

Alberto Quintanilla

From: ed.yong@rail.com
Sent: Monday, February 20, 2023 8:51 PM
To: citycouncil; Lily Mei; Teresa Keng; Desrie Campbell; Jenny Kassar; Yang Shao; Raj Salwan; Teresa Cox
Subject: Public Comment for City Council Meeting - As soon as possible
Attachments: Tow Fee Exhibit D.pdf; Signed Dispo Letter for Yong.pdf
Importance: High

Fremont Council Members & City Clerks Office request for Public Hearing.

Re: FPD mishandling of a complaint

Since I submitted the complaint to the city council regarding two major complaints against FPD, I have received the city tow rate despite previously declaring in writing of no such record was in existence. However, rather than putting the risk of an officer facing a felony charge by lying to the court via subpoena, FPD makes the right decision to release the city tow rate (see attached Tow Fee Exhibit D) almost immediately. To this day it is still beyond me why FPD would want to cause such an undue burden for a member of the public to obtain a simple public record.

Then, internal affairs opened and closed on the same day to investigate my complaint and found no misconduct at all. As I have spoken last week, it was akin to students writing their test and grading themselves. The investigation disposition letter (see attached Signed Dispo Letter for Yong) indicates that it was a “**private property towing dispute**”. This is a classic “attacking a straw man” response to the actual complaint. Nothing could be further from the truth that my complaint was about a private tow dispute. Yes, there will be a civil dispute filed with a small claim court against the predatory towing company, in such a civil dispute other than needing the city tow rate from FPD, FPD does not have any responsibility nor requirement to participate or engage in a civil dispute. However, when the crime is reported with probable cause and the element of a crime has been established, it is not only the sole responsibility of the FPD as the primary jurisdiction authority to enforce the law but also the FPD policy necessitates the investigation, thus I would like to reiterate the complaint that I sent to FPD is about inaction on crime, not civil dispute.

The outcome from the disposition letter from FPD is analogous to two men fighting with each other resulting in one dead. Victim’s family files a police report, and the police officer says no crime and insists on it’s a civil dispute. Victim’s family filed a complaint that the other men violated the penal code due to murder. Internal affair investigation concluded the investigation regarding a dispute between two men and no misconduct on the police's part. I intentionally exaggerate the analogy into serious crime just to highlight how ridiculous the police action can be when juxtaposed with my complaint. Under rule of law, crime is still a crime. FPD's role is to investigate and collect evidence, DA to decide whether to prosecute and finally it is the court to adjudicate. Not fulfilling the fundamental role of law enforcement is not only a dereliction of duty but also a perversion of justice.

When I mentioned the FPD’s incompetencies, I suspect that officers may not be familiar with the laws surrounding predatory towing. Now, I don't expect every law enforcement officer to memorize every law of the land but I expect law enforcement can recognize an action that purposely and knowingly violated the law and especially every element of crime established as a need for criminal investigation.

At this point, it is akin to asking someone whether $2+2=4$ according to the law of arithmetic. Not understanding the law of arithmetic means one does not have the competencies required to evaluate whether $2+2=4$. If one claims that $2+2\neq 4$, he or she has the burden of proof to explain why it is so when the law of arithmetic is well established and accepted by society at large.

When I deal with law enforcement officers I don’t question their competencies until they give me a reason to question them. We don't go to the grocery store and question whether the cashier knows the law of arithmetic because we assume that they knew and it is their fundamental duty to do so, but if the store manager started to receive substantiated claims from the customers that the cashier repeatedly giving out wrong change, what should the manager

do? Is the store manager going to ignore the complaint and do business as usual or does the manager need to do something about it before it becomes a business liability? Just as the store manager has a fiduciary duty towards the owner and customer, the council members have a fiduciary duty towards the resident of Fremont.

For the city to decide whether my complaint is baseless or without merits, it would be simple for the city to figure it out without any involvement from FPD. The city only needs to instruct the city attorney to request all original written authorization from All Brauns Towing within the last two years (statute limitation 2 years for personal injury) and submit to the city for an independent investigation. This can be done under CVC 22658 (l)(3) A towing company shall maintain the original written authorization, or the general authorization described in subparagraph (E) of paragraph (1) and the photograph of the violation, required pursuant to this section, and any written requests from a tenant to the property owner or owner's agent required by subparagraph (A) of paragraph (1), for a period of three years and shall make them available for inspection and copying within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

Next, filter all the written authorization based on immediate towing (defined as towed within less than an hour between observation and towing & tips that if it is a "specific authorized" tow and not "general authorized" tow in which there will be an authorized call timestamp). Separate all the immediate towing by those that meet one of the 4 conditions [a] within 15 ft of a fire hydrant, b) parked in a fire lane, c) interferes entry/exit from private property d) park in a disabled stall] and do not meet 4 conditions at all (Illegal & Unauthorized).

Finally, within those that meet the 4 conditions, review the evidence whether it truly meets the said conditions (mine wasn't). I will not be surprised that the City would discover hundreds of illegal and unauthorized towing cases based on do not meet the 4 conditions or bogus reasoning.

See the below for examples of "written authorization" that claimed to meet conditions for immediate tow but with bogus reasons and "written authorization" that doesn't meet the conditions for immediate towing at all.



All Braune Towing
 29220 Pacific St
 Hayward CA 94544
 United States

Written Authorization

www.allbraunstowing.com
 29220 Pacific St
 Hayward, CA 94544
 Primary Phone: (510) 606-3717

Observed: 04/10/2022 16:05:10
 Dispatched: 04/10/2022 16:05:10
 Arrived: 04/10/2022 16:01:49
 Removed: 04/10/2022 16:05:13
 Completion: 04/10/2022 16:25:24

INVOICE NO. [REDACTED]
 [REDACTED]

Account:
 Address:
 Driver: AR, Truck #BLACK, Newark

Make	Model	Year	License Plate	VIN	Color	Reason For Tow
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Blocking Entry/Exit Fire Lanes

Vehicle Class	Tow Method	Entered Vehicle	Vehicle Locked	Lockout Method	Storage Facility
Light Duty	Towed Rear Collies Front	No	Yes		Newark

Agency Called	Badge #	Contact Time
Fremont Police Department	14162	04/10/2022 16:08:43

Upon request, you are entitled to receive a copy of the Towing Fees and Access Notice.

Service Description	Amount
Light Duty Tow Fee Hourly x 1.0 Hour(s)	\$ 225.00
Storage Fee: \$90.0 x 1 day(s)	\$ 90.00
Gate Fee	\$ 120.00
Special Equipment Service Fee	\$ 55.00
Total Due:	\$ 490.00

IF YOU BELIEVE YOU HAVE BEEN WRONGFULLY TOWED, PLEASE CONTACT THE LOCAL LAW ENFORCEMENT OR PROSECUTING AGENCY, NO REFUNDS
 Fremont Police Department: (510) 790-6800

Si usted cree que su vehículo ha sido remolcado por la grúa equivocadamente favor de comunicarse a la Agencia local que impone este o a la Agencia de prosegimiento, sin reembolsos

Violation Photos

Example 1: Top right blue box indicates immediate tow (less than 1-hour base on Arrived and Removed time stamps), claimed to meet at least one of the 4 conditions but it was fraudulent reasons, lastly excessive charge because the city of Fremont contracted tow rate was \$210/tow



All Brauns Towing
 29220 Pacific St
 Hayward CA 94544
 United States

Invoice

www.allbraunstowing.com
 29220 Pacific St
 Hayward, CA 94544
 Primary Phone: (510) 606-3717

INVOICE NUMBER: [REDACTED]

Observed: 12/10/2022 14:36:47
 Dispatched: 12/10/2022 14:48:47
 Authorized: 12/10/2022 14:47:07
 Arrived: 12/10/2022 14:45:25
 Removed: 12/10/2022 14:48:49
 Completion: 12/10/2022 15:07:29

Account: [REDACTED]
 Address: [REDACTED] Fremont 94536
 Driver: AR, Truck #4, Newark

Make	Model	Year	License Plate	VIN	Color	Reason For Tow
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Not Designated Parking

Vehicle Class	Tow Method	Entered Vehicle	Vehicle Locked	Lockout Method	Storage Facility
Light Duty	Towed Front Dollies Rear	No	Yes		Newark

Release To	Releasee License	Releasee Phone	Releasee Address
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Agency Called	Badge #	Contact Time
Fremont Police Department	13887	12/10/2022 14:53:42

Upon request, you are entitled to receive a copy of the Towing Fees and Access Notice.

Authorizing Agent Name & Company	Address	Title	Phone	Signature
REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

Service Description	Amount
Light Duty Tow Fee Hourly x 1.0 Hour(s)	\$ 250.00
Storage Fee: \$100.0 x 1 day(s)	\$ 100.00
Gate Fee	\$ 125.00
Special Equipment Service Fee	\$ 60.00

Phone: (510) 606 - 3717 Email: info@allbraunstowing.com Web: https://allbraunstowing.com

Example 2: Top right blue box indicates immediate tow (less than 1-hour base on Arrived and Removed time stamps), did not meet the 4 conditions (self-incriminating for predatory towing), lastly excessive charge because the city of Fremont contracted tow rate was \$210/tow & \$90/ storage day

The state of California has the strongest predatory law in the nation. Not enforcing the law defeats the purpose of the state passing the law in the first place. FPD insistence on predatory towing (defined as unlawful and unauthorized towing under CVC) is not a crime and not willing to justify that predatory towing is not a crime in the city of Fremont is a strong opposition to the legal doctrine of stare decisis (cases with similar scenarios and facts are approached in the same way) when there are countless of prosecution and conviction against predatory towing in the state of California. FPD

action is strongly protective of criminal activity and thus FPD actions effectively move from the realm of incompetence and squarely into the territory of possible collusion that involves obstruction of justice or perversion of justice, discrimination as the predatory towing seemingly allowed to target a specific subset of the population due to inaction or possible collusion and infringing civil liberties rights by violating equal protection rights under the state and federal constitutions.

The complaint started with FPD not doing its fundamental duty of investigating a crime against the criminal business practice, now inadvertently turned into a game theory between FPD and criminal business. FPD's decision in digging its heel so deep in deciding or alluding that predatory towing is not a crime in the state of California, it seems like we will be witnessing a lose-lose situation, I am not entirely surprised as win-win is never a dominant strategy anyway in prisoner's dilemma. Leadership is needed to dissuade individuals from acting in their self-interest, otherwise, as game theory suggests, it will be a lose-lose tragedy.

Best regards,

Keong Yong

EXHIBIT "D"

FREMONT POLICE DEPARTMENT
 TOW FEE SCHEDULE



I	Towing of Vehicles	
	A. Motor vehicles and vehicles up to and including 10,000 lbs. gross weight, including motorcycles.	\$210.00 per hour 1-hour minimum
	<p>B. Motor vehicles and vehicles, in excess of 10,000 lbs. gross weight, up to 26,000 lbs. gross weight.</p> <p>1. Medium heavy-duty, two-axle.</p> <p style="padding-left: 40px;">(a) Without air.</p> <p style="padding-left: 40px;">(b) With air. (1 hour minimum, additional time in 15 minute increments)</p> <p>2. Extra Heavy-duty, over 26,000 lbs., gross weight. Three-axle tow required. (1 hour minimum, additional time in 15 minute increments)</p> <p>3. Extra hourly labor charges on disabled vehicles, including stand-by labor, are applicable one-half hour after the arrival of the tow truck at the scene and are chargeable in 15 minute increments.</p>	<p>\$295.00 per hour</p> <p>\$325.00 per hour</p> <p>\$389.00 per hour</p> <p>\$450.00</p>

II	Accident Scene Clean-up Charges	
	The charge of the tow includes cleaning up of normal accident debris, excluding hazardous materials. Responsibility for clean-up will be determined by Fremont Fire and Police personnel at the scene.	
III	Storage Charges in Excess of First Eight Hours	
	A. Passenger vehicle and pickup trucks	
	1. Storage outside - per vehicle.	\$90.00
	2. Storage inside - per vehicle.	\$90.00
	B. Trucks, buses, trailers over 10,000 lbs. gross weight.	
	1. Storage outside – per vehicle	\$110.00
	2. Storage Inside – per vehicle	\$125.00
	C. Motorcycles - inside storage.	\$80.00
	D. Gate fee - 5:00 p.m. to 8:00 a.m. including Saturdays, Sundays, and holidays.	\$82.00
	E. Storage fee will not be charged if the owner or his/her designee picks up the vehicle within (8) hours of the time the vehicle was towed.	
IV	Miscellaneous	
	A. Service charge on vehicles involved in accidents where no towing or storage services are rendered.	\$90.00
	B. Service charge when service rendered is other than towing.	\$90.00

TOW SERVICE AGREEMENT 2018
Central Towing & Transport, LLC

	C. Service charges when a dolly is required.	\$0
	D. Second person required.	\$175.00
	E. No fee will be charged for processing lien sales Beyond the actual cost of preparing and mailing required notice forms and certificates, fees charged by the Department of Motor Vehicles, and the cost of posting and/or publishing advertisements of an impending sale in accordance with applicable laws. F. City Responsible for Service	\$0
	Police Department Impound. Fremont Police Department will pay an operator for a tow under the following Vehicle Code Section Removal of abandoned vehicles and VC22655.5; vehicle is evidence of a crime	\$210.00
	G. Service charge on disabled vehicles where no tow is made.	\$72.50
	H. Tow outside the City of Fremont boundaries (Per hour minimum of portion thereof at 15 minute increments after the first hour.)	\$145
	I. Drop fee	\$81.23
	J. Recreational Vehicle (RV) and Boats longer than 15 feet: Fremont Police Department will reimburse an operator for the cost of properly disposing a recreational vehicle. The operator will provide documentation of the disposal prior to any reimbursement.	Up to \$1000.00

V	Vehicles	
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TOW SERVICE AGREEMENT 2018
Central Towing & Transport, LLC

	<p>When removing a vehicle from the street under orders from the Police Department, Operator shall not assess additional charges other than regular tow or storage charges itemized above for opening locked vehicles, providing that time required to open the vehicle shall not exceed 30 minutes. After this time, an extra labor charge of \$100 per hour, or portion thereof at 15 minute increments after the first 30 minutes, are applicable.</p>	
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February 15, 2023

Dear Keong Yong,

Thank you for sharing your concern regarding your correspondence with members of the Fremont Police Department related to a private property towing dispute. California Penal Code section 832.7(f)(1) requires you to be notified of the disposition regarding the complaint you made.

Your email was received and reviewed by members of the Fremont Police Department's Office of the Chief, including Internal Affairs. After a review of the allegations and details you provided, it has been determined that this matter will be handled through an inquiry. Fremont Police Department policy allows for complaints to be handled as inquiries under specific circumstances.

1013.3 PERSONNEL COMPLAINTS DEFINED

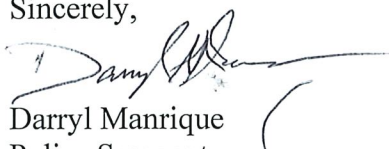
Personnel complaints are defined as any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

Your concerns will be documented as an inquiry and retained per California law and the City of Fremont's retention schedule.

We would like to thank you for bringing this matter to our attention. The Fremont Police Department strives to provide the highest level of service to our community. We value your input regarding your experience and community interactions with the employees of the Fremont Police Department.

Sincerely,



Darryl Manrique
Police Sergeant
Internal Affairs

Alberto Quintanilla

From: kevin yang <kev2in@action135@gmail.com>
Sent: Tuesday, February 21, 2023 12:04 AM
To: citycouncil
Subject: bike intersection

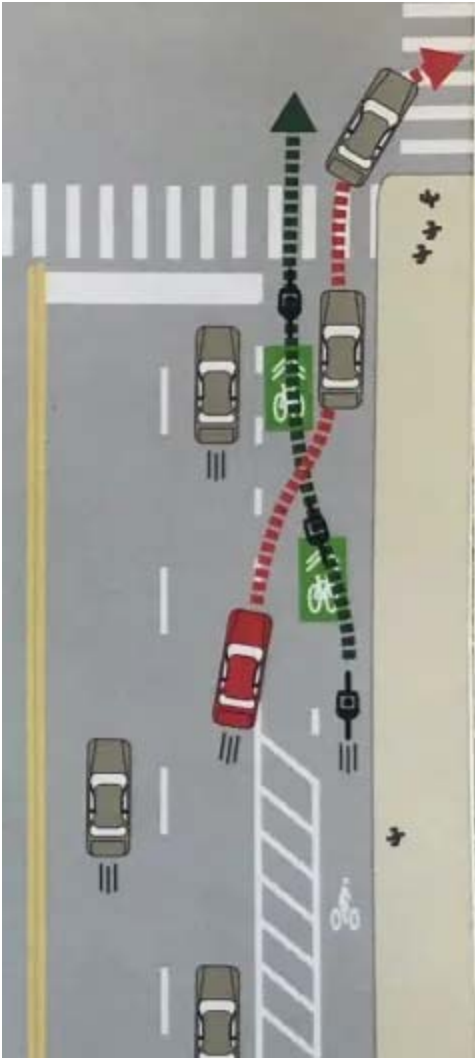
Dear Fremont government,

I am a concerned citizen who lives in fremont. I have a problem regarding the design of some intersections in our community. While some areas in the center of Fremont are designed like figure 1, as you move to the outskirts of the town they follow the old design of figure 2. The problem with figure 2 is it is bad for the safety of drivers, bikers, and pedestrians. In figure 2 drivers can easily crash into a biker when crossing over to the right lane, they can also easily hit pedestrians if they aren't careful, if they don't want to hit a biker or a pedestrian they may swerve their car resulting in a car crash and they have to worry about these things at every intersection designed like this. On the other hand, bikers and pedestrians will worry about crossing the road due to improper intersection design and if a collision does happen it may result in injury and possibly death. This is a health and safety concern that can easily be solved by a change in design to figure 1. In figure 1, drivers can easily see where pedestrians and bikers are, bikers will always stay on the right side of the road, and pedestrians can walk easily without a right hook. I believe that prioritizing the development of our intersections to figure 1 will save the most lives and make Fremont a better place to live.

figure 1:



figure 2:



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Thank You,
Kevin Yang

Alberto Quintanilla

From: albert chang <alchang@icloud.com>
Sent: Sunday, February 19, 2023 9:32 PM
To: Lily Mei; Desrie Campbell; Raj Salwan; Teresa Kerg; Jerry Kassar; Yang Shao; Teresa Cox
Cc: Clerk; CityAttorneysOffice; Karina McGee Shackelford
Subject: City Council meeting needs to follow Robert's rules

I am a resident of Fremont and have been a keen observer of your City Council meetings. I have noticed a disturbing trend in the behavior of some of the council members in the recent months.

It is disheartening to see that some of the members do not follow the Roberts Rules of Conduct. The constant talking over each other and the personal attacks and accusations being thrown around are unacceptable and unprofessional. This type of behavior reflects poorly on our city, and it is embarrassing for me and other residents to watch.

I implore each of you to take some time to review the videos of the meetings. I believe that once you see for yourselves how you appear, you will understand why this type of behavior is not acceptable.

Moreover, I have noticed that there is one councilmember who always wants to be the center of attention, but at the same time seems unprepared for the meetings. This councilmember is often asking questions that have already been addressed in the meeting package. This behavior not only wastes time but also shows a lack of preparation and respect for the other council members and residents.

I strongly urge that each of you strives to adhere to the Roberts Rules of Conduct, be respectful and professional, and be well-prepared for each meeting. It is crucial that we present a united front to the residents of Fremont, and your behavior during the meetings is a reflection of that.

Thank you for your time, and I look forward to a more professional and respectful City Council in the future.

Sent from my iPhone