



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Betsy Shotwell

SUBJECT: PHOTO RADAR FOR SPEED ENFORCEMENT **DATE:** May 3, 2007

Approved

Deanna Santana

Date

5/4/07

RECOMMENDATION

Accept the staff report on the status of seeking legislation to authorize the use of using photo radar on City streets for traffic speed enforcement in residential areas and school zones and present to Council for possible consideration when formulating the City's Legislative Priorities for 2008.

BACKGROUND

The City's Neighborhood Automated Speed Compliance Program (NASCO) has employed photo radar on residential streets and school zones. Recently there have been inquiries about the legality of how the program operates and a Legislative Counsel's opinion stated that existing code prohibits the use of photo radar for traffic speed enforcement. On March 6, the Department of Transportation was directed by the City Council to discontinue the program in its current form. Council directed staff to look to modify it so there is no uncertainty, and explore legal options with the City Attorney's Office and the City Manager's Office.

ANALYSIS

The City Attorney's Office reviewed current law, the legislation that had been introduced in past years that failed to pass, the City's NASCO program, and potential alternative language which could be considered for introduction as legislation. Coordination took place among the City Manager's Office, the City's Legislative Representative, the City Attorney, Transportation and Police. Staff was attempting to identify preferred language which could provide the best opportunity for passage by the Legislature and to secure the Governor's signature. The City's Legislative Representative continued discussions in Sacramento to explore the introduction of the bill, authorship, and defining strategy and options available to grant the City clear authority to use photo radar to enforce speed limits in residential and school zones. Such discussions included meetings with legislators, the California Highway Patrol Commissioner's staff, and Legislative Committee Consultants. Meetings with representatives of the California Highway Patrol indicated they would oppose the City's bill if

introduced and would request a veto by the Governor if the bill were to pass the Legislature. This information was conveyed to City staff, but discussion will continue with the CHP if the staff recommendation is approved.

Staff has explored a modification to current State law in the Vehicle Code which expressly states that the section authorizing the use of photo radar for red-light running does not authorize the use of photo radar for speed enforcement. This is an issue which has been defeated multiple times in the Legislature. The identified legislative timeline included finalizing draft language, securing an author to submit language to Legislative Counsel for drafting. Also required identifying an author who had a bill already introduced which could be used (gutted and amended) as a vehicle for introduction. The Legislature has a policy that prohibits gut and amends after deadlines for bill introduction and requires amendments to be germane to the subject already in the bill.

The deadline for bill drafting and introduction for the 2007 session was February 23. On March 6 Council directed staff to pursue legislation to authorize the use of NASCOP for speed enforcement. City staff continued their efforts to draft language and identify a bill that would be non-fiscal to extend the deadline for meeting the requirement to pass out of policy committee by May 11. However, on April 20, the City's Legislative Representative learned from the Senate and Assembly Transportation Committee staff, that the adopted schedule for hearing non-fiscal bills would be compressed by two weeks. This information regarding the revised schedule was conveyed to the City Attorney, Police Department and the Department of Transportation. Due to:

- The diminished time frame and,
- Opposition to the City's proposal by the CHP and potentially others,
- Coupled with the need for bill language to be submitted to Legislative Counsel for introduction and,
- That a bill needed to be amended to meet committee deadlines for passage.

Therefore the consensus of all parties was that attempts to expedite the legislative process and limit discussion with other interests would not lead to a successful outcome or allow time for the City to further explore alternatives to the use of photo radar for speed control. The consensus of all parties was to review all options for use of photo radar on residential streets and school zones while continuing to develop language for consideration of a bill that could be introduced in 2008.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This document will be posted on the City's website for the May 9, 2007 Rules Committee meeting where Council and the public have the opportunity to comment.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Police Department, the Transportation Department and the City's Legislative Representative in Sacramento.



BETSY SHOTWELL

Director, Intergovernmental Relations

For more information contact: Betsy Shotwell, Director of IGR at 408-535-8270