

January 27, 2014

The Honorable Jay Fisette
Chairman
Arlington County Board
2100 Clarendon Boulevard
Suite 300
Arlington, Virginia 22201

Dear Mr. Fisette:

Thank you again for the opportunity to serve as a member of Arlington County Board's Trespass Towing Advisory Board (TTAB). The Advisory Board convened on December 4, 2013, to review the towing ordinance and provide recommendations to the County Board. By vote of the TTAB members present, I was made chairman.

Attached is a copy of our meeting minutes from December 4, 2013, a summary of the recommendations approved by the TTAB, and additional information presented at our meeting that was made part of the official record. As you will see, our discussion this year covered a wide range of topics and the TTAB has made several recommendations for consideration on the topics of fees, operational requirements of towing and recovery operators in removing a vehicle from private property, and storage facilities.

In addition to the specific recommendations approved by the TTAB, we will continue to work with County staff to provide sufficient oversight of trespass towing activities in the County and identify areas for future improvement. We are encouraged that the total number of tows from private property in Arlington County continues to decline, along with the number of towing complaints and the number of substantiated complaints. Despite these positive signs, we will continue to strive to make certain that property owners have the ability to enforce parking restrictions on their property while also providing appropriate protections to motorists. We must continue to examine all of these issues to make sure that towing from private property in Arlington County is properly regulated, and we look forward to working with you on these important issues.

Thank you again for the opportunity to serve. If you or your colleagues have any questions, I will be glad to try and answer them.

Sincerely,

Nancy Iacomini
Chairman
Arlington County Trespass Towing Advisory Board
Attachment

**ADVISORY BOARD MEETING ON TRESPASS VEHICLE TOWING
MINUTES OF MEETING HELD ON WEDNESDAY, DECEMBER 4, 2013**

The Advisory Board on Trespass Vehicle Towing met on Wednesday, December 4, 2013 in the Arlington County Government offices at 2100 Clarendon Boulevard.

The meeting was attended by: Ms. Nancy Iacomini (voting member), Captain Darrin Cassidy (voting member), Sergeant Roger Stegall (voting member), Detective Thomas Rakowski (voting member), Mr. John O'Neill (voting member), Mr. Fred Scheler (voting member), Mr. Bill Mansour (voting member), Mr. Brian Gordon (non-voting member), Mr. Al Leach (non-voting member), Mr. Joshua Robinson (non-voting member) and Mr. Charles Abernathy (non-voting member). In addition to the Advisory Board members, the meeting was also attended by several other representatives from the towing and recovery operator industry.

The meeting was called to order at 6:37 p.m. by the staff coordinator, who thanked the members for agreeing to serve on the Advisory Board and provided an overview of the charge, scope, procedures and rules of participation for the Advisory Board.

The first order of business was the election of a Chairperson as required by Code of Virginia 46.2-1233.2. Nancy Iacomini was nominated by John O'Neill and seconded by Detective Rakowski. No other nominations were made, and Ms. Iacomini was elected Chair of the Advisory Board.

Following a review and approval of the Advisory Board meeting minutes from October 22, 2012, Ms. Iacomini asked staff to provide a review of the Advisory Board recommendations made in previous years. An update on changes to the State Code enacted during the 2013 General Assembly session was also provided.

Ms. Iacomini requested summary trespass towing data for calendar year 2013 and a more detailed overview of the complaints received by the ACPD over the same time period. The Advisory Board was provided with this data, which are included in the meeting minutes. Based upon previous Advisory Board guidance, data was presented that included information on all trespass tows in Arlington County for calendar year 2013. Detective Rakowski then provided a more detailed presentation on the complaints received by the ACPD in 2013, including the reason for the complaint, the location of the tow, and the result of the ACPD investigation. Ms. Iacomini asked for more information on the percentage of total tows that occur on residential properties vs. commercial properties. Staff informed the Advisory Board that the towing data is not gathered in such a way as to readily provide that information, but that staff would seek to do so in the future. The voting members from the towing and recovery operator community were asked to provide their estimates, and while they were unable to provide an estimated percentage, all stated that the overwhelming majority of trespass tows originate from commercial properties.

The Advisory Board moved to a section-by-section review of the ordinance. No recommendations were offered for Sections 14.3-1 through 14.3-4. Upon consideration of Section 14.3-5, Sergeant Stegall began the discussion by saying that it would be helpful to those charged with enforcing the ordinance, and a good business practice by the towing and recovery operators, to instruct their drivers to better document the condition of the vehicle prior to the tow. This recommendation was based upon several complaints received this year by the ACPD regarding damage claims and a review of the photographic and video evidence of these tows. Ms. Iacomini made a motion to amend Section 14.3-5(4)(b) to require photographic or video evidence to “clearly show the condition of the vehicle from all four sides.” The motion failed for a lack of second. The discussion continued and focused on the difficulty enforcing this requirement. Sergeant Stegall also informed the Advisory Board that such instances are not adjudicated or enforced under the County’s towing ordinance, but instead are a civil matter to be handled through an insurance claim or civil court. Mr. Scheler made a motion, seconded by Mr. O’Neill, to strike Section 14.3-5(4)(b) in its entirety. The motion was agreed to by a vote of 6-1 (Members voting yes: Mr. Cassidy, Mr. Mansour, Mr. O’Neill, Mr. Rakowski, Mr. Scheler and Mr. Stegall. Members voting no: Ms. Iacomini.)

The Advisory Board then moved to a review of Section 14.3-7 regarding storage facilities. Mr. Mansour made a motion, seconded by Mr. Scheler, to amend 14.3-7(E) to allow storage facilities to which vehicles towed from private property in Arlington County to be located up to five miles outside of the County’s boundary line. The current ordinance requires such facilities be located within three miles of the County’s boundary line. Following a discussion, the motion was agreed to by a vote of 5-1, with 1 abstention. (Members voting yes: Mr. Cassidy, Mr. Mansour, Mr. Rakowski, Mr. Scheler and Mr. Stegall. Members voting no: Ms. Iacomini. Members not voting: Mr. O’Neill)

The Advisory Board then moved to a review of Section 14.3-9 regarding fees. Mr. O’Neill opened the discussion and provided a handout to the Advisory Board, which he requested by made part of the meeting minutes. Following a discussion of changes in State Code to increase the maximum allowable fees and recent actions by several surrounding jurisdictions to do the same, Mr. O’Neill made a motion to amend Section 14.3-9(B)(1) to increase the maximum base towing fee from \$125.00 to \$135.00. The motion was agreed to by a vote of 4-0, with 3 abstentions. (Members voting yes: Ms. Iacomini, Mr. Mansour, Mr. O’Neill and Mr. Scheler. Members not voting: Mr. Cassidy, Mr. Rakowski and Mr. Stegall).

Ms. Iacomini stated that it would be helpful to have additional financial information in the future, and the staff coordinator informed the Advisory Board of County staff’s interest in compiling this information as well. The staff coordinator informed the Advisory Board that while the methodology for such an analysis had not yet been determined, that it would require the cooperation of the towing and recovery operators, including their agreement to share financial information with the County. All operators present at the meeting agreed to do so, and the staff coordinator agreed to provide more information on this effort within the next 3 months.

Continuing the discussion of fees, Mr. O'Neill made a motion, seconded by Mr. Mansour, to amend Section 14.3-9(B)(1) to allow for the imposition of additional fees for tows that take place at night, on the weekend, or on a federal holiday. Following a discussion, the motion was agreed to by a vote of 3-1, with 3 abstentions. (*Members voting yes: Mr. Mansour, Mr. O'Neill and Mr. Scheler. Members voting no: Ms. Iacomini. Members not voting: Mr. Cassedy, Mr. Rakowski and Mr. Stegall.*)

The Advisory Board then moved to a discussion of towing companies immobilizing a trespassing vehicle instead of towing it. Mr. Scheler made a motion, seconded by Mr. Mansour, to amend Section 14.3-9 to add an immobilization fee of \$85. A discussion of the use of immobilization devices as a parking enforcement tool by various federal agencies and local governments in the region followed. The staff coordinator provided information requested at the previous Advisory Board meeting by Ms. Iacomini, stating that towing and recovery operators have the authority to utilize immobilization devices under the current ordinance for a maximum fee of \$25. Mr. O'Neill made a motion, seconded by Ms. Iacomini, to table the motion and instruct the staff coordinator to report back to the Advisory Board at their next meeting regarding the County Manager's position on this issue. The motion to table was agreed to by a vote of 5-1, with 1 abstention, and the underlying motion was therefore not agreed to. (*Members voting yes: Ms. Iacomini, Mr. Mansour, Mr. Rakowski, Mr. O'Neill and Mr. Stegall. Members voting no: Mr. Scheler. Members not voting: Mr. Cassedy.*)

The Advisory Board moved to Section 14.3-11 regarding records. Captain Cassedy made a motion, seconded by Mr. O'Neill, to define "normal business hours" used in this section as Monday-Friday between the hours of 9:00 a.m. and 5:00 p.m. The motion was agreed to by a vote of 7-0. (*Members voting yes: Mr. Cassedy, Ms. Iacomini, Mr. Mansour, Mr. O'Neill, Mr. Rakowski, Mr. Scheler, and Mr. Stegall.*)

Ms. Iacomini asked if there were any other items for discussion, and hearing none, asked the staff coordinator to provide the tentative timeline for County Board consideration of the recommendations of the Advisory Board.

Ms. Iacomini made a motion, seconded by Mr. O'Neill, to adjourn. The motion was agreed to unanimously. (*Members voting yes: Mr. Cassedy, Ms. Iacomini, Mr. Mansour, Mr. O'Neill, Mr. Rakowski, Mr. Scheler, and Mr. Stegall.*)

The meeting was adjourned at 7:29 p.m.

Arlington County Trespass Towing Advisory Board
Recommendations from December 4, 2013 Meeting

Section of Code/Issue	Advisory Board Recommendation
Section 14.3-2. Definitions	Define "business hours," which is used to define when the towing operators must provide information requested by vehicle owners and the Police Department, as being Monday-Friday between the hours of 9:00 a.m. and 5:00 p.m.
Section 14.3-5. Removal of Trespassing Vehicles	Remove requirement that towing and recovery operator take photographs or video of the condition of a vehicle prior to the tow
Section 14.3-7. Storage Facilities	To increase the maximum distance from the County Boundary for eligible storage facilities from 3 miles to 5 miles.
Section 14.3-9. Fees	<ol style="list-style-type: none"> 1. To increase the maximum base tow fee from \$125 to \$135. 2. To allow a fee of \$25.00 to be charged, up to two times, for tows conducted during nights (7:00 p.m. – 8:00 a.m.), weekends and/or holidays.
Study of Rates	This would not require an ordinance change. The recommendation is that the County, during its annual review of rates and fees, complete a market rate survey that would include information from the towing industry regarding the cost of doing business.
Vehicle Immobilization	The Advisory Board approved a motion instructing the County Manager's Office to report back to them on the staff position regarding the utilization of immobilization devices on vehicles as an alternative to towing.

Trespass Tows in Arlington County

2013 (through 11/30)

Operator	Number of Trespass Tows
Advanced Towing Services	11,549
A-1 Towing and Recovery	5,603
Al's Towing	540
Henry's Wrecker Service	311
East Coast	93
Pete's	55
Redman's	54
Total	18,205

2012

Operator	Number of Trespass Tows
Advanced Towing Services	12,945
A-1 Towing and Recovery	5,886
Al's Towing	513
Henry's Wrecker Service	494
East Coast	280
Pete's	77
Redman's	71
Total	20,266

2011

Operator	Number of Trespass Tows
Advanced Towing Services	14,025
A-1 Towing and Recovery	6,039
Al's Towing	1,651
Henry's Wrecker Service	588
East Coast	131
Pete's	171
Total	22,605

2010

Operator	Number of Trespass Tows
Advanced Towing Services	13,883
A-1 Towing and Recovery	6,746
Al's Towing	1,556
Henry's Wrecker Service	564
East Coast	281
Pete's	176
Total	23,206

2009

Operator	Number of Trespass Tows
Advanced Towing Services	15,048
A-1 Towing and Recovery	5,895
Al's Towing	2,527
Henry's Wrecker Service	452
East Coast	137
Pete's	330
Total	24,389

Tow Complaints December 2012-Present

<u>Company</u>	<u>Total Complaints</u>	<u>Violations</u>
Advanced	61	5
A-1	10	2
Pete's	1	0
Henry's	$\frac{1}{73}$	$\frac{0}{7}$
General Inquiries/ Non-Arlington jurisdiction	4	n/a
No company identified/ No follow-up	7	n/a
County police tows	<u>7</u>	n/a
Total complaints/Inquiries	91	

Types of Violations by Company

Advanced

Signage	2	(signs were inadequate)
Drop fee	1	(Drop was not offered)
Error	1	(Wrong car towed in error)
Customer	1	(Complainant was a customer in business)

A-1

Permit	1	(Car had proper permit)
Signage	1	(signs not up to code)

Repeat locations: 2 or more complaints since Dec 2012

3200 Wilson Blvd – Silver Diner – 3 complaints - Advanced
Primary issue: are they a customer or not: 1 error

2700 Blk Arlington Mill Dr – Shirlington Shopping Center – 3 complaints – A-1
Primary issue: Dr's office spaces: 1 error

1000-1100 N. Glebe Rd. – 4 complaints – Advanced
Primary issue: signs, are they customer or not: 1 error

4154 S. Four Mile Run Dr. – DMV lot - 2 complaints – Advanced
Primary issue: signs: no errors

2601 Columbia Pike – CVS lot – 4 complaints – Advanced
Primary issue: signs: no errors

3900 blk Wilson Blvd – Gold's Gym/Fresh Bikes – 7 complaints – Advanced
Primary issue: signs: 1 error

1700 blk Wilson Blvd. – Colonial Village Shopping Center – 4 complaints – Advanced
Primary issue: customer or not: no errors

2013

TRESPASS TOWING RATE LIMITS

State and Local Rate Limits	Towing	Evening	Weekend	Holiday	Storage	Effective Date
State of Virginia	\$135	\$25	\$25	\$25	\$50	2013
Alexandria City	\$125	\$25	\$25	\$25	\$50	2013
Loudoun Co.	\$135	\$25	\$25	\$25	\$50	2013
Fairfax County	\$125	\$25	\$25	\$25	\$50	2012
Fairfax City	\$135*	\$25	\$25	\$25	\$50	2013
Arlington Co.	\$125	\$ 0	\$ 0	\$ 0	\$50	2010
Prince William Co.	\$125	\$35	\$ 0	\$ 0	\$50	2009

provided by John O'Neil