fees are increased, it will give the drivers even more incentive to speed to get more tows.
- 9) Comments from members of the Gainesville Apartment Association contributed to the necessity to have roam towing, but understanding that the tenants must be educated with regards to towing from their private properties. GAA Dori Farley indicated a willingness to take the "towing bill of rights" pamphlet to the GAA apartment owners/managers for their tenants to sign saying they received the "rights" to ensure they are aware of the process if they are towed.



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Staff will return with further recommendations to the above issues at the March PSC meeting.



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Public Safety Committee 3/15/01 Discussed



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Action Note: City Attorney Staff Ron Combs provided a "Rights of Persons Towed from Private Property" brief. During this discussion Mr. Combs advised that certain actions to further regulate towing companies by the PSC/CC are unclear with regards to the City's Roam Towing Ordinance at this time, based on Federal laws that were enacted in 1998, four years after the city's ordinance was adopted. The Federal law allows municipalities to set the cost of non-consensual tows only, but limits what can be done with respect to further regulations. The Court under who's jurisdiction Florida falls has ruled that we cannot set insurance and safety factors - that is limited to the state and the state only. With regard to the procedures, there are requirements set by FSS requiring certain things, such as signage on the part of the property owners. It was pointed out that while the tow companies may physically erect the signs, ultimately the property owner is responsible for causing the tow.

Commissioner Nielsen asked if the City could change the fee charged when a citizen returns to their vehicle while the vehicle is being hooked up. Again, Mr. Combs suggested that would be limited to what the State set. There was discussion regarding whether the City should lobby for changes through State and Legislative initiatives.

The PSC recognized citizens Ben Tecler, Marc Adler, Pete McManus, Jane Doe, Dave Kenzler, Gene Watson, Stan Forron, Robert Roundtree, Kimberly Sweigard, Todd Rousseau and Rick Moore who spoke to this issue.

Citizens McManus and Doe provided personal accounts of their towing complaints. It was noted that Mr. McManus' vehicle was towed in the county and pointed out that the city ordinance is not effective in the county limits.

Mr. Moore commented that the FSS states that the person causing the tow (property owners/not tow companies) are responsible and that the property owners should be part of this discussion. For the record, there was a Gainesville Apartment Association member present at this meeting. He also noted that there are civil remedies spelled out in the FSS for those who feel their vehicle was improperly towed.

Attendees were reminded that the fee issue of roam towing is being handled by the City's Audit and Finance Committee. That group will be holding a Towing Fee Panel meeting (open to the public) on March 21st at 9:00 a.m. in Rm. 16, City Hall.

Commissioners commented that even with this as the fourth meeting, they continue to receive e-mails, letters, phone calls. As such, this is an issue that the Committee would very much like to have some ability to take action on. They asked citizens to allow the committee to have a full working/focused meeting in April so that they can begin to move forward to the CC with recommendations.

Mr. Roundtree suggested that the bill of rights pamphlet be prepared by the towing companies and the apartment owners/managers, and make it that every person who executes a lease gets a pamphlet.

Commissioner Nielsen requested for the next meeting:

- 1) (From the City Attorney staff) What areas the PSC and the CC can address with regards to the procedures of roam towing. Where can decisions be made and where does the city have the ability for leverage. Where can they make changes in the procedures of roam towing and what type of oversight is available to the City and what consequences can be enacted when violations occur?
- 2) (From the City Attorney staff) Should the State Attorney's office be involved in the practices of towing companies giving property owners benefits as part of their contract? Need advice.
- 3) (From Towing Industry, Student Representatives, GPD, Apartment Association and City Attorney staff) Each area bring back a written draft of their proposed "bill of rights for tows" to the next meeting.
- 4) Can the city require certain methods of payment be accepted by the tow companies?



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Public Safety Committee 4/19/01

Recommended for
Approval

Pass



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Action Note: Sr. Assistant City Attorney Ron Combs provided an overview of the local towing regulation and Federal Preemption documents provided. After the City passed the Towing Ordinance in May 1994, Congress enacted the FAAA Act in January 1995, which specifically limited the area in which States can regulate the towing industry. With regard to the issue before the PSC, Mr. Combs advised the committee that it was his opinion: 1) the City could clearly regulate the rate of nonconsensual tows, 2) setting a rate different than one half the posted rate when a car's owner returns before the vehicle has been towed would be a valid exercise of local authority, 3) Storage fees charged by towing companies cannot be regulated by the City, 4) Methods of payment for services cannot be regulated by the City, 5) regulation of "demeanor" or behavior cannot be regulated by the City, 6) both FSS and City ordinance prohibits "kickbacks", however, FSS does not make it a criminal violation. The City provides for fine and revocation of towing privileges under the current ordinance, however, he opines that this is also an area the city cannot regulate. He recommends the ordinance be amended to place this prohibition on the property owner, rather than the towing industry, and 7) if the City wishes to maintain the 15 minutes notification of tow to police requirements, that the ordinance be amended to put this under the requirements of the property owner.

Following Mr. Combs' overview, he continued with recommendations as follows:

- 1) Amend 14.5 of the code of ordinances so that it comports with the strictures required by preemptive federal legislation.
- 2) Any current provision of the ordinance which can be maintained if re-stated, should be maintained.
- 3) Make the towing ordinance enforceable under the civil citation process.
- 4) Encourage state legislators to enact additional safety and financial responsibility provisions, if such will aid in the regulation of the tow companies.
- 5) Lobby federal legislators for a change in federal law which re-establishes local regulatory control of tow companies.
- 6) If local control is not re-established, encourage federal legislators to enact regulations, which will curtail the negative behavior of the tow companies.

The PSC recognized Dave Kanzler, Gene Watson, Bob Roundtree, Stan Forron, Ben Tecler, Jon Curran, Chris Carmody, Chester Zakowski and city staff who spoke to the matter.

Attorney Roundtree provided a "Towing Bill of Rights and Responsibilities" proposal for consideration. Gene Watson also provided one to the Commissioners after the last PSC meeting, but was not provided at this meeting. It was noted that these are largely voluntary, with no enforcement options.

Extensive discussion followed, including the committee's related frustration that the City appears to be unable to address, through the ordinance, the numerous complaints that have been brought out. Civil remedies for the complainants and Legal's recommendations for ordinance language changes and lobbying efforts are still options in many areas.

The Committee recommended 1) the City Attorney's Office make a legal presentation of these circumstances as outlined in this meeting and including those proposed recommendations, to the full City Commission; 2) the drop rate (when a vehicle has been hooked up but the driver arrives) be reduced from 1/2 to 1/4; and 3) staff prepare a list of recommendations the City can address to the State and Federal legislators to lobby for more city regulation ability;

The presentation to the City Commission is expected to be during the May 29, 2001 meeting and will be in conjunction with the Audit and Finance Committee's recommendations on setting trespass towing rates.

Mr. Combs mentioned that Mr. Radson would be consulting with the State Attorney's Office regarding the "kickback" issue.

Mr. Watson requested an opportunity to speak against lowering the amount an individual pays for a vehicle already hooked up but not towed and was advised he would have an opportunity during the



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City Commission discussions.

City Commission 5/29/01 Referred Public Safety Committee 11/29/01 6/11/01 Pass

Action Note: City Auditor Alan Ash, Assistant City Attorney Ron Combs, Assistant City Auditor Eileen Marzak and Transportation Manager Brian Kanely gave presentations.

Chair Tom Bussing recognized Citizen Pete McManus, Ben Tecler, University of Florida Lobby Director Natalie Hanan, Dave Cansler, Attorney for the Towing Companies Bob Roundtree and Elite Towing Owner Stan Foran who spoke to the matter.

REFERRAL: The City Commission: (PART ONE) 1) Change the name from Roam Towing to Trespass Towing; 2) establish an annual administrative contract fee for the property owners/towers, whatever staff recommends is appropriate as to who pays that fee; 3) and that fee be dedicated to a dedicated funding source to a Trespass Towing Oversight Board that could be made up of the following and we can add or change this list; a) one representative from the towing industry; b) one representative from property owners, perhaps the apartment associations; c) at least three members of the various advisory boards, one of which would include the Downtown Advisory Board; d) one UF Student Senate representative; and e) one member of the Gainesville Police Department. (PART TWO) The Trespass Towing Oversight Board's charge would be: 1) to compile and review data and complaints that occur over the year; 2) to publicize this data; 3) to engage in a public education process and advise the public of the circumstances of Roam Towing and generate whatever bill of rights that we can to the public and let them know what their rights are and what the procedures for making complaints are and who to make the complaints to; 4) to resolve confusion on the placement and on the statements and the information that is given on signs and to further explore the responsibilities expected of property owners in this process; 5) to have an annual performance review placed before the City Commission that hears the previous years experiences from the Trespass Towing Oversight Board in anticipation of a routine CPI adjustment each year, so that after hearing the performance report, the Commission then would have the option of consideration of the validity of that CPI increase. (PART THREE) Refer to the Public Safety Committee the item to develop a set of recommendations that this Commission could send forth to the State and Federal Legislators to modify and improve the regulations dealing with safety and practice and ethics of the towing process, particularly trespass towing. (PART FOUR) Authorize the City Attorney to amend the Code to bring it into compliance with federal law and that the towing ordinance be enforceable under the civil citation process.

MOTION TWO: The City Commission approved Option 2 of the Audit and Finance Committee's recommendation for a rate increase to \$73.00.

(VOTE: 3-1, Mayor-Commissioner Pro Tem Pegeen Hanrahan - No, Commissioner John R. Barrow Absent.)

City Commission 5/29/01 Referred Charter Officers 11/29/01

Action Note: Also referred to the Public Safety Committee on May 29, 2001.

City Commission 5/29/01 Referred Public Safety Committee 12/11/01

City Commission 6/11/01 Adopted (Resolution) Pass

Action Note: Assistant City Attorney Ron Combs gave a presentation.

Chair Tom Bussing recognized Attorney for the towing companies Bob Roundtree, Ben Tecler and Natalie Hanan who spoke to the matter.



City of Gainesville Text File Report

City Hall
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Introduced: 6/11/01

File Number: 000374

Version: 6

Status: Held In Commission

..Title

Review of Trespass (Roam) Towing Fees - Rate Increase Request (B)

..Recommendation

The Audit and Finance Committee recommend that the City Commission accept our report and consider recommendations on the following issues:

- 1) Pricing options for the current rate increase request;
- 2) Options for future rate adjustments;
- 3) Implementation of application and/or inspection fees; and
- 4) Enhancements to improve public information related to towing.

..Explanation

On December 11, 2000, the City Commission discussed a Public Safety Committee agenda item related to trespass towing, also known as "roam" towing. The towing issues, including a September 2000 rate increase request, were previously reviewed by the Public Safety Committee without conclusion. The City Commission requested that the City Auditor, City Manager and City Attorney further review the rate adjustment issue for final review by the Audit and Finance Committee. The Public Safety Committee was requested to further study other towing issues related to the current ordinance.

Our procedures included gathering objective information and obtaining community feedback to the extent possible. After much public debate and discussion, we are presenting several proposed rate options for City Commission consideration prior to a final rate adjustment determination. The final rate decision needs to comply with provisions of current local law established by Ordinance No. 3923 adopted on May 9, 1994. If other fee structures are sought, the City Attorney can assist in drafting a new ordinance.

Our towing fee analysis is within the boundaries of the current ordinance, however, we have included some suggestions related to a potential revenue source and enhancements to public information. Therefore, we request the Audit and Finance Committee accept our report and consider final recommendations for the identified issues. The Public Safety Committee will present its report to the City Commission on May 29, 2001.