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8
9 *Attorneys for Petitioner,*
STEPHEN FLYNN

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF RIVERSIDE

14 STEPHEN FLYNN,

15 Petitioner,

16 vs.

17 A. KAY VINSON, City Clerk of the City of
18 Murrieta; CITY COUNCIL OF THE CITY OF
MURRIETTA; KARI VERJIL, Registrar of
19 Voters of the County of Riverside; BOARD OF
20 SUPERVISORS OF THE COUNTY OF
RIVERSIDE; DOES 1-10,

21 Respondents.

23 DIANA SERAFIN and ROBIN NIELSON,

24 Real Parties In Interest.

Case No.

VERIFIED PETITION FOR WRIT OF
MANDATE

IMMEDIATE ACTION REQUIRED:
ELECTION LAW MATTER ENTITLED TO
CALENDAR PREFERENCE PURSUANT
TO C.C.P., §35
(Elections Code, § 13314; C.C.P, § 1085)

1 Petitioner STEPHEN FLYNN alleges as follows:

2 **GENERAL ALLEGATIONS**

3 1. Petitioner STEPHEN FLYNN is a qualified, registered voter, elector and taxpayer
4 in the City of Murrietta and Riverside County. Petitioner opposes the placement of the initiative
5 entitled “Murrieta Prohibition of Automated Traffic Enforcement Systems Act” (“the Initiative”)
6 on the ballot for any election because the initiative is beyond the power of the electorate to enact
7 for the reasons set forth herein.

8 2. Respondent, A. KAY VINSON, is the Murrieta City Clerk, and is the chief
9 elections officer of the City of Murrietta. Respondent is responsible for the conduct of Murrieta
10 municipal elections. Respondent, CITY COUNCIL OF THE CITY OF MURRIETTA, is
11 responsible to place the Initiative on the ballot and remove it from the ballot subject to a
12 peremptory writ of mandate ordering it to do so.

13 3. Respondents KARI VERJIL, Registrar of Voters of the County of Riverside, and
14 BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, are responsible in some
15 fashion for conducting the consolidated general election on November 6, 2012. Respondent
16 VERJIL as the chief election officer of the County of Riverside, conducts the election.
17 Respondent BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, must approve the
18 consolidation of the election on the Initiative for the City of Murrietta with the consolidated
19 general election to be held on November 6, 2012.

20 4. Real Parties In Interest, DIANA SERAFIN and ROBIN NIELSON, are the
21 proponents of the Initiative, the “Murrieta Prohibition of Automated Traffic Enforcement
22 Systems Act.”

23 5. The “Murrieta Prohibition of Automated Traffic Enforcement Systems Act”
24 purports to amend the municipal ordinances of the City of Murrietta to require the City Council to
25 prohibit the use of automated traffic enforcement systems, more commonly known as “red light
26 cameras,” within the City of Murrietta. A true and complete copy of the Initiative measure is
27 attached to this petition as Exhibit “A” and is incorporated by this reference herein.

28 6. Petitioner is unaware of the true names and capacities of Respondents DOES 1

1 through 10, and sues such Respondents by fictitious names. Petitioner is informed and believes,
2 and based upon such information and belief alleges, that each of the fictitiously named
3 Respondents is in some manner responsible for the actions described in this Petition. When the
4 true identities and capacities of these Respondents have been determined, Petitioner will seek
5 leave to amend this Petition and Complaint to insert such identities and capacities.

6 7. Real Parties In Interest DIANA SERAFIN and ROBIN NIELSON circulated or
7 caused to be circulated the Initiative petition for signatures in the City of Murrietta, and thereafter
8 submitted the signed initiative petition sections to Respondent City Clerk. Upon receiving the
9 petition sections, Respondent A. KAY VINSON, City Clerk, forwarded them to the Registrar of
10 Voters of the County of Riverside who certified there were sufficient valid signatures to qualify
11 the initiative for the ballot. See County Registrar of Voter's Certificate dated October 14, 2011
12 attached hereto as Exhibit "B" and incorporated by this reference herein.

13 8. Respondent A. KAY VINSON, City Clerk, certified the Initiative based upon the
14 County Registrar of Voter's Certificate (Exhibit "B") on October 18, 2011. See City Clerk's
15 "Certificate of Sufficiency to Initiative Petition Prohibition of Automated Traffic Enforcement
16 System," Exhibit "C" attached hereto and incorporated by this reference herein.

17 9. The City Council of the City of Murrietta by resolution dated November 1, 2011,
18 voted to submit the measure to the vote of the voters of the City of Murrietta at the November
19 2012 consolidated statewide general election. A true and correct copy of the minutes of the
20 meeting of the City Council of the City of Murrietta of November 1, 2011 at which the City
21 Council voted to present the Initiative to the voters at the regular municipal election on November
22 6, 2012 is attached hereto as Exhibit "D" and incorporated by reference herein.

23 10. The consolidation of the municipal election with the November 6, 2012 general
24 election must be ordered by the Respondent BOARD OF SUPERVISORS OF THE COUNTY OF
25 RIVERSIDE on or before August 10, 2012, which is 88 days before that general election.
26 (Elections Code, § 10403; consolidation procedures are set forth more generally at Elections Code,
27 §§ 10400-10402). The municipal election would be conducted by the Respondent KARI VERJIL,
28 Registrar of Voters of the County of Riverside.

1 **FIRST CAUSE OF ACTION**

2 **(Writ of Mandate – Elections Code, § 13314)**

3 11. Petitioner incorporates by reference the allegations of paragraphs 1-10 as if fully
4 set forth herein.

5 12. Elections Code § 13314 authorizes an elector to seek a writ of mandate alleging
6 that an error has occurred, or is about to occur, in the printing of a ballot, sample ballot, voter
7 pamphlet or other official material. A writ of mandate shall issue only upon proof of both of the
8 following: (a) that the error is in violation of the Elections Code or the Constitution, and (b) that
9 issuance of the writ will not substantially interfere with the conduct of the election.

10 13. Placement of the Initiative on the ballot for the November 6, 2012 election would
11 violate the California Constitution in the ways enumerated herein, because the Initiative is
12 beyond the power of the electorate to enact. Article II, section 11(a) of the California
13 Constitution authorizes the electors of cities and counties to exercise initiative powers, subject to
14 procedures the Legislature may provide. Municipal governments such as the City of Murrietta, a
15 general law city, as well as charter cities and counties, may only regulate municipal affairs, not
16 matters of statewide concern. Further, even a proposed initiative measures within the power of a
17 general law city to adopt must actually propose the adoption of a statute or ordinance, and an
18 initiative measure that merely directs the City Council to enact regulations does not propose a
19 statute or ordinance.

20 14. Under California law, the Legislature can limit the exercise of initiative power in
21 matters of statewide concern. (*See Comm. of Seven Thousand v. Superior Court* (1998) 45 Cal.3d
22 491, 511-12 (“*COST*”) [“The Legislature’s power over matters of statewide concern is sufficient
23 authorization” to bar the use of local initiative on such issues]. Traffic regulation is a matter of
24 statewide concern. (*Mervynne v. Acker* (1961) 189 Cal.App.2d 558, 561-562 .)

25 15. The Legislature has exercised its powers with respect to traffic regulation in the
26 California Vehicle Code. The term “automated enforcement system” is defined in Vehicle Code,
27 §210 to include “an official traffic control signal described in [Vehicle Code] Section 21450...
28 designed to obtain a clear photograph of a vehicle’s license plate and the driver of the vehicle.”

1 Vehicle Code, § 21100 provides that “[l]ocal authorities may adopt rules and regulations by
2 ordinance or resolution regarding the following matters: ... (d) Regulating traffic by means of
3 official traffic control devices meeting the requirements of [Vehicle Code] Section 21400.”

4 Vehicle Code, §21455.5 comprehensively specifies the requirements for authorization,
5 contracting, use, and enforcement of violations identified by “automated enforcement systems.”

6 Under the California Vehicle Code provisions related to “automated traffic enforcement
7 systems,” a “**city council** or county board of supervisors shall conduct a public hearing on the
8 proposed use of an automated enforcement system ... prior to authorizing the city or county to
9 enter into a contract for the use of the system.” (Veh. Code § 21455.6, emphasis added.)

10 16. The regulation of red light cameras and other automated traffic enforcement
11 systems is one for which the State Legislature has barred the use of initiative and referendum, by
12 specifically delegating exclusive authority on the issue to the City Council. The specific
13 delegation of authority to the “city council” is a key piece of evidence in determining the
14 Legislature’s intent bar the use of initiative over the subject matter. (*COST*, 45 Cal.3d at pp. 511-
15 512).

16 17. The Initiative also constitutes an invalid exercise of the electorate’s initiative power
17 because it does not propose the adoption of a statute or ordinance, but rather requires that an
18 ordinance “be adopted” by the City Council. Although the initiative and referendum are powers
19 reserved by the people and liberally construed in favor of their exercise, the electorate’s use of
20 these powers is not unlimited. (*See Marblehead v. City of San Clemente* (1991) 226 Cal.App.3d
21 1504, 1509.) “Even under the most liberal interpretation, however, the reserved powers of
22 initiative and referendum do not encompass all possible actions of a legislative body. Those
23 powers are limited ... to the adoption or rejection of ‘statutes.’ ...” (*Id.* at p. 1509; see also
24 *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687 at p. 708.)

25 18. The Initiative is an improper exercise of the initiative power, because it does not
26 contain any actual legislation. The language of the Initiative states in Section 2, “An *ordinance*
27 *shall be adopted by the City Council* which would prohibit the installation of and require removal
28 of any existing red light camera or other automated traffic enforcement system in the City of

1 Murrieta” (emphasis added). This language does not directly propose an ordinance, but rather, in
2 effect constitutes a resolution by the voters requiring the City Council to adopt an ordinance that
3 accomplishes the Initiative’s stated goal. The actual ordinance is left to the City Council. Which
4 elements of the city code are affected and how the substantive terms of the initiative are to be
5 incorporated into these elements is not explained. (See *Marblehead, supra*, 226 Cal.App.3d at p.
6 1506.)

7 19. On October 27, 2011, a letter from the Petitioner’s counsel with respect to the
8 placement of the Initiative on the ballot alleged that it was beyond the power of the electorate of
9 the City of Murrietta to enact was submitted to the City Attorney of the City of Murrietta. A true
10 and correct copy of this letter is attached hereto as Exhibit “E” and is incorporated by this
11 reference herein. The City Council of the City of Murrietta instead passed a resolution directing
12 the City Clerk to put the Initiative on the November 6, 2012 ballot, thus failing and refusing to
13 take appropriate action to prevent the presentation of the Initiative to the voters.

14 20. Petitioner has no other adequate or speedy remedy at law and he and the taxpayers
15 of the City of Murrietta will suffer severe and irreparable injury if the Court (a) does not enjoin
16 Respondent City Clerk and Respondent County Registrar of Voters, from submitting the measure
17 to the voters of the City of Murrietta and (b) does not direct either or both of them to remove the
18 Initiative from the November 6, 2012 ballot.

19 **SECOND CAUSE OF ACTION**

20 **(Writ of Mandate, C.C.P., § 1085)**

21 21. Petitioner incorporates the allegations of paragraphs 1-20, inclusive, as though set
22 forth fully herein.

23 22. Petitioner has paid city taxes within the preceding year. (*Common Cause v. Board*
24 *of Supervisors* (1989) 49 Cal.3d 432, 439; *Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-268.)

25 23. Because the electors do not have the power to enact the Initiative, it would be a
26 waste of taxpayer (public) dollars for the measure to appear on the November 2012 ballot. The
27 City of Murrietta has estimated the fiscal impact of putting the measure on the ballot at \$7,000.
28 See Respondent VINSON’s Agenda Report “Intiaitive Petition Prohibiting Automated Traffic

1 Enforcement Systems,” dated November 1, 2011, p. 3, attached hereto as Exhibit “F” and
2 incorporated by this reference herein.

3 24. Code of Civil Procedure, section 1085, authorizes the filing of a petition for writ
4 of mandate seeking to prevent a public official from taking official actions prohibited by the law
5 or Constitution.

6 25. Petitioner has no other adequate or speedy remedy at law and he and the taxpayers
7 of the City of Murrietta will suffer severe and irreparable injury if the Court (a) does not enjoin
8 Respondent City Clerk, from submitting the measure to the voters of the City of Murrietta and (b)
9 does not direct both Respondent City Clerk and CITY COUNCIL OF THE CITY OF
10 MURRIETTA to remove the Initiative from the November 6, 2012 ballot.

11 WHEREFORE, Petitioner prays for relief as follows:

12 1. For issuance of a peremptory writ of mandate directing the Respondents A. KAY
13 VINSON, City Clerk and CITY COUNCIL OF THE CITY OF MURRIETTA, to remove the
14 Initiative from the ballot pursuant to Code of Civil Procedure Sections 13314 and 1085; and, if
15 appropriate, directing the Respondent BOARD OF SUPERVISORS OF RIVERSIDE COUNTY
16 and Respondent KARI VERJIL not to approve or conduct an election on the Initiative as part of
17 the consolidated general election of November 6, 2012 in the County of Riverside.

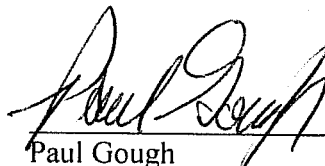
18 2. For an award of costs and attorney’s fees; and

19 3. For such other and further relief as this court deems proper.

20 Date: May 31, 2012

Respectfully submitted,

21 BELL, McANDREWS & HILTACHK, LLP

22
23 
24 Paul Gough

25 Attorney for Petitioner,
26 STEPHEN FLYNN
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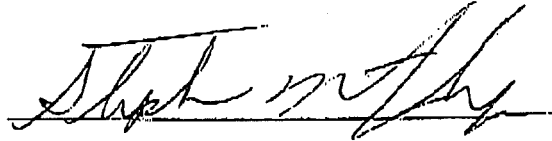
VERIFICATION

I, STEPHEN FLYNN, am the Petitioner in the above captioned proceeding Petition for Writ of Mandate entitled *Stephen Flynn v. A. Kay Vinson, et al., Superior Court of California, County of Riverside.*

I have read the attached Verified Petition for Writ of Mandate. I have personal knowledge of the allegations of the Petition and I know them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at 31 day of May 2012 at Murrietta, California.



STEPHEN FLYNN

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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The people of the City of Murrieta do ordain as follows: The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure: **Prohibition on Automated Traffic Enforcement Systems.**

BALLOT TITLE AND SUMMARY

Ballot Title: Prohibition of Automated Traffic Enforcement Systems

Summary: The ordinance proposed by initiative petition would require the City Council to adopt an ordinance which would prohibit the installation of and require removal of any red light cameras or automated traffic enforcement systems in the City of Murrieta. The term "red light camera or other automated traffic enforcement system" means and includes any automated traffic enforcement system, as that term is used in California Vehicle Code section 21455.55 or any successor legislation, which is used to enforce any provision of the California Vehicle Code.

The ordinance proposed by initiative petition also prohibits the City Council and any officer or employee of the City or a governmental agency or governmental official having jurisdiction in the City, when acting in his or her official capacity, from taking any action that would directly or indirectly result in the authorization, approval or installation of any red light camera or other automated traffic enforcement system in Murrieta. Prepared by: /s/ Leslie E. Devaney Leslie E Devaney, City Attorney, City of Murrieta.

NOTICE OF INTENET TO CIRCULATE PETITIONS (Elections Code Section 9202, 9207)
 Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Murrieta for the purpose of passing the "MURRIETA PROHIBITION OF AUTOMATED TRAFFIC CAMERAS". A statement of the reasons of the proposed action as contemplated in the petition is: Red light Cameras have become a source of revenue for cities and do not make the intersections safer. Cameras increase rear end collisions and property damage with a minor reduction in other type of crashes. Proponents: Proponents: /s/ Diana M. Serafin Diana M. Serafin Murrieta, CA 92562 /s/ Robin Nielson Robin Nielson Murrieta CA 92562

Text of the Initiative

THE PEOPLE OF THE CITY OF MURRIETA DO ORDAIN AS FOLLOWS:

SECTION 0: The ordinance proposed by initiative petition shall be known as the "MURRIETA PROHIBITION OF AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS ACT".

SECTION 1: The term "red light camera or other automated traffic enforcement system" as used in this section shall mean and include any automated traffic enforcement system, as that term is used in California Vehicle Code Section 21455.5, or any successor legislation thereto, which is used to enforce any provision of the California Vehicle Code.

SECTION 2: An ordinance shall be adopted by the City Council which would prohibit the installation of and require removal of any existing red light camera or other automated traffic enforcement system in the City of Murrieta.

SECTION 3: This City Council, any officer, employee of the City, governmental agency or governmental official having jurisdiction in the City when acting in his or her official capacity shall be prohibited taking any action which would directly or indirectly result in the authorization, approval or installation of any red light camera or other automated traffic enforcement system in the City of Murrieta.

SECTION 4. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or application, and to this end the provisions of this measure are severable.

SECTION 5. This initiative may not be amended except upon voter approval.

NOTICE TO THE PUBLIC

**THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER.
 YOU HAVE THE RIGHT TO ASK.**

1. Print Name _____ Signature as Registered to Vote	Residence Address only _____	City _____	For Clerks Use Only
2. Print Name _____ Signature as Registered to Vote	Residence Address only _____	City _____	
3. Print Name _____ Signature as Registered to Vote	Residence Address only _____	City _____	
4. Print Name _____ Signature as Registered to Vote	Residence Address only _____	City _____	

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The people of the City of Murrieta do ordain as follows: The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure: **Prohibition on Automated Traffic**
BALLOT TITLE AND SUMMARY

Ballot Title: Prohibition of Automated Traffic Enforcement Systems

Summary: The ordinance proposed by initiative petition would require the City Council to adopt an ordinance which would prohibit the installation of and require removal of any red light cameras or automated traffic enforcement systems in the City of Murrieta. The term "red light camera or other automated traffic enforcement system" means and includes any automated traffic enforcement system, as that term is used in California Vehicle Code section 21455.55 or any successor legislation, which is used to enforce any provision of the California Vehicle Code.

The ordinance proposed by initiative petition also prohibits the City Council and any officer or employee of the City or a governmental agency or governmental official having jurisdiction in the City, when acting in his or her official capacity, from taking any action that would directly or indirectly result in the authorization, approval or installation of any red light camera or other automated traffic enforcement system in Murrieta. Prepared by: /s/ Leslie E. Devaney Leslie E Devaney, City Attorney, City of Murrieta.

NOTICE TO THE PUBLIC

THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER.
 YOU HAVE THE RIGHT TO ASK.

5. Print Name Signature as Registered to Vote	Residence Address only	City	For Clerks Use Only
6. Print Name Signature as Registered to Vote	Residence Address only	City	
7. Print Name Signature as Registered to Vote	Residence Address only	City	
8. Print Name Signature as Registered to Vote	Residence Address only	City	
9. Print Name Signature as Registered to Vote	Residence Address only	City	

DECLARATION OF CIRCULATOR (Must be in circulator's own handwriting.)

I, _____, am registered to vote or qualified to vote in the state of California. I circulated this section of the petition and saw each of the appended signatures being written. Each signature on this petition is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. My residence street address is _____, CA. All signatures on this document were obtained between the dates of _____ and _____, 2011. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this _____ day of _____, 2011 at _____, California.

 Complete Signature of Petition Circulator)

Kari Verjil
Registrar of Voters



Rebecca Spencer
Assistant Registrar of Voters

**REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE**

CERTIFICATE OF REGISTRAR OF VOTERS

State of California)
) ss.
County of Riverside)

I, **KARI VERJIL**, Registrar of Voters of the County of Riverside, State of California, do hereby certify that on September 20, 2011, the Prohibition of Automated Traffic Enforcement Systems Petition was delivered to my office by A. Kay Vinson, Murrieta City Clerk, for the purpose of verifying that the signatures thereon were registered within the defined area.

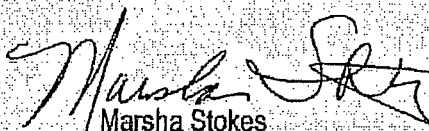
I further certify that the signatures on said petition were counted and examined by means of a 100% verification process, and that the results of said examination are as follows:

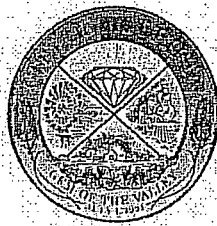
- That the total number of signatures submitted for said petition was...6,361
- The total number of signatures checked was.....6,361
- The total number of sufficient signatures on said petition is.....4,502
- The total number of insufficient signatures on said petition is.....1,859

I further certify that the number of valid signatures required to qualify said petition is 4,470 and that, because the number of valid signatures on said petition was 4,502 the petition is hereby declared sufficient.

Dated: October 14, 2011

KARI VERJIL
Registrar of Voters


Marsha Stokes
Elections Technician III



CITY OF MURRIETA

CITY CLERK'S CERTIFICATE OF SUFFICIENCY TO INITIATIVE PETITION PROHIBITION OF AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS

I, A. Kay Vinson, City Clerk of the City of Murrieta, do hereby certify:

That the Petition entitled "Prohibition of Automated Traffic Enforcement Systems" was filed with this office on September 20, 2011.

At the time the Notice of Intent was published, the County Clerk's Official Report of Registration to the Secretary of State showed 44,691 registered voters in the City of Murrieta.

Ten percent (10%) of said registration requires 4,470 valid signatures to qualify the initiative Petition.

That each section contained signatures purported to be the signatures of registered voters within the City of Murrieta.

That the signatures on said Petition have been examined; and, as a result of such examination, it has been confirmed that the Petition has been signed by the requisite number of voters with results from the Registrar of Voters dated October 15, 2011.

Concurrently, with verification of the signatures, the petition format has been reviewed. Although several irregularities were identified, the City Attorney has advised that all are inconsequential. Thus, the petition format is also deemed sufficient.

In addition, the following has been determined:

1. Total number of signatures on petition (raw count) – **6,361**
2. Number of signatures checked – **6,361**
3. Number of signatures unchecked – **0**
4. Number of prima facie signatures pursuant to receipt for Petition and Certificate of Page and Signature Count dated September 20, 2011 – **6,352**
 - a. Number of signatures found SUFFICIENT (valid) – **4,502**
 - b. Number of signatures found INSUFFICIENT (invalid/disqualified) – **1,859**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Murrieta this 18th day of October, 2011.

A. Kay Vinson, MMC
City Clerk
City of Murrieta

CITY OF MURRIETA
CONSOLIDATED AGENDA

MURRIETA CITY COUNCIL (CC)
ONE TOWN SQUARE, 24601 JEFFERSON AVENUE
MURRIETA, CA

NOVEMBER 1, 2011
5:00 PM CLOSED SESSION
6:00 PM REGULAR MEETING

5:00 PM CLOSED SESSION

- CS1. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to litigation (one case)
Authority: Gov. Code Section 54956.9 (c)
- CS2. Conference with Legal Counsel - Existing Litigation
Authority: Gov. Code Section 54956.9
City of Murrieta vs. Stretch Forming Corporation
Riverside County Superior Court, Case No. TEC10011674
- CS3. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to litigation/Initiation of litigation (one potential case)
Authority: Gov. Code Sections 54956.9(b) & 54956.9(c)

6:00 PM REGULAR MEETING

CALL TO ORDER: Mayor Randon K. Lane

ANNOUNCEMENT OF CLOSED SESSION ACTION

ROLL CALL: Bennett, Gibbs, Long, McAllister and Lane

PLEDGE OF ALLEGIANCE AND AMERICAN CREED: Korean War Veteran, Don Krampe, USMC Reti

INVOCATION: Pastor Bruce Pennington, Lighthouse Christian Center

PRESENTATIONS:

- P1. Pancreatic Cancer Awareness Month Proclamation
- P2. Proclamations Recognizing Korean War Veterans
- P3. County of Riverside Transportation Department Presentation on Clinton Keith Road

APPROVAL OF AGENDA

COMMUNITY REPORT: Vista Murrieta High School - Marissa Jerry

PUBLIC COMMENTS: At this time any person may address the governing bodies on any subject pertaining to City business, which does not relate to any item listed on the printed agenda. Normally no action may be considered or taken by the governing bodies on any matter not listed on the agenda. Each speaker will be limited to three minutes on any single item with a 30-second warning and a total of five minutes per meeting. Per Resolution 07-1778, Consent Calendar will begin at 7:00 p.m. and remaining public comments continued to the end of the meeting.

DEPARTMENT/COMMISSION ANNOUNCEMENTS:

City Manager - Administrative Update (Dudley)

City of Murrieta Page 1 of 10
Library - Update (McKinney)

Community Services - Veterans' Events Announcements (Holston)

GOVERNING BODY ANNOUNCEMENTS

7:00 PM CONSENT CALENDAR - APPROVAL OF ITEMS C1 - C6

(All matters listed on the Consent Calendar are to be considered routine by the governing bodies, and will be enacted by one motion in the form listed. There will be no discussion of these items unless, before the governing body votes on the motion to adopt, specific items are removed from the Consent Calendar for separate motions.)

C1. Minutes (CC) (Vinson)

Recommended Action: Approve the City Council Minutes of the 8:30 a.m. Special Meeting on October 11, 2011; and 4:00 p.m. Closed Session and 6:00 p.m. Regular Meeting on October 18, 2011.

C2. Murrieta Hot Springs Road Improvements - Amendment No. 3 with SB&O, Inc. (CC) (Thomas)

Recommended Action: Adopt a Resolution approving Amendment No. 3 to the Murrieta Hot Springs Road Improvements Agreement SB&O, Inc., for environmental and engineering design services in the amount of \$43,555.

C3. Amendment No. 1 to Consulting Agreement with Rick Engineering Company (CC) (Thomas)

Recommended Action: Adopt a Resolution approving Amendment No. 1 to the Consulting Agreement with Rick Engineering Company for structural design and geotechnical engineering services related to the widening of Los Alamos Road, east of Interstate 15, in an amount not to exceed \$15,770.

C4. Clinton Keith Road at I-215 Interchange Project - Notice of Completion (CC) (Thomas)

Recommended Action: Adopt a Resolution approving Change Order No. 61 to the contract with Ortiz Enterprises, in the amount of \$332,249.98 and accepting the improvements for the Clinton Keith Road at I-215 Interchange Project, CIP No. 8303 as complete, and direct the City Clerk to record a Notice of Completion and release bonds in accordance with State Law and City Ordinances.

C5. Acceptance of Public Improvements in Tract Map 24470 (CC) (Thomas)

Recommended Action: Adopt a Resolution accepting the public improvements in Tract Map 24470.

C6. Acceptance of Public Improvements in Parcel Map 8279 Parcel 4 (CC) (Thomas)

Recommended Action: Adopt a Resolution accepting the public improvements in Parcel Map 8279 Parcel 4.

PULLED CONSENT CALENDAR ITEMS

DISCUSSION:

D1. Initiative Petition Prohibiting Automated Traffic Enforcement Systems (CC) (Vinson)

Recommended Action:

1) In accordance with the California Elections Code, receive certificate of sufficiency on the results of

examination of initiative petition.

2) Discuss the following three options for addressing the initiative and give direction to staff.

a. Adopt the ordinance, without alteration, at this meeting or within ten days (November 11, 2011 adjourned regular meeting); or

b. Direct staff to prepare the necessary resolutions to submit the ordinance, without alteration, to the voters at the city's next regular election (November 6, 2012) occurring not less than 88 days after the date of the order of election; or

c. Refer the proposed initiative for a report to be received no later than 30 days after the city clerk, as elections official, certifies to the City Council the sufficiency of the petition and schedule submittal/meeting date to receive report on or before December 1, 2012 (could require an adjourned regular meeting).

GOVERNING BODY ACTIONS/COMMENTS

ADJOURNMENT

5:00 PM CLOSED SESSION

- CS1. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to litigation (one case)
Authority: Gov. Code Section 54956.9 (c)
- CS2. Conference with Legal Counsel - Existing Litigation
Authority: Gov. Code Section 54956.9
City of Murrieta vs. Stretch Forming Corporation
Riverside County Superior Court, Case No. TEC10011674
- CS3. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to litigation/initiation of litigation (one potential case) Authority:
Gov. Code Sections 54956.9(b) & 54956.9(c)

6:00 PM REGULAR MEETING

CALL TO ORDER: Mayor Randon K. Lane called the meeting to order at 6:00 p.m.

ANNOUNCEMENT OF CLOSED SESSION ACTION: City Attorney Leslie Devaney announced there was no reportable action from closed session.

ROLL CALL: Present: Gibbs, Long, McAllister and Lane. Absent: Bennett.

PLEDGE OF ALLEGIANCE AND AMERICAN CREED: Korean War Veteran, Don Krampe, USMC Retired

INVOCATION: Pastor Bruce Pennington, Lighthouse Christian Center

PRESENTATIONS:

P1. Pancreatic Cancer Awareness Month Proclamation

Patti Harris-Finn accepted the proclamation for Pancreatic Cancer Awareness Month. Ms. Harris-Finn indicated that purple signifies Pancreatic Cancer Awareness. City Council Member Gibbs said that both his father-in-law and brother-in-law passed away from the disease.

P2. Proclamations Recognizing Korean War Veterans

Mayor Lane read the proclamation recognizing Korean War Veterans. Mayor Lane and the City Council presented the following veterans with a proclamation, saying it is a small token of appreciation: Stephen D. Anderson, Ronald Berry, Peter Cracchiolo, Ray Darby, Lou Depasquale, Russ Ellis, James Feryan, Guy C. Hahn, Ed Hart, Edgar Hustead, Richard Kortcamp, Don Krampe, Carl L. Lorenzen, Len Maffioli, Samuel J. Vander Meer, Charles "Pete" M. Ogan, Robert Oliver, Joann Parin, Harold Payne, Rudy Polin, Stephen W. Repasky, Jr., Victor Valadez, and James Warrick.

City Council Member Gibbs invited the veterans to the Veterans Day Event and unveiling of the Korean War Memorial. City Council Member Long thanked the veterans for their service.

P3. County of Riverside Transportation Department Presentation on Clinton Keith Road

Director Juan Perez, County of Riverside Transportation Department, gave an update on regional projects:

- South I-215 improvement project consists of adding a lane and shoulder in each direction and the anticipated completion date is summer of 2012.
- Clinton Keith Road/ I-15 interchange project consists of widening the road to six lanes and the anticipated start date is early next year.
- 79/Winchester Road widening project consists of widening to four lanes. Phase 1 of construction is from Domenigoni Parkway to Scott Road and is expected to begin construction in January 2012. Phase 2 is expected to start construction in mid-2012.
- Clinton Keith from I-215 to SR 79 project to widen to six lanes.

City Council Members asked questions and made comments.

APPROVAL OF AGENDA

Action: Mayor Pro Tem McAllister moved and City Council Member Long seconded to approve the agenda, and the motion passed 4-0 (Bennett absent).

COMMUNITY REPORT: Vista Murrieta High School - Marissa Jerry reported on the following: October 3 homecoming spirit week; won the homecoming game on October 7 and announced homecoming queen; October 8 homecoming dance over 1500 students in attendance and the homecoming king was named; October 8 was a marching band annual competition and the band finished second overall; Drama department October 12 performed *The Bad Seed*; Grace An won the O'Neal fashion show competition and received an internship, \$5,000 scholarship and her designs will be part of the O'Neal winter line; Team Bronco participated on October 16 in the Race for the Cure; October 20 Blood Drive; October 21 volleyball game to support cancer awareness; golf and cross country winning games; October 27 jazz choir concert; red ribbon week; November 4 football game against Murrieta Valley; November 23 girls basketball alumni game; competing for \$140,000 athletic department grant and can vote at findingundeniable.com.

PUBLIC COMMENTS:

Keith Broaders, Murrieta, said that the Bill of Rights 8th Amendment is being violated. He read, "Excessive bail should not be required nor excessive fines imposed nor cruel or unusual punishment." Mr. Broaders stated that a \$500 ticket for running a red light is too much for someone on a fixed income.

Barbara Nugent, Murrieta, shared that her granddaughter played the lead in the "Bad Seed." Ms. Nugent said that drama students have a lot of team spirit; and they held a fundraiser, which raised \$1,100.

DEPARTMENT/COMMISSION ANNOUNCEMENTS:

City Manager – City Manager Rick Dudley announced that Friday, November 11th from 5:00 – 9:00 p.m. is the official Grand Opening for the Murrieta BMW dealership at the auto mall.

Community Services – Management Analyst Lea Kolek announced the 9th Annual Veterans Day Parade will be held on Friday, November 11th at 10 a.m. The parade will start at Ivy Street and Washington Avenue. Ms. Kolek reported that the unveiling of the Korean War Memorial Wall will take place following the parade at approximately 12:00 noon. She said that the Rotary Club will host the Field of Honor at Town Square Park from November 6 - 12. City Council Member Gibbs added that if you have previously purchased a flag from Rotary, you may bring it to the park on Sunday and have it flown again for a \$10 fee.

GOVERNING BODY ANNOUNCEMENTS

- Long:** Met with Police Chief on the early release program.
Had phone conversation with a representative from Regency on the east side shopping center.
Spoke with resident Michael Loeschig who would like to volunteer to raise money to get flag stickers on police cars.
Offered congratulations to youth football teams going to the finals: Midget and Jr. Midget Pop Warner: Brave Hawks and Charging Hawks.
Attended Economic Revitalization Presentation with outside EMS agencies and discussed how other areas handle their EMS contractual agreements.
Met with County Assistant CEO staff on RFP process and County statistics.
Spoke with local business owners interested in importing and exporting.
Attended the Colony players TV classics play.
- Gibbs:** October 24 attended the Autism Task Force. Shared an email from Lauren Allums about Sensory Time, a program with resources and benefits for autistic children that is currently underutilized.
Attended:
Retiring Fire Battalion Chief Gary Whisenand's retirement luncheon
Economic Development Corporation Board Meeting
Regency Shopping Center Meeting with developer
Meeting with MPD Chief to discuss statewide prisoner release program
Economic development meeting with Department of Commerce and U.S. lawyer working in Shanghai
Meeting with housing energy efficiency group
Veterans Memorial Committee meeting
Toured:
UCR Engineering School Biomimicry Lab
Palomar Pomerado Hospital in Escondido.
- Lane:** Spoke to seniors at Murrieta Mesa, Vista Murrieta and Murrieta Valley High Schools. The students had good dialog and were engaging.
Attended 9th Annual Education Summit in Palm Springs. 26,000 students graduated from High School last year, but 6,000 students dropped out of school last year in Riverside County.
November 14 the City will hold a youth in government day with Murrieta High School students.
Attended:
Gary Whisenand retirement lunch
Burn Institute Dinner
Murrieta Breakfast Lions Club – Flapjack Fundraiser
The Boys and Girls Clubs of Southwest County – Our Kids Rock Dinner and Fundraiser
Attended:
Economy and Jobs Lunch Discussion – Diane Feinstein
Fall Harvest Festival
Met With:
Rick Dudley and Chief Baray – Public Safety Realignment
Supervisor Jeff Stone

7:00 PM CONSENT CALENDAR - APPROVAL OF ITEMS C1 - C6

Action: City Council Member Gibbs made a motion to approve Consent Calendar Items C1-C6. City Council Member Long seconded the motion. The vote was:
AYES: Gibbs, Long, McAllister and Lane
NOES: None
ABSENT: Bennett

C1. Minutes

Action: Approved the City Council Minutes of the 8:30 a.m. Special Meeting on October 11, 2011; and 4:00 p.m. Closed Session and 6:00 p.m. Regular Meeting on October 18, 2011.

C2. Murrieta Hot Springs Road Improvements - Amendment No. 3 with SB&O, Inc.

Action: Adopted Resolution No. 11-2809 approving Amendment No. 3 to the Murrieta Hot Springs Road Improvements Agreement SB&O, Inc., for environmental and engineering design services in the amount of \$43,555.

C3. Amendment No. 1 to Consulting Agreement with Rick Engineering Company

Action: Adopted Resolution No. 11-2810 approving Amendment No. 1 to the Consulting Agreement with Rick Engineering Company for structural design and geotechnical engineering services related to the widening of Los Alamos Road, east of Interstate 15, in an amount not to exceed \$15,770.

C4. Clinton Keith Road at I-215 Interchange Project - Notice of Completion

Action: Adopted Resolution No. 11-2811 approving Change Order No. 61 to the contract with Ortiz Enterprises, in the amount of \$332,249.98 and accepting the improvements for the Clinton Keith Road at I-215 Interchange Project, CIP No. 8303 as complete, and directed the City Clerk to record a Notice of Completion and release bonds in accordance with State Law and City Ordinances.

C5. Acceptance of Public Improvements in Tract Map 24470

Action: Adopted Resolution No. 11-2812 accepting the public improvements in Tract Map 24470, a 12-lot, residential development located at Hayes & Calle Ortega, by Ronald Jones.

C6. Acceptance of Public Improvements in Parcel Map 8279 Parcel 4

Action: Adopted Resolution No. 11-2813 accepting the public improvements in Parcel Map 8279 Parcel 4, a commercial child daycare facility at Vista Murrieta Road and Skypark Road, by Krista Pacheco.

DISCUSSION:

D1. Initiative Petition Prohibiting Automated Traffic Enforcement Systems

City Clerk Kay Vinson reported on the timeline of the petition and the Council's options. Police Chief Mike Baray discussed the public safety goals and objectives for the red-light

camera program, including facts and statistics. Corporal Froboese answered questions, as did Consulting Traffic Engineer Brian Stephenson.

Public Comments:

In Favor of the Red Light Program:

- Carol Carson, Murrieta
- Bob Decubellis, Murrieta
- Ken Nordstrom, Murrieta, Traffic Commissioner
- Barbara Nugent, Murrieta
- Kassen Klein, Murrieta
- Michael O'Donnell, Murrieta

In Opposition to the Red Light Program:

- Diana Serafin, Murrieta
- Christopher Bieber
- Douglas Gibbs, Murrieta
- Don Parsley, Murrieta
- Keith Broader, Murrieta
- Bonnie Parsley, Murrieta

Neutral of the Red Light Program:

- Donald Lambert, Murrieta

The City Council agreed that the statistical data shows that traffic violations have decreased since the installation of the red light cameras. The City Council said that public safety is very important to the City, and it is the City Council's responsibility to keep the residents safe. So the City Council agreed that the initiative should go on the November 6, 2012 ballot.

Action: Mayor Pro Tem McAllister made a motion to direct staff to prepare the necessary resolutions to submit the Ordinance, without alteration, to the voters at the City's next regular municipal election (November 6, 2012) occurring not less than 88 days after the date of the order of election. City Council Member Long seconded the motion.

The vote was:

AYES: Gibbs, Long, McAllister and Lane

NOES: None

ABSENT: Bennett

GOVERNING BODY ACTIONS/COMMENTS

Mayor Lane received consensus to put an incentive program for City contractors to buy locally on a future agenda.

Mayor Lane received consensus to put a policy regarding ethics training for commissioners on a future agenda for discussion.

ADJOURNMENT

Action: City Council Member Gibbs made a motion to adjourn the meeting at 9:41 p.m. and City Council Member Long seconded. The vote was:

AYES: Gibbs, Long, McAllister and Lane

NOES: None

ABSENT: Bennett

A. Kay Vinson, MMC
City Clerk

BELL, McANDREWS & HILTACHK, LLP

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October 27, 2011

VIA EMAIL: ldevaney@stutzartiano.com

Leslie E. Devaney
Murrieta City Attorney
Stutz, Artiano, Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106

Dear Ms. Devaney:

As you know, the Murrieta City Clerk is scheduled to inform the Council that the initiative petition entitled "Murrieta Prohibition of Automated Traffic Enforcement Systems Act" has qualified pursuant to the Elections Code at its November 1, 2011 meeting. By law, the Council will be presented with three options at that meeting: 1) adopt the initiative as presented; 2) place the initiative on the next regularly scheduled municipal election ballot; or 3) order a report during a 30-day period. (Elec. Code § 9215.) We encourage the City Council to order the report before taking any action on the initiative petition.

Elections Code section 9212 authorizes the Council to seek information about the impacts of the proposed initiative. In particular, the statute allows the Council to obtain information from its city agencies on any matter, including the initiative's fiscal impact, impact on transportation and public safety. Additionally, we encourage the Council to seek your opinion and advice regarding the legality of the initiative and its options when presented with an initiative that may be legally deficient. We believe that there are at least two serious legal issues that may render the proposed initiative invalid and unenforceable.

First, the regulation of red light cameras and other automated traffic enforcement systems is one where the state Legislature has baired the use of initiative and referendum by specifically delegating exclusive authority on the issue to the City Council. Under California law, the Legislature can limit the exercise of initiative power in matters of statewide concern. (*See Comm. of Seven Thousand v. Superior Court* (1998) 45 Cal.3d 491, 511-12 ["The Legislature's power over matters of statewide concern is sufficient authorization" to bar the use of local initiative on such issues].)

The regulation of automated traffic enforcement systems falls under this category of matters of statewide concern specifically delegated to the City Council by the Legislature. As an example, according to the California Vehicle Code, “A *city council* or county board of supervisors shall conduct a public hearing on the proposed use of an automated enforcement system ... prior to authorizing the city or county to enter into a contract for the use of the system.” (Veh. Code § 21455.6, emphasis added.) The specific delegation of authority to the “city council” is a key piece of evidence in determining the Legislature’s intent bar the use of initiative over the subject matter. According to the court in *Committee*, when the Legislature uses specific terms such as “board of supervisors” or “city council” in the statute, there is a “strong inference” that action by initiative is foreclosed. (See *Id.* at pp. 501–505.) Thus, the Vehicle Code’s specific delegation of authority to the “city council” provides a strong inference that the Legislature, by specifically granting authority over automated enforcement systems to city councils, meant to preclude the use of the initiative process on this issue. As such, the initiative is unlawful and should not be presented to the voters in the first instance. (*Independent Energy Producers Ass’n v. McPherson* (2006) 38 Cal.4th 1020, 1029.)

Second, the Initiative constitutes an invalid exercise of the electorate’s initiative power because it does not propose the adoption of a statute or ordinance, but rather requires that an ordinance “be adopted” by the City Council. Although the initiative and referendum are powers reserved by the people and liberally construed in favor of their exercise, the electorate’s use of these powers is not unlimited. (See *Marblehead v. City of San Clemente*, 226 Cal.App.3d 1504, 1509 (Ct. App. 1991).) “Even under the most liberal interpretation, however, the reserved powers of initiative and referendum do not encompass all possible actions of a legislative body. Those powers are limited ... to the adoption or rejection of ‘statutes.’ ...” (*Id.* at p. 1509; see also *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687 at p. 708.)

The language of the Initiative states in Section 2, “An ordinance shall be adopted by the City Council which would prohibit the installation of and require removal of any existing red light camera or other automated traffic enforcement system in the City of Murrieta” (emphasis added). This language does not directly propose an ordinance, but rather, in effect constitutes a resolution by the voters requiring the City Council to adopt an ordinance that accomplishes the Initiative’s stated goal. The actual ordinance is left to the City Council. Which elements of the city code are affected and how the substantive terms of the initiative are to be incorporated into these elements is not explained. Therefore, the measure is an improper exercise of the initiative power, because it does not contain any actual legislation. (See *Marblehead, supra*, 226 Cal.App.3d at p. 1506.)

Memorandum to Leslie E. Devaney
Murrieta City Attorney
Stutz, Artiano, Shinoff & Holtz
October 27, 2011
Page 3

For the above stated reasons, we believe it is imperative that the Council seek more information about the initiative's impact and legality. Therefore, we respectfully request the Council to order the conduct a 30-day study pursuant to Elections Code section 9212. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Hiltachk", written in a cursive style.

Thomas W. Hiltachk

- City Council
- Redevelopment Agency
- Community Services District
- Fire District
- Library Board
- Financing Authority



Murrieta
Agenda Report

Subject: Initiative Petition Prohibiting Automated Traffic Enforcement Systems

Date: November 1, 2011

Prepared by: A. Kay Vinson, MMC, City Clerk

Approved by:  Rick Dudley, City Manager

RECOMMENDATION

- 1) In accordance with the California Elections Code, receive certificate of sufficiency on the results of examination of initiative petition.
- 2) Discuss the following three options for addressing the initiative and give direction to staff.
 - a. Adopt the ordinance, without alteration, at this meeting or within ten days (November 11, 2011 adjourned regular meeting); or
 - b. Direct staff to prepare the necessary resolutions to submit the ordinance, without alteration, to the voters at the city's next regular election (November 6, 2012) occurring not less than 88 days after the date of the order of election; or
 - c. Refer the proposed initiative for a report to be received no later than 30 days after the city clerk, as elections official, certifies to the City Council the sufficiency of the petition and schedule submittal/meeting date to receive report on or before December 1, 2012 (could require an adjourned regular meeting).

PRIOR ACTION/VOTE

There are no prior City Council actions related to this proposed initiative. However, Attachment 4 is a list of City Council actions related to red light cameras and actions related to petitions.

BACKGROUND

Initiative Process

A notice of intent to circulate an initiative petition prohibiting automated traffic enforcement systems (traffic cameras) was filed on January 24, 2011. However, that effort was abandoned because the proof of publication of the notice of intent was never filed.

Subsequently, another notice of intent to circulate an initiative petition prohibiting automated traffic cameras was filed on March 7, 2011. On March 22, 2011, the City Attorney prepared the ballot title and summary. Thereafter, the proponents published the notice and began collecting signatures. On September 20, 2011, the petitions were filed with signatures in excess of ten percent (4,470) of the registered voters (44,691). The petitions were delivered the same day to the Registrar of Voters office for verification. The Registrar of Voters office verified sufficient signatures were obtained on October 15, 2011.

During the signature verification, the petition format was also reviewed. Although several irregularities were identified, the City Attorney has advised that all are inconsequential, and the petition format has been deemed sufficient.

Under the California Elections Code, Section 9215, when petitions are submitted with sufficient signatures, as validated by the Registrar of Voters, the City Council has three options it may consider:

Adopt the ordinance, without alteration, within ten calendar days. Under this option, the City Council would enact the wording of the initiative. The ordinance may be adopted at this meeting or at an adjourned regular meeting on or before November 11, 2011 and would take effect 30 days thereafter. Since the ordinance relates to an initiative, the normal process for adoption of an ordinance including a first reading (introduction) and a second reading (adoption) is not required. The ordinance is attached for this purpose.

Place the initiative on the ballot for the next regular municipal election, occurring at least 88 days following the City Council action. Similar to the first option, the wording would be submitted without alteration. The next regular municipal election is November 6, 2012. Adding the measure to that election is estimated to cost \$7,000. If direction is given to place the measure on the ballot, three resolutions will be provided for consideration at the November 15, 2011 City Council meeting. One Resolution calls the election, the second Resolution directs the City Attorney to prepare the impartial analysis for the initiative and provides for ballot arguments, and the third Resolution would provide for the filing of Rebuttal Arguments, which is optional. The City Council may provide for rebuttal arguments if such action is taken at the time the election is called.

Refer the initiative for a report. This report would address those questions that the City Council believes are necessary for clarification, such as fiscal impact, legal ramifications, and effects on public safety. These are examples only, and there may be other questions the City Council would like to have addressed in a report. If the City Council chooses to refer the initiative measure for a report, it could be prepared with internal staff or an outside consultant. Therefore, the cost of a report is unknown at this time.

When the report is presented to the City Council, either at the November 15, 2011 regular meeting or at an adjourned regular meeting on or before December 1, 2011, the City Council shall either adopt the ordinance within ten days or submit the ordinance to the voters at the next regular municipal election occurring not less than 88 days after the date of the order of election.

Public Safety Considerations

Police Chief Baray has provided background and statistical information on the red light camera program. The red light camera program was proposed by the Police Department in October, 2005, with two stated goals: 1) Reduce red light violations; and 2) reduce broadside traffic collisions due to red light running. The City Council approved this program, and during the first few months of 2006, four camera installations went operational on a five year contract.

Reduction in Red Light Violations. At the time the cameras went active, Clinton Keith and Nutmeg was experiencing 25 red light violations per day in the westbound direction, or approximately 750 red light violations per month, Murrieta Hot Springs and Margarita was experiencing 40 red light violations per day in the westbound direction, or approximately 1,200 red light violations per month, and Murrieta Hot Springs and Whitewood was experiencing 105 red light violations per day in the eastbound/westbound direction, or approximately 3,150 red light violations per month.

When the City Council discussed this earlier this year, the Clinton Keith and Nutmeg site was issuing less than one red light violation per day or nineteen per month, down from 750 per month. Murrieta Hot Springs and Margarita was issuing less than one red light violation per day or twenty per month, down from 1,200 a month. Murrieta Hot Springs and Whitewood was issuing less than three red light violations per day or 80 per month, down from 3,150 a month. The first goal of reducing red light violations had been met and far exceeded expectations.

Reduction in Broadside Collisions. The cameras have also been extremely effective in helping reduce broadside traffic collisions. From camera installation through September 30, 2011, at the three camera intersections there have been a total of fifteen broadside collisions. When analyzing data for the same time period from the three closest signalized intersections on Murrieta Hot Springs, (Alta Murrieta, Hancock Avenue and Madison Avenue) that have the same daily traffic counts, there were 45 broadside traffic collisions. This three-fold increase in traffic collisions right down the street from red light camera intersections is the most telling and convincing statistic indicating drivers are paying more attention at camera intersections and not running red lights, thus not colliding and drastically reducing the incidence of major injuries.

The incidence of rear end collisions at camera intersections was also looked at and compared to the same non-camera intersections that were used in the previous analysis. Camera intersections had a total of 53 rear end collisions from camera installation through September 30, 2011. The three non-camera intersections on Murrieta Hot Springs had a total of 43 rear end collisions during the same period. The primary collision factors in all of these were either unsafe speed or following too close. Although incidents of rear end collisions are slightly higher at camera intersections, these are usually property damage only or minor injury collisions. The statistically significant reduction in major injury broadside collisions at camera intersections is the main indicator the cameras are doing their job.

The system provides 24/7 red light enforcement at three intersections in the city. The program is a force multiplier for the Police Department's Traffic Division allowing the eight motor officers to concentrate on other traffic related issues in the city. For this reason, the Police Department recommends that the City Council place the measure on the November 2012 ballot; this maximizes the time the cameras will be in place and serious injuries will be avoided.

FISCAL IMPACT

Since the election will be held in conjunction with a regular municipal election, the additional costs are incremental, consisting of adding the measure to the ballot; printing the ordinance in the sample ballot, along with arguments and rebuttals; cost of Spanish translation; and possibly additional postage. The Registrar of Voters estimated the additional cost for the initiative at \$7,000. If the measure is placed on the ballot for November 2012, the additional cost of \$7,000 will be included in the budgeted amount for the General Municipal Election.

In addition, signature verification costs have been incurred totaling \$3,180.50. Depending on whether or not a report is ordered and whether it is done by staff or a consultant, there could also be costs involved for preparation of the report, but the amount is unknown at this time. Funding is available from in the City Clerk Elections account no. 1102400 63520.

ATTACHMENTS

1. City Clerk Certificate
2. ROV Certificate of Signature Sufficiency
3. Ordinance – Murrieta Prohibition of Automated Traffic Cameras
4. List of City Council actions related to a prior initiative