

Ellinger
Myers
Blues
DeCamp
Beard
Crosbie
McChord
Blevins
Henson
Lane

SERVICES COMMITTEE

May 6, 2008

1:00 P.M.

A G E N D A

1. Solid Waste Roll Cart Enforcement - DeCamp (1-7)
2. Zandale Storm Water Ditch Update - Beard (8-11)
3. Items in Committee (12-13)

"Services Committee, to which should be referred matters relating to public safety, public works, urban county courts, and constitutional officers."

Council Rules & Procedures, Section 2.102(3)

ARTICLE II. REFUSE COLLECTION**Sec. 16-3. Roll cart container service.**

(a) The urban county government will provide a roll cart container to every residential property which is currently within the full urban service district or a partial district which provides for refuse collection. For multi-unit residential properties, the urban county government will, subject to the provisions of Code of Ordinances section 16-4(b), provide a roll cart container for each unit which contains kitchen facilities. Roll cart containers for recyclable materials will be provided to the above-noted properties upon request. Residents who have received a medical exemption from the roll cart collection by the urban county government may be provided a refuse collection container but will not be subject to ordinances regulating placement of roll cart containers or roll cart containers for recyclable materials at the curblin but will be subject to all other applicable ordinances.

(b) The urban county government will, subject to the provisions of code of ordinances section 16-4(b), provide a roll cart container or containers to office, commercial and industrial units, apartment complexes or other buildings in the urban county which are currently in the full urban service district or a partial district which provides for refuse collection.

(c) The urban county government may provide an additional roll cart for the separate collection of recyclable materials to any property receiving the roll cart container service.

(d) The commissioner of the department of public works and the director of the division of solid waste will determine the appropriateness and feasibility of roll cart container(s) at locations in the downtown collection area. If roll cart container(s) are not deemed feasible or appropriate at a given location, the commissioner or director shall designate appropriate containers for setout and collection at the location.

(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 286-90, § 2, 12-18-90; Ord. No. 43-97, § 3, 3-20-97; Ord. No. 14-99, § 3, 1-28-99; Ord. No. 112-2001, § 1, 5-24-01)

Sec. 16-3.1. Civil citations.

(a) All civil citations issued pursuant to this article shall be issued by the director, division of solid waste or his representative and shall contain:

- (1) The date and time of issuance;
- (2) The name and address of the person to whom the citation is issued;
- (3) The date and time the offense was committed;
- (4) The facts constituting the offense;
- (5) The section of the code of ordinances violated;
- (6) The name of the code enforcement officer issuing the citation;
- (7) The maximum civil fine that may be imposed for each violation;
- (8) The specific civil fine of less than the maximum that will be imposed if the person does not contest the citation;
- (9) The procedure for payment of the civil fine or contesting the citation; and
- (10) A statement that if the person fails to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the board to

contest the citation and that the determination of the code enforcement officer that a violation was committed shall be final. 2

(b) After issuing a citation to an alleged violator, the code enforcement officer shall notify the environmental hearing board by delivering a copy of the citation to the administrative official designated by the board.

(Ord. No. 282-2003, § 2, 12-4-03)

Sec. 16-3.2. Violation; penalty.

(a) For any violation of article II of this section, other than a violation of section 16-10, the civil fines associated with the issuance of a citation are as follows:

(1) The civil fine imposed upon the issuance of the first citation within any twelve-month period shall be a maximum of one hundred dollars (\$100.00) but shall be fifty dollars (\$50.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(2) The civil fine imposed upon the issuance of the second citation of the same nature within any twelve-month period shall be a maximum of two hundred dollars (\$200.00) but shall be one hundred dollars (\$100.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(3) The civil fine imposed upon issuance of the third citation of the same nature within any twelve-month period shall be a maximum of three hundred fifty dollars (\$350.00) but shall be one hundred seventy-five dollars (\$175.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(4) The civil fine imposed upon issuance of the fourth or more citation of the same nature within any twelve-month period shall be a maximum of five hundred dollars (\$500.00) but shall be two hundred fifty dollars (\$250.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(b) For violation of section 16-10 the civil fines associated with the issuance of a citation are as follows:

(1) The civil fine imposed upon the issuance of the first citation within any twelve-month period shall be a maximum of twenty-five dollars (\$25.00) but shall be fifteen dollars (\$15.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(2) The civil fine imposed upon the issuance of the second citation of the same nature within any twelve-month period shall be a maximum of fifty dollars (\$50.00), but shall be thirty-five dollars (\$35.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5;

(3) The civil fine imposed upon issuance of the third or more citation of the same nature within any twelve-month period shall be a maximum of seventy-five dollars (\$75.00) but shall be fifty dollars (\$50.00) if the person committing the offense does not appeal the citation in accordance with section 16-16.5.

(Ord. No. 282-2003, § 3, 12-4-03)

Sec. 16-4. Dumpster container service.

(a) The urban county government will provide collection service for dumpster containers at any multifamily residential structure, office, commercial and industrial unit, or other building within the full urban services district or a partial urban services district which provides for refuse collection, upon request and subject to the approval of the commissioner of public works.

Sec. 16-5. Special handling waste collection.

The urban county government does not collect special handling wastes or hazardous wastes. Residential units, office, commercial and industrial units and other buildings shall contract privately for the removal of special handling wastes and hazardous wastes.

(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 14-99, § 5, 1-28-99)

Sec. 16-6. Refuse collection procedures.

(a) It shall be the duty of owners, proprietors, occupants or persons in charge of every dwelling house, office, commercial and industrial unit or other building in the urban county to place or cause to be placed all garbage and trash accumulating on the premises in regulation roll cart containers provided by the urban county government. Exceptions include residents who have received a medical exemption, units having dumpster collection, residences or buildings where roll carts are not feasible for collection and those units serviced privately. The container provided by the government shall be rolled to the curb by residents, owners or occupants on their regularly scheduled collection day. Both garbage and trash may be placed in the roll cart container. No person shall block access to or cause access to be blocked to a roll cart container that has been placed for collection at the curb.

(b) It shall be the duty of owners, proprietors, occupants and persons in charge or control of, and using, any place or premises in the urban county fronting on a street, alley or other public right-of-way to maintain the portion of the street, alley or other public right-of-way adjacent to the place or premises in a condition free from solid waste. For the purposes of this section, the portion of a street, alley or other public right-of-way adjacent to a place or premises includes any walkway, trail, sidewalk, parkway, curb and gutter, and the travel lane portion of the roadway on the side of the street or alley adjoining the property.

(c) Anything left or placed within a three-foot radius of any refuse container shall be deemed as placed or left there for collection, and the urban county government and its employees shall not be liable for the removal thereof; however, improper preparation or placement of items for collection shall be subject to the abatement process set forth in section 16-8(d).

(d) The director, division of solid waste shall have the authority to designate the location for collection with consideration for such factors as: convenience for residents; hazardous conditions such as cables, utility poles, equipment clearance, animals; and collection costs.

(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 14-99, § 6, 1-28-99; Ord. No. 97-2001, § 5, 5-3-01; Ord. No. 296-2004, § 3, 12-2-04)

Sec. 16-7. Containers for ashes.

Ashes will be kept in a separate, metal container not less than five (5) gallons nor more than thirty (30) gallons in size. Ashes containing hot embers shall not be placed in containers for collection.

(Ord. No. 126-83, § 1, 7-21-83)

Sec. 16-8. Procedure for using roll cart containers.

(a) It will be the responsibility of the property owners and/or occupant(s) of said property to keep the roll cart container provided by the urban county government reasonably secure and in good condition. If the urban county government container needs replacement due to normal wear and tear or because of some manufacturer's defect, a new container will be provided or

repairs will be made at no charge. The urban county government will replace stolen or vandalized containers unless the urban county government determines that the property owner and/or occupant(s) clearly has been negligent in the care of his container. If so, the property owner and/or occupant(s) may be required to purchase replacement containers.

(b) The roll cart container may be filled to capacity as long as the lid can be closed and latched. The recommended weight capacity of two hundred (200) pounds shall not be exceeded. Within a cart, garbage and trash shall be contained in disposable plastic bags. The bags shall be leak proof, of sufficient strength to resist tearing under normal handling, and shall be securely tied. No special handling wastes, hazardous wastes, medical waste, bricks, dirt, engine blocks or other excessively heavy material, hot ashes, paints, solvents or flammable liquids shall be placed in the container. Any canine feces (dog excrement) placed in the container must be contained in a securely closed doubled plastic bag.

(c) All establishments that are exempt from using the urban county government roll cart container or establishments that use containers for occasional excess garbage and trash in addition to the one provided by the urban county government will comply with the following regulations. All containers and receptacles must have covers. Regulation garbage containers shall be watertight containers equipped with tight-fitting covers sufficient to keep out water, prevent disturbance by animals and entrance of insects. Containers shall be not less than five (5) nor more than thirty (30) gallons' capacity. All standard garbage containers shall be equipped with suitable handles by which they may be lifted. Tied plastic bags may be used for occasional excess trash placed at the curb.

(d) Material placed at the curb which does not meet the requirements set forth in this section or material which has not been properly prepared pursuant to section 16-9(a) or properly prepared and scheduled for special collection pursuant to section 16-14 shall, if not abated within the time period provided in the notice to abate, be subject to abatement by the urban county government with all costs for such abatement to be billed to the property owner pursuant to the procedures set forth in this article and the property owner shall further be subject to civil fines as set forth in this article.

(e) When refuse is not properly prepared in accordance with this section or section 16-9(a), or properly prepared and scheduled for special collection pursuant to section 16-14, it shall be deemed a nuisance pursuant to KRS 381.770, and a notice to abate shall be affixed to the front door of the residence or structure by the director, division of solid waste or his designee, listing the date and time the notice was issued and the defect to be cured before collection is continued and directing the abatement of the defect, either by proper preparation or removal of the refuse from the curb, within seven (7) days, unless such defect constitutes an immediate danger to the health and well being of the community, in which case the notice shall demand abatement within forty-eight (48) hours of the notice. The time period to abate shall commence upon attachment of the notice. A copy of this notice shall also be mailed, via regular mail, or transmitted by fax to the owner of the property as determined by reference to the records of the property valuation administrator, or to the owner's designee if the owner has filed notice of a designee pursuant to section 16-10(f). This notice shall further state that if the urban county government is required to abate the condition, the government will send a bill for the cost of the abatement, to include an administrative cost, to the property owner and that if the bill is not paid within seven (7) days following the mailing of the bill, a notice of lien claimed for the cost of abatement will be placed against the property. This notice shall further state that a civil fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) may be imposed if the violation continues or two (2) or more notices to abate have been issued to the same owner on the same property within any twelve-month period and that any civil fine so imposed will be in addition to the bill for the cost of abatement.

(f) If the violation is not abated following the expiration of the period of time to abate provided for in the notice, the urban county government may abate the condition and bill the property owner for the costs associated with such abatement, which shall include preparation and handling time, equipment expense, disposal fee, and an administrative fee of seventy-five dollars (\$75.00).

(g) If a property owner has previously been issued a notice to abate a condition on the property pursuant to subsection 16-8(e) in any twelve-month period, upon either the failure of the owner to timely abate the condition or the commission of another offense of the same nature in violation of this section involving that property the director, division of solid waste or his designee, is authorized, in addition to issuing any necessary notice to abate, to issue a citation containing the information specified in section 16-3.1. An additional citation is authorized to be issued for each further violation of the same nature occurring within in any twelve-month period, subject to any pending appeal of a previously issued citation. Citations, if issued, shall not preclude the government from abating the conditions and billing the property owner for the cost of abatement.

(h) The citation shall be served upon the property owner or his section 16-10(f) designee, by personal service or by fax transmission or by regular mail to the last known address of the owner of the property as it appears on the current tax assessment roll or to the owner's designee by personal service or by regular mail or by fax transmission to the designated address.

(i) The urban county government shall have a lien against the property for its costs incurred in abating a nuisance condition pursuant to this article and any civil fines assessed for violations of this article, except those assessed pursuant to section 16-10(d). This lien shall be superior to and have priority over all other subsequent liens on the property except state, county, school board, and city taxes pursuant to KRS 65.8835 or KRS 381.770. This lien shall be evidenced by a notice of lien claimed, filed in the county clerk's office, which notice shall include the affidavit of the commissioner of public works or the citation officer, setting forth the property in question, the amount of the cost of abatement or civil fine, if any, the date of abatement, and that the notice provisions were complied with before abatement. The commissioner of public works or his designee shall bill the property owner at least once following abatement or the assessment of a civil fine. No notice of lien claimed shall be filed against the property in the case of abatement until seven (7) days have elapsed since the bill is sent, and in the case of a civil fine, no notice of lien claimed shall be filed against the property until the time for appeal has expired and the environmental hearing board has entered a final order. If the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill. A copy of the notice of lien claimed shall be mailed to the owner of the premises, or published in a newspaper of general circulation, as required by statute, where the owner of the property cannot be ascertained. However, the failure of the clerk to record such notice of lien claimed or the failure to mail the owner a copy of such notice or publish same, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in subsection (k).

(j) *Property to be sold:* Property subject to a lien for unpaid abatement charges or unpaid civil penalties may be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the urban county government.

(k) *Court proceedings:* The commissioner of law is hereby authorized and directed to institute such proceedings, in the name of the urban county government, in any court having jurisdiction over such matter, against any property for which a bill for abatement or civil penalties remains unpaid for twenty-one (21) days after it is mailed. If the property is the subject of litigation, the proceedings may be initiated immediately upon the mailing of the bill.

(l) *Release of lien:* The mayor is hereby authorized and directed to execute a release of the lien provided for in subsection (i) upon payment in full of the nuisance abatement cost evidenced by the lien or upon conclusion of court proceedings resulting in the sale of the property regardless of whether any portion of the costs were paid from the proceeds of the sale. The lien release shall be filed in the county clerk's office.

(m) *Unenforceable liens:* The commissioner of law is hereby authorized to make the determination that liens shall not be filed for the cost of abatement if the cost of nuisance abatement is fifty dollars (\$50.00) or less and the cost of collection of the lien would be greater

than the lien itself, or when intervening in existing litigation is not cost effective, or when the lien would not be enforceable as a matter of law.

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(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 14-99, § 7, 1-28-99; Ord. No. 97-2001, § 6, 5-3-01; Ord. No. 282-2003, §§ 5--10, 12-4-03; Ord. No. 296-2004, § 4, 12-2-04)

Sec. 16-9. Maintenance and placement of roll cart container.

(a) Refuse containers and recycling containers shall be maintained in good condition. Any container that is not provided by the urban county government and does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof must be promptly replaced by a proper receptacle. The combined weight of the any refuse container and its contents shall not exceed sixty (60) pounds. All bulk trash accumulated in residential, commercial or manufacturing buildings, such as cardboard containers, wooden crates and similar refuse, shall be flattened and tied in bundles or packed in suitable containers of a size that may be readily handled by one (1) collector, and in no case shall such bundle or container be larger than three (3) feet by four (4) feet. Woody landscape waste shall not exceed six (6) inches in diameter and shall be cut into lengths not exceeding four (4) feet and tied into bundles not to exceed sixty (60) pounds which can be readily handled by an individual collector. All nonresidential establishments which do not use dumpsters will comply with the regulations listed above. When any container is found to be in bad condition or when the refuse is not properly prepared in accordance with this section, a notice shall be affixed to the front door of the residence or structure by the director, division of solid waste or his representative, listing the defect to be cured before collection is continued. A copy of this notice shall also be mailed, via regular mail or transmitted by fax, to the owner of the property as determined by reference to the records of the property valuation administrator or to the owner's designee if the owner has filed notice of a designee pursuant to section 16-10(f). Failure to properly prepare refuse for collection shall entitle the urban county government, after such notice, to abate the defect and bill the property owner for the cost of such abatement as set forth in section 16-8.

(b) For residents who have received a medical exemption from roll cart collection, garbage containers shall be kept or placed at the most accessible place at the rear of the house or building or in unlocked areas or passageways thereof at ground level. Containers must be clearly visible to collectors as they enter the rear yard. Garbage containers shall not be kept upon the street, sidewalk, other public place, front yard or premises or below ground. Containers should not be kept in garages, on patios or in enclosed areas. Residents with exemptions from roll cart collection shall place receptacles for trash at the curb.

(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 14-99, § 8, 1-28-99; Ord. No. 97-2001, § 7, 5-3-01)

Sec. 16-10. Refuse collection schedules.

(a) In all areas of residential urban county government collection, garbage service will be provided once each week on the same day of each succeeding week. Collection of recyclable materials and landscape waste in approved landscape waste containers will be provided once each week on the same day as garbage service. Trash that will not fit in the roll cart container and that is properly prepared pursuant to this article will be collected once per week. When a scheduled refuse collection day falls on an urban county government holiday, refuse will be collected on a makeup collection day. The commissioner of public works retains the right to adjust schedules in response to emergencies or severe weather.

(b) Roll cart containers, receptacles for properly prepared trash, roll cart containers for recyclable materials, approved landscape waste containers and any other waste subject to collection by LFUCG be placed at the curb line for collection but shall not remain at the curb line longer than a reasonable time necessary for collection. Urban county government containers,

year, customers will be required to pay the full cost for that year.

(c) The administration of this program shall be under the division of adult services in the department of social services. The commissioners of the departments of finance, public works and social services may prescribe such regulations and procedures consistent with the provisions of this section as deemed necessary to carry out the intentions stated herein.

(Ord. No. 212-95, § 1, 9-21-95; Ord. No. 70-98, §§ 1, 2, 3-19-98)

Sec. 16-16.4. Penalty for violation of this article.

(a) Every person failing to perform the duties required of him or to comply with the provisions of article II shall for every offense be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and each day's continuance of such violation shall be a separate offense.

(b) As an alternative remedy to subsection (a), every person who violates any provision of this article may be assessed a civil fine of not less than fifteen dollars (\$15.00) nor more than five hundred dollars (\$500.00).

(Ord. No. 126-83, § 1, 7-21-83; Ord. No. 138-95, § 5, 6-20-95; Ord. No. 212-95, § 2, 9-21-95; Ord. No. 14-99, § 12, 1-28-99; Ord. No. 97-2001, § 10, 5-3-01; Ord. No. 282-2003, § 15, 12-4-03)

Note: Formerly section 16-16.

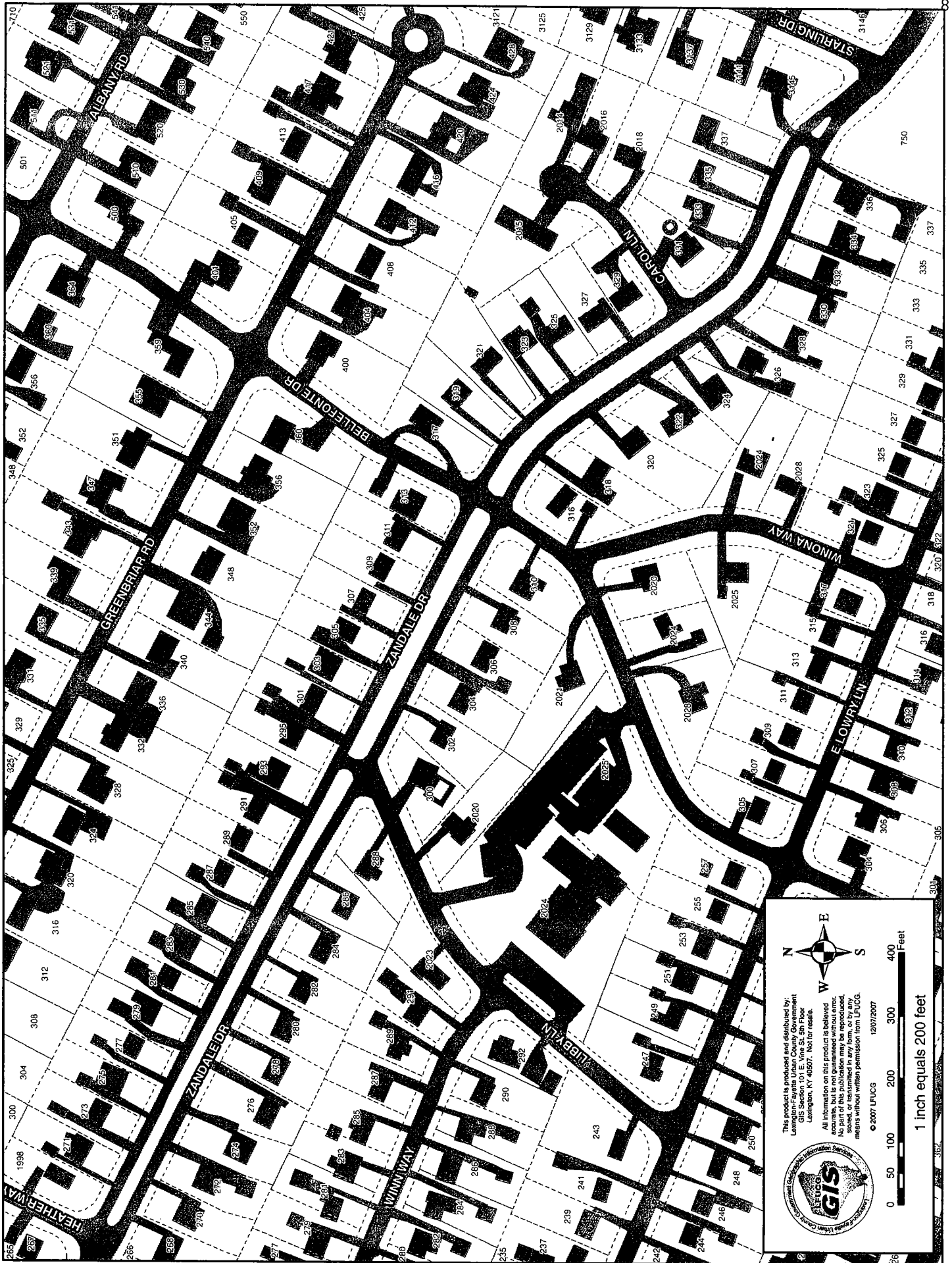
Sec. 16-16.5. Appeal.

(a) Any person affected by a determination of the commissioner of public works under sections 16-4(b)(iii) or 16-4.1(c), the issuance of the initial notice to abate, or the assessment of a civil fine issued in connection with the enforcement of article II shall have the right to request and shall have granted a hearing on the matter; provided that such person shall file, with the environmental hearing board as set forth in article IX, or its designee, a written request for such hearing and the grounds therefore within seven (7) days. The seven (7) day period provided for in this subsection shall be deemed to commence on the day of service of the notice.

(b) Failure to appeal. The notice to abate and assessment of a civil fine for violations of article II of the Code shall represent a determination that the violation has been committed and that determination shall be final, unless appeal is taken to the environmental hearing board within the applicable time period.

(c) An appeal from the board's determination may be made to the Fayette District Court within thirty (30) days of the board's determination pursuant to KRS 65.8831.

(Ord. No. 97-2001, § 11, 5-3-01; Ord. No. 282-2003, § 16, 12-4-03)

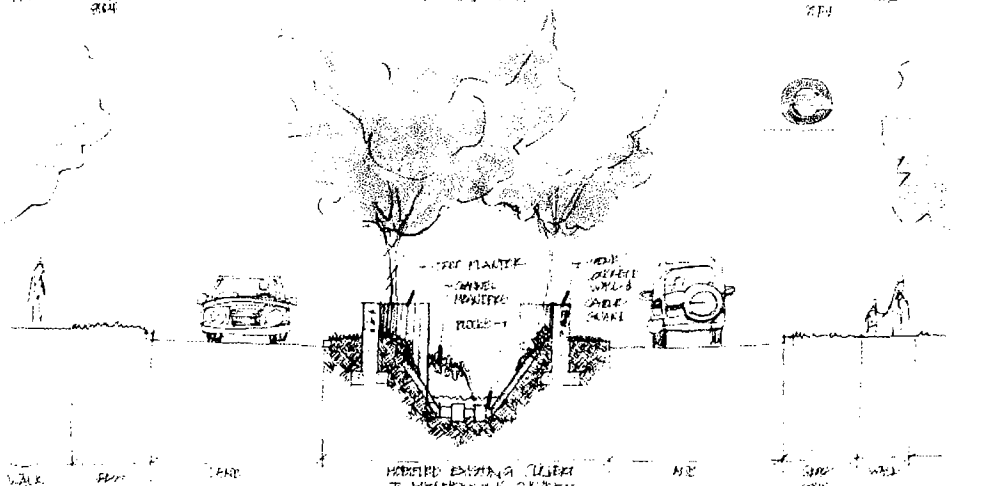
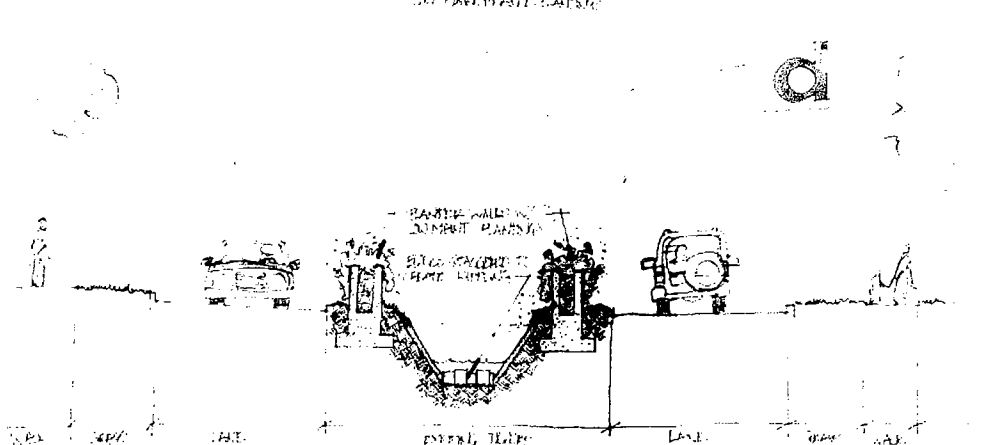
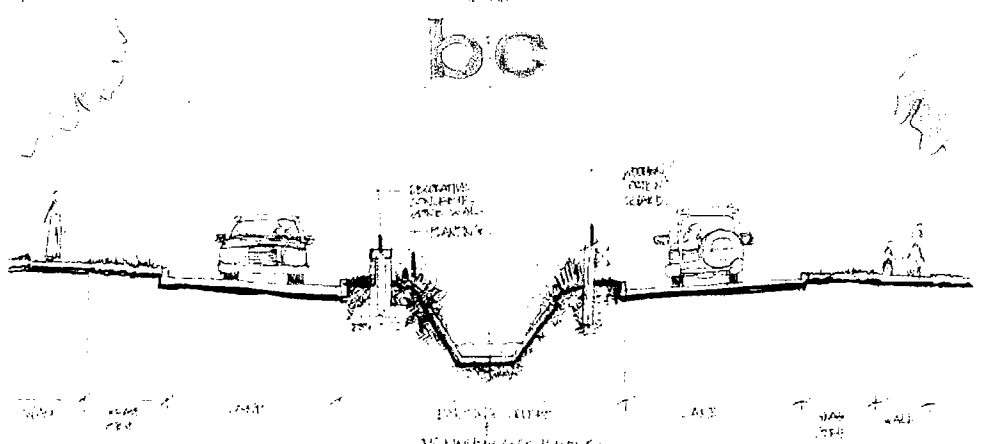
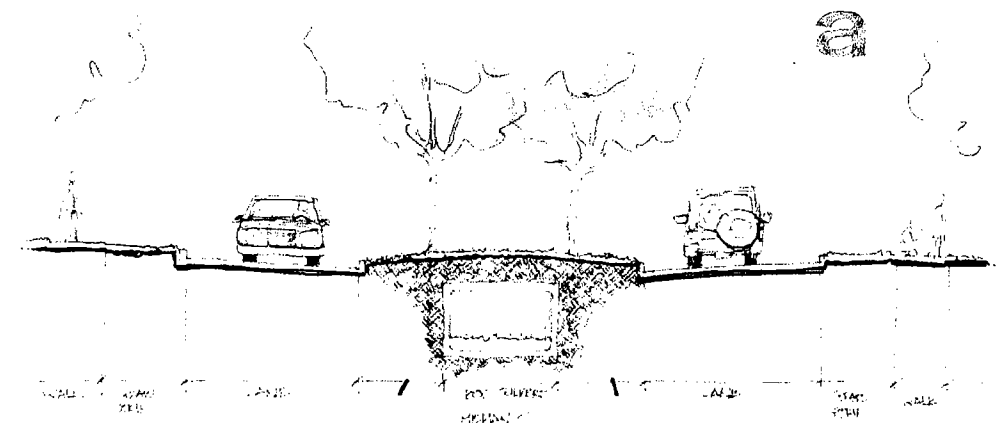


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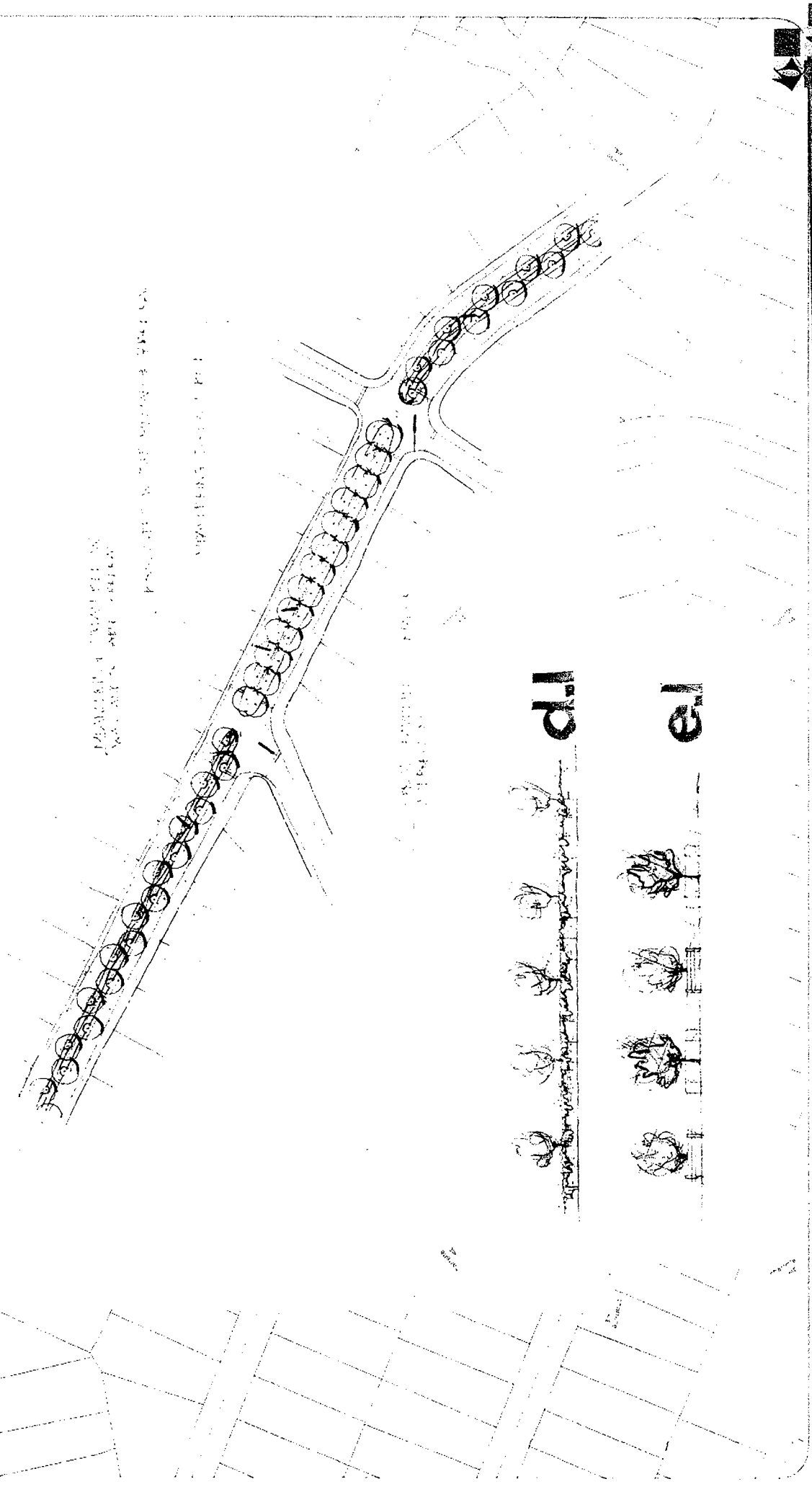
ZANDALE NEIGHBORHOOD

Plan A

PROPOSED LANDSCAPE
PLAN FOR THE PROJECT

PROPOSED LANDSCAPE PLAN FOR THE PROJECT

PROPOSED LANDSCAPE PLAN FOR THE PROJECT



ZANDALE NEIGHBORHOOD

MILWAUKEE
ASSOCIATES

A motion by CM Lane for the Dept. of Law to draft a graffiti ordinance and submit back to the committee for review, seconded by CM DeCamp, passed without dissent.

Mr. Barberie asked if the committee favored criminalizing the sale to minors.

CM Lane suggested the draft have two paragraphs one where the sale to minors is criminalized and one where it isn't and give full council a chance to review it and vote on it.

Jerry Hancock, Director of Parks, stated this is a growing problem. He stated they probably had incidents in 15 parks two years ago and incidents in 30 or 40 parks on a regular basis. He stated they have asked council in the upcoming budget to approve the purchase of a van dedicated to this purpose. He stated they have applied for a grant to buy powerful pressure washers to help with the removal.

II. Zandale Storm Drain Ditch

CM Beard stated the residents are concerned about multiple things with the Zandale ditch one being the safety. Secondly, they are concerned about the pollution of the stream. He asked Mr. Bennett where the creek originates.

Mr. Bennett stated this is a sub water shed of West Hickman. He stated it meets the main branch at Tates Creek Rd north of Malabu.

CM Beard stated it has been tested and ecoli has been found consistently in that water. He stated the desire of the neighborhood would be to cover this ditch. CM Beard stated this would be very expensive.

CM Blevins stated this is not unique to the 4th district. He stated LFUCG has to be careful that if they do one then everyone will want the same thing. Secondly, they have to keep an eye on water quality. He stated Zandale neighborhood may want to look at what the residents of the Lafayette Pkwy did in their area.

CM Beard stated may be they can work out some kind of matching deal with the neighborhood. He asked to keep this in committee to see what can be worked out.

The meeting adjourned at 1:30 pm.

Services Committee Items

Revised 05.01.2008

<u>Date</u>	<u>Councilmember</u>	<u>Issue</u>
4-8-08	DeCamp	Refuse Collection Ordinance Sec 16 of the UCG Code
3-4-08	James	Sidewalk Café Ordinance
11-20-07	Beard	Zandale Ditch
10-23-07	Stevens	Speed Limit Reduction on Streets Adjacent to Christ the King Cathedral
9-18-07	Moloney	Vicious Dogs
9-18-07	Moloney	Block Party Process
9-18-07	Ellinger	Alcohol Impact on Local Government
8-14-07	Stevens	Par 3 Golf Course
5-22-07	Moloney	Graffiti
5-15-07	DeCamp	News Rack Ordinance
3-13-07	Moloney	Dispatching Inter-City Buses from Terminals
2-27-07	Stinnett	Door to Door Peddlers
1-16-07	Myers	Multi-Way Stop Armstrong Mill/Crosby

Other Items (cont)		
Date	Councilmember	Issue
1-9-07	Stinnett	Multi-Way Stop Pleasure Ridge/Plaudit
11-14-06	McChord	Traffic Light at US 27/Waveland Museum Lane
11-14-06	Moloney	Imposing Fee for Signage in ROW
10-17-06	Moloney	Restrict Parking on Cambridge Drive from Oxford Circle to Village Drive
7-11-06	Moloney	Towing on Private Property
3-21-06	Moloney	Red Light Issues
2-14-06	Myers	US Ombudsman Association Standards for Citizen's Advocate Office
2-7-06	Gorton	Private Fire Hydrants
12-13-05	Gorton	Traffic Calming on Harvard Drive
12-13-05	Gorton	No Parking Signage on Belvoir between Malabu and crest of the hill
6-21-05	Moloney	Private Swimming Pool Safety
3-12-05	Gorton	Curb Replacement Program
2-22-05	Moloney	Mini Motorcycles