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INSTRUMENT # 2445861 3 PGS

2008 JUL 31 03:08 PM BK 3820 PG 497

J. K. "BUDDY" IRBY

CLERK OF CIRCUIT COURT

ALACHUA COUNTY

CLERK10 Receipt # 18001



G-017550

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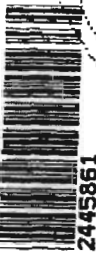
ALACHUA COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
CLERK10 Receipt # 18001 FOR ALACHUA COUNTY, FLORIDA
CIVIL DIVISION

THE CITY OF GAINESVILLE,
Plaintiff,

CASE NUMBER: 17550

vs.

ELITE AUTO CENTER OF GAINESVILLE, INC.,
ULTIMATE TOWING OF GAINESVILLE, INC. and
WATSON'S TOWING OF GAINESVILLE, INC.,
All by and through their authorized representatives
STANLEY FORRON, SUSAN FORRON and CELESTE FORRON,
Defendants:



2445861

J.K. "BUDDY" IRBY
CLERK OF COURTS
ALACHUA COUNTY, FL

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SECOND AMENDED FINAL JUDGMENT

The parties have stipulated that the legal issues in all 93 cases are identical and have agreed to present one representative case to the Court for consideration, Citation No. 17550. The parties have further stipulated that the factual issues are identical to the extent that one group of the cases involves Watson's Towing and the other group involves Elite/Ultimate Towing.

This Court took testimony from Lt. Pete Backhaus from the Gainesville Police Department and Stan Forron, owner of Ultimate/Elite Towing, reviewed the citations in all 93 cases, and received and reviewed written legal authority and argument from both parties.

The City of Gainesville issued 93 citations for alleged violations of *Gainesville Code of Ordinances* 14.5-33, effective date July 23, 2007. The parties stipulated that all 93 citations were written for alleged incidents occurring after the effective date of this Ordinance.

At issue in this case is the factual application of the 93 tows in question to the following section of *Gainesville Code of Ordinances*, Article III Section 14.5-33 referred to as "Point of Tow," which states:

Except as provided in Sec. 14.5-32 above and except for bona fide emergencies, a vehicle in tow shall be taken from the point of tow to the permanent business address of the tow owner or operator where vehicles are normally stored. Temporary storage is prohibited. (Emphasis added).

A copy of various minutes of the Gainesville City Commission Meetings was provided by

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G-017550

the defense for consideration by the court. At the March 29, 2007, Commission hearing regarding the towing ordinance in question, recommendation (6) states: "Towing directly to the permanent address of towing facility; towed vehicles must be taken directly from the point of tow to the permanent business address. Vehicles in-tow may not be temporarily held at any location **other than the secured business address of the contracted wrecker service conducting the tow.**" (Emphasis added.)

The Court finds that the address provided by the tow company to the Gainesville Police Department and the address on file with the Florida Department of State Division of Corporations established the permanent business address for purposes of *Gainesville Code of Ordinances* 14.5-33.

In the representative case, Citation #17550, the Court received evidence that a vehicle was towed by Watson's Towing, driver #421, to 907 SW 3rd Street, Gainesville, Florida. The Court finds that Watson's permanent business address is 516 SW 1st Street, Gainesville, Florida, and Ultimate/Elite Towing's permanent business address is 907 SW 3rd Street, Gainesville, Florida.

The Court also heard testimony and received documentary evidence that Ultimate/Elite and Watson Towing applied for a Zoning Compliance Permit (Occupational License) on August 8, 2007, essentially combining both lots as the permanent business location for both tow companies. This application was approved *after* the date of the 93 tows in question. The Florida Department of State Division of Corporations records also show that the date the business address was changed for Elite and Ultimate Towing to 516 SW 1st Street, Gainesville, Florida, was on 10/11/07 and 10/15/07, again *after* the date of the 93 tows in question.

There were two photos presented by the defendants, one each of Watson's and Elite's tow truck, both with lettering depicting the addresses of 516 SW 1st Street and 907 SW 3rd Street on each, and the Elite tow truck with the phone numbers 335-7799 and (352) 376-5829 and the Watson tow truck bearing the phone number 373-7475. There was also testimony that both lots had signage of all three businesses. The Court finds that the lettering on the tow truck and signage on the property, while required by Florida Statute 715.07, does not establish the legal permanent business address for purposes of the *Gainesville City Ordinance*.

ORDERED AND ADJUDGED that based upon the evidence presented at the trial, and consideration of the written legal authorities and arguments submitted by the parties after the hearing, the Court finds in favor of the Plaintiff.

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IT IS FURTHER ORDERED AND ADJUDGED that pursuant to section 14.5-38(1) of the *Gainesville City Ordinance* that the defendants shall refund all towing costs and storage fees actually paid by the owners or lessees of the 93 vehicles towed. The refunds shall be paid within 30 days from the date of this Order.

IT IS FURTHER ORDERED AND ADJUDGED that pursuant to 14.5-38(2) of the *Gainesville City Ordinance*, the defendants pay a fine of \$25.00 per citation. In addition, pursuant to Section 34.045(1)(b), Florida Statutes, the defendants as the nonprevailing parties shall pay court costs of \$40 per citation to the Clerk of Court. The fines and court costs also shall be paid within 30 days from the date of this order.

DONE and ORDERED in Chambers, Gainesville, Alachua County, Florida this 9TH day of June, 2008.

Thomas M Jaworski
THOMAS M. JAWORSKI
COUNTY COURT JUDGE

CERTIFICATE OF MAILING

I HERE BY CERTIFY that a true and correct copy of the foregoing Second Amended Final Judgment was mailed to Ronald D. Combs, Assistant City Attorney, P.O. Box 1110, Gainesville, FL 32602-1110, Charles Hughes, P.O. Box 90028, Gainesville, FL 32607, and Marynelle Hardee, P.O. Box 600, Gainesville, FL 32602, by U.S. Mail this 9 day of June, 2008.

K. Pearson
Kelly Pearson, Judicial Assistant

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
1.	17550	Theresa Lewis / Prezy L. Matthews	201 NE 42 nd Place Gainesville, FL 32609	8/31/07	2003 Pontiac Grand Am Red	806 NE Waldo Rd
2.	17551	Anisa M. Perbanti	13212 SW 2 nd Place Newberry, FL 32669	8/31/07	1999 Toyota Solara Red	806 NE Waldo Rd
3.	17552	Victor Tyrone Heidelberg	4608 SE 1 st Avenue Gainesville, FL 32641	9/1/07	2007 Dodge Charger Red	806 NE Waldo Rd
4.	17553	Judith and Bobby James Johnson	6409 NW 33 rd Street Gainesville, FL 32653	9/1/07	1997 Nissan Maxima Brown/Green	806 NE Waldo Rd
5.	17554	Brian Patrick Dillon	1803 Hitching Post P1 Plant City, FL 33566	9/01/07	2001 Daewoo Lanos Black	3425 SW 2 nd Ave
6.	17555	Makaya Cascioli McKnight	2263 NW 40 th Place Gainesville, FL 32605	9/1/07	1985 Mercedes-Benz Tan/Silver 500SEL	239 W. Univ. Ave
7.	17556	Mark C. Hurst	11228 137 th Street N Largo, FL 33774	9/1/07	1999 Jeep Cherokee Red	3425 SW 2 nd Ave
8.	17556	Ryan M. McDevitt	11228 137 th Street N Largo, FL 33774	9/1/07	1999 Jeep Cherokee Red	3425 SW 2 nd Ave
9.	17557	Andrew William Murray III	7011 SW 6 th Place Apt H Gainesville, FL 32607	9/1/07	1995 Acura Integra Green	1900SE 4 th Street
10.	17558	James Henry Jackson	7160 Garden Street Jacksonville, FL 32219	9/1/07	2004 Toyota Camry Maroon	400 NW 1 st Ave
11.	17559	Alban Lukaj	9313 Wesley Cove Ct Jacksonville, FL 32257	9/1/07	2000 BMW 528i Black	239 W Univ Ave
12.	17560	Robert Ramsey Tebow II	920 Otis Road Jacksonville, FL 32220	9/1/07	1998 Chevrolet 1500 PK - Red	3425 SW 2 Ave
13.	17561	David Bogentrief Engineering, Inc	2425 Pineapple Ave Melborne, FL 32935	9/1/07	2007 Nissan Xterra White	3425 SW 2 nd Ave
14.	17562	R.L. and Alice Sulzer	5653 Magnolia Bloom Ter Oviedo, FL 32765	9/1/07	2004 Volvo S60 Black	3425 SW 2 nd Ave

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
15.	17563	Unknown	Unknown	9/2/07	Chevy Suburban - White	239 W Univ Ave
16.	17564	Bertha G. Dombrowsky	141 Venetian Drive Delray Beach, FL 33483	9/2/07	2004 Jeep Wrangler Black	3425 SW 2 nd Ave
17.	17565	Joshua V. Levick	4620 St. Croix Lane Naples, FL 34109	9/2/07	Mitsubishi Gallant Gold	106 SW 3 rd Street
18.	17565	Nevada Jean Miller	12975 Postiano Cir. #202 Naples, FL 34105	9/2/07	Mitsubishi Gallant Gold	106 SW 3 rd Street
19.	17566	Michael Shane Riley	204 Huron Street Interlachen, FL 32148	9/2/07	1999 Dodge 2500 TK Green	4000 SW 37 Blvd
20.	17567	No citation found				
21.	17568	Marisa Camille Mendenhall	6303 SW 93 Ave Gainesville, FL 32608	9/8/07	2004 Volvo S40 Silver	1119 SW 4 th Ave
22.	17570	Linda Davis Tiffany	20227 NW 254 th Way High Springs, FL 32643	9/7/07	1997 Ford Mustang White	806 NE Waldo Rd
23.	17571	Allen Keith Byrd	1674 SW Camilla Dr Lake City, FL 32025	9/7/07	1997 Nissan Maxima Tan	806 NE Waldo Rd
24.	17572	Gwedolyn T. Daniels	10428 SW 170 Street Archer, FL 32618	9/7/07	1998 Buick SENTRY Silver	806 NE Waldo Rd
25.	17573	Aminie Orosco Sellers	20516 NE 20 th Lane Lawtey, FL 32058	9/7/07	2001 Dodge Dakota Blue (green)	1901 NW 2 nd St
26.	17574	Gina Lee Eaton	677 Royal Palm Blvd. Vero Beach, FL 32960	9/7/07	Honda Civic Green	3425 SW 2 nd Ave
27.	17575 ?	Tag not found - no vin given		8/31/07	Dodge Avenger Blue	806 NE Waldo Rd
28.	17576	Mark Bryan Burlingame	5116 NW 26 th Place Gainesville, FL 32606	8/31/07	2006 Hyundai Sonata Silver	806 NE Waldo Rd
29.	17577 ?	Tag not found - no vin given		8/31/07	Chrysler 300M Blue	806 NE Waldo Rd
30.	17578	Cipriano Sarmiento	8232 SW 69 th Place Gainesville, FL 32608	8/31/07	1995 Nissan Quest White	806 NE Waldo Rd
31.	17579	Shirley Ann Mott	3701 NW 19 th Street Gainesville, FL 32605	8/31/07	2006 Toyota Camrey White	806 NE Waldo Rd

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
32.	17580	Judith & B.J. Johnson	6409 NW 33 rd Street Gainesville, FL 32653	9/1/07	1997 Nissan Maxima Brown/Green	806 NE Waldo Rd
33.	17581	Mildred Everth	P.O. Box 531204 St. Pete, FL 33747	9/1/07	2003 Chrysler Red	400 NW 1 st Ave
34.	17582	Scott Alan Klager	31 SW Buttonbush Ct Palm City, FL 34990	9/1/07	2004 Hyundai Red	400 NW 1 st Ave
35.	17583	?		9/1/07	Honda Civic Black	106 SW 3 rd St
36.	17584 (Duplicate) see 17557	Andrew William Murray	7011 SW 6 th Pl Apt H Gainesville, FL 32607	9/1/07	1995 Acura Integra Green	1900 SE 4 th St
37.	17585	Alvin Lurue McDonald	1340SE 2 nd Street Gainesville, FL 32601	9/1/07	Ford Expedition	1900 SE 4 th St
38.	17586	Sirletree Lyn King	746 Queens Road Gainesville, FL 3207	9/2/07	1984 Oldsmobile Cutless -- Blue	400 NW 1 st Ave
39.	17587	?				
40.	17588	Willie Williams	507 S 4 th Street POB2095 Hawthorne, FL 32640	9/7/07	1993 Mazda 626 White	1351 SE 4 th St
41.	17589	Michael Alan McCall	100 Strong Branch Dr. Ponte Verdra Beach, FL 32082	9/8/07	2002 Jeep sport Silver	1331 SW 13 th St
42.	17590	Anna Maria Szymiszewska	285 Corry Village Gainesville, FL 32603	9/8/07	1996 Mazda Protégé Gold	3425 SW 2 nd Ave
43.	17591	David G. Jaeger	4709 Cattail Lagoon Way Ponte Verda Beach, FL 32082	9/8/07	Honda Accord White	1331 SW 13 th St
44.	17592	Betty & B.W. Capley	332 De Leon Drive Miami Springs, FL 33166	9/8/07	2006 Toyota Scion White	3425 SW 2 nd Ave
45.	17593	Spencer Henick Bachow	2360 SW Archer Rd #109 Gainesville, FL 32608	9/8/07	2007 Honda Civic Black	3425 SW 2 nd Ave
46.	17594	Ebony Amelia Lassiter	5330 NW 31st Lane Gainesville, FL 32608	9/8/07	1993 Honda Civic Black	1900 SE 4 th St
47.	17595	Winifred Agyemang	9371 NW 26 th Ave Gainesville, FL 32606	9/8/07	1994 Toyota Camry Black	400 NW 1 st Ave
48.	17596	?				

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
49.	17597	Miguel A. Gonzalez	3449 St. Ives Blvd Spring Hill, FL 34609	9/8/07	1995 Buick Regal Blue	1331 SW 13 th St
50.	17598	Eduardo Hinojosa	14118 Lake Live Oak Dr. Orlando, FL 32828	9/8/07	1999 Honda Passport White	3425 SW 2 nd Ave
51.	17599	duplicate	6303 SW 93 rd Avenue Gainesville, FL 32608	9/8/07	2004 Volvo S40	1119 SW 4 th Ave
52.	17600	Douglas Gerald Porter	2932 NE 10 th Drive Gainesville, FL 32609	8/31/07	2004 Ford Explorer Tan? Or Red?	806 NE Waldo Rd
53.	17601	Charles Dean Bush	411 NE 10 th Street Gainesville, FL 32601	8/31/07	1988 Chevy Suburban White	806 NE Waldo Rd
54.	17602	Carl Loren Roberts	195 Riley Lake Drive Hawthorne, FL 32640	8/31/07	1993 Jayco Travel Trailer	806 NE Waldo Rd
55.	17603	Joseph Noah	517 S. Shore Drive Osprey, FL 34229	8/31/07	2007 Ford Crown Vic White	806 NE Waldo Rd
56.	17604	Randolph Keith Lintles	5891 NE 150 th Ave Williston, FL 32696	8/31/07	1997 Chevrolet S10 Black	806 NE Waldo Rd
57.	17605	Kathryn Ann Albritton	200 Nabb Loop Tallahassee, FL 32317	8/31/07	2006 Pontiac Grand Am silver	806 NE Waldo Rd
58.	17606	Joetta Matos	13239 Sherburne Cir #1701 Bonita Sps, FL 34135	9/8/07	2006 Saturn Ion Gray	1331 SW 13 th St.
59.	17607	Linda Albury Sands	2341 Donegan Place Orlando, FL 32826	8/31/07	2002 Dodge Caravan White	806 NE Waldo Rd
60.	17608	Mary Annette Lucas	2501 NE 56 Terr Lot 41 Gainesville, FL 32609	9/2/07	1994 Oldsmobile White	400 NW 1 st Ave
61.	17609	Enterprise Leasing Co. ????	P.O. Box 17893 Jacksonville, FL 32245	9/2/07	Cit. says red Chevy Cobalt-DMV says Toyota-Silver!	400 NW 1 st Ave
62.	17610	Janet Schrader Seccafico	14701 168 th Street McAlpin, FL 32062	9/2/07	2006 Ford - Blue	400 NW 1 st Ave
63.	17611	Christopher David Price	550 Laguna Royale Blvd 503 Naples, FL 34119	9/8/07	2003 Infiniti Black	1331 SW 13 th St
64.	17612	Janice Marie Gainey	19325 NE 13 th Street Gainesville, FL 32609	9/8/07	1994 Mitsubishi Gallant	1900 SE 4 th St
65.	17613	Geraldine Ann Jensen	652 16 th Street Vero Beach, FL 32960	9/9/07	1999 Isuzu Rodeo White	621 SW 10 th St

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
66.	17614	Penny Selena De La Fuente	292 W Towne Place Tiusville, FL 32796	9/7/07	2007 Chevy Auto Silver	400 NW 1 st Ave
67.	17615	Emily Lou Chandler	P.O. Box 1271 High Springs, FL 32655	9/9/07	1997 Chevy Cavalier Green	400 NW 1 st Ave
68.	17616	Citation missing				
69.	17617	James Hale	2750 Forest Hills Blvd. Coral Springs, FL 33065	9/13/07	1989 Oldsmobile Cutless - white	3705 SW 27 th St
70.	17618	Gregory Miller Griffin	3409 Avocado Drive Ft. Myers, FL 33901	9/13/07	1999 Toyota Tacoma Green	1601 SW 51 st Terr
71.	17619	Peter James Jackson	172 Island Circle Sarasota, FL 34242	9/13/07	1994 Dodge 1500 Red	1601 SW 51 st Terr
72.	17620	Steven John	66 N Little Walnut Rd Silver City, NM 88061	9/14/07	Mits Eclipse, Blue	800 SW 34 th St
73.	17621	No hit FCIC/NCIC		9/14/07	Lexus IS 250 Black	800 SW 34 th St
74.	17622	Bell South Entertainment	1100 Abernathy Rd Ste 414 Bldg 500 Atlanta, GA 30328	9/14/07	1998 Ford Explorer Gray	3515 SW 39 th Rd
75.	17623	No hit FCIC		9/14/07	Mazda RX8, Black	800 SW 34 th St
76.	17624	Calvin Dean Claesson	13121 Corbel Cir. #223 Ft. Myers, FL 33907	9/14/07	Acura RSX Silver	800 SW 34 th St
77.	17675	No Info found for James Johnson	GA tag	9/14/07	Honda Odyssey - White	2701 SW 13 th St
78.	17676	Shirley McClora	412 Sonoma Dr Valrico, FL 33594	9/14/07	2001 GMC 1500 - Red	2701 SW 13 th St
79.	17677	Jeff C. Brown	840 SW 51 st Way Gainesville, FL 32607	9/14/07	1999 Dodge Dakota Green	5050 SW 9 th Pl
80.	17678	Fred & Cynthia Knight	457 Paw Paw Ave Waterllet, MI 49098	9/14/07	Pontiac Bonneville Red	2330 SW Williston Rd
81.	17679	Jacqueline Ann Brannack	7932 Southside Blvd. #1006 Jacksonville, FL 32256	9/14/07	1997 Saturn Gold	1601 SW 51 Terr
82.	17680	Marilyn McNeill Porter	135 SE Scarlet Way Lake City, FL 32025	9/14/07	1999 GMC Truck - gray	1601 SW 51 st Terr
83.	17681	Jeffrey Leigh Smith	1767 Heritage Blvd. #12304 Tallahassee, FL 32308	9/14/07	2007 Toyota Scion - Blue	1601 SW 51 st Terr

TOWED VEHICLE LIST

#	CITATION #	REGISTERED OWNER	ADDRESS	TOW DATE	VEHICLE MAKE/MODEL	LOCATION TOWED FROM
84.	17682	Christine K. Ames	3847 SE Brown Rd Arcadia, FL 34266	9/14/07	1997 Buick Century Gold	1601 SW 51 Terr
85.	17683	Julia Howell Gary	2643 Western Hills Dr Nashville, TN 37214	9/15/07	Lexus RS 300 Silver	1331 SW 13 St
86.	17684	Enterprise Leasing		9/16/07	2007 Pontiac	400 NW 1st Ave
87.	17685	Zachary Demetrius Hoyt	PO Box 1601 Newberry, FL 32669	9/16/07	2002 Kia Spectra Blue	5300 NE 39 th Ave
88.	17686	Julye Christine Johnston	492 Turkey Cr Alachua, FL 32615	9/16/07	2000 Honda red	1331 SW 13 th St
89.	17687	Jennifer Marie Blair	621 SW 10 th St # 109 Gainesville, FL 32601	9/16/07	2007 Honda Civic - Black	621 SW 10 th St
90.	17688	Peng Peng	1111 SW 16 th Ave #114 Gainesville, FL 32601	9/17/07	Honda Accord - White	2701 SW 13 St
91.	17689	Kristen Michelle Brown	1809 Grasmere Dr Apopka, FL 32703	9/17/07	2004 Ford Focus Black	2701 SW 13 th St
92.	17690	Celia Morrell Nolin	365 Hearthstone Ter Port Orange, FL 32127	9/17/07	2003 Ford Ranger Red	2701 SW 13 th St
93.	17691	Barbara Jean Brannen	24988 NW 22 nd Ave Lawley, FL 32058	9/17/07	2000 Ford Ranger White	2701 SW 13 th St
94.	17692	Dorothy Tison Fagen	1706 NW 11 th Rd Gainesville, FL 32605	9/17/07	Chevy Malibu - red	3301 SW 13 th St
95.	17693	Betty Walthall	312 E Evans Ave Bonifay, FL 32425	9/17/07	2002 Honda Accord Silver	3301 SW 13 th St
96.	17694	Janet King	818 N. 48 th Ave Myrtle Beach, SC 29577	9/17/07	Jeep Cherokee - Green	2330 SW Williston Rd
97.	17695	James Elijah Campbell	500 SW 13 th St Ocala, FL 34474	9/17/07	GMC Sierra, Black	2330 SW Williston Rd
98.	17696	Enterprise Leasing		9/17/07	2008 Nissan White	3800 SW 34th St
99.	17697	Wayne Russell Posner	1015 Town Hall Ave Jupiter, FL 33458	9/17/07	2006 Volkswagen Jetta - white	4000 SW 37 th Blvd

Commission delays decision on towing rate increase

Shelby Webb, Alligator Staff Writer | Posted: Friday, October 5, 2012 12:15 am

Gainesville tow-truck companies are frustrated, but not with angry drivers.

The Gainesville City Commission voted 4-3 Thursday to send a proposed price hike for room towing rates back to the Public Safety Committee. The same committee recommended earlier this year that the commission pass the measure.

The measure would change the penalty for parking in an unauthorized spot from \$76 to \$84. The city sets towing fees for companies that tow illegally parked cars, and this measure would only affect rates for cars parked in unauthorized spaces.

Some towing companies were expecting a vote on the measure Thursday.

“I think it’s bulls--t,” said Stan Forron, owner of Ultimate Towing, which spearheaded the effort to increase penalties.

The commission decided to send the proposal back to the committee because the city doesn’t have a structured system for increasing the towing rates.

“We are completely going over the entire tow ordinance and making updates and changes,” City Commissioner Lauren Poe said. “My hope is that we are able to find a sound methodology for why the towing rates are what they are.”

Forron, who has been in the towing business for 26 years, said rising fuel costs threaten his businesses’ future and said the legislative delay doesn’t help his situation.

“We can’t afford to upgrade equipment,” he said. “I cut my drivers’ pay. We don’t buy new trucks. We cut out health insurance. We cut out all the driver benefits.”

Forron warned that if the commission doesn’t make a decision about raising the rate, he could be forced to crack down on illegal parking to make ends meet.

“What’s going to happen is towing companies are going to get more predatory. We’re going to tow more questionable cars,” Forron said. “So park just a little bit on the grass or just a little bit over that white line, and we’re towing that car now.”

Contact Shelby Webb at swebb@alligator.org.