



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: James R. Helmer
Rob L. Davis

SUBJECT: RECOMMENDED MODIFICATION TO THE PHOTO RADAR SPEED ENFORCEMENT PROGRAM **DATE:** 02-13-07

Approved

Date

RECOMMENDATION

It is recommended that the City Council direct the Department of Transportation to:

- 1) Report back to the City Council as part of the FY2007-2008 budget process on modifying the Neighborhood Automated Speed Compliance Program from an enforcement program to a warning program; and
- 2) Work with the City Manager's Office and City Attorney's Office exploring legal options to retain or reinstate the Neighborhood Automated Speed Compliance Program for the purpose of photo radar enforcement on local streets.

BACKGROUND

In November 1995, the City Council approved an ordinance to authorize the Director of the Department of Transportation (DOT) to appoint employees within the department to enforce speeding laws for the limited purpose of implementing a photo radar program known as the Neighborhood Automated Speed Compliance Program (NASCOP) to enforce posted speed limits on City streets. This ordinance was in response to numerous complaints regarding vehicles speeding in residential neighborhoods.

San Jose, like so many cities and towns across the country, receives numerous complaints of speeding in residential neighborhoods. Speeding adversely impacts the safety and quality of life in neighborhoods. Speeding also creates hazardous conditions for pedestrians, bicyclists and drivers, and increases background noise.

NASCOP is utilized as a supplement to regular police enforcement on 25mph or 30mph residential streets that have a documented speeding problem and where a majority of the residents have petitioned the City for the program. There are currently 177 street segments

throughout the City that are part of the NASCOP program. The NASCOP program is managed by DOT.

Due to activities in the State Legislature in the past few years, and recent court cases in Santa Clara County, there are legal concerns regarding the continuation of the NASCOP program in its present form.

ANALYSIS

NASCOP Implementation History

The development and implementation of the NASCOP program was coordinated through a NASCOP Task Force that was led by DOT and consisted of members from various groups including: Santa Clara County Municipal Courts, California Department of Motor Vehicles (DMV), California State Automobile Association, and the City of San Jose's Police and Fire Departments.

During 1996 and 1997, a pilot photo radar program was conducted on 20 residential streets. The pilot study showed that NASCOP was effective at lowering the percentage of motorists that exceeded the speed limit by 10 MPH or higher. Subsequently, in December 1997, the City Council authorized a permanent NASCOP program. In 1998, NASCOP commenced on a full-time basis and is currently the only photo radar speed enforcement program in California.

NASCOP Operations

The NASCOP program is an effective use of technology to address neighborhood speeding. The program has grown from one van to three vans that contain speed sensing radar units and cameras that take pictures of vehicle license plates and motorists that are driving faster than a predetermined threshold over the posted speed limit. The photographs are forwarded to Redflex Traffic Systems, Inc., a private company under contract with the City, to insert the information into a Notification of Observed Violation of Speed ("Notice") that is mailed to the registered owner of the vehicle.



The Notice advises the registered owner that he/she, or someone driving his/her vehicle, was observed driving in violation of the speed law. The registered owner is provided the opportunity to view the photographs taken when the violation occurred and either declare his/her innocence, by providing a copy of his/her driver's license and providing information on who they believe was driving the vehicle, or acknowledge driving the vehicle and submit a completed "Request to File an Infraction Complaint." If the owner acknowledges driving the vehicle, the Santa Clara County Traffic Court will issue a "Courtesy Notice" advising the owner of the fines due for the traffic violation.

If the owner does not respond to the Notice, or responds in writing that he/she was not driving the vehicle and does not indicate who might have been the driver, DOT staff, with assistance from the Police Department, will obtain a photo of the vehicle's registered owner from the DMV and compare it to the individual shown in the NASCOP photographs. If the individual depicted in the photographs is believed to be the same individual, all documents will be sent to the Traffic Court with a request for an Infraction Complaint to be issued.

In calendar year 2006, approximately 10,000 vehicles were detected traveling at excessive speeds by the photo radar equipment. Of these incidents, approximately 7,000 speed violation notices were issued to registered vehicle owners.

Effectiveness and Neighborhood Support of NASCOP Program

Over the years, NASCOP has been one of the most requested services provided within the Traffic Calming Program. Since its inception, the number of street segments with NASCOP deployment has steadily grown from the original 20 streets within the pilot study to the 177 current street segments. In April 2001, a survey was mailed to residents on the 82 streets served by the NASCOP program at that time. Approximately 1,300 residents responded to the survey, with a substantial 57% return rate. Overwhelmingly, residents on NASCOP streets indicated a desire to maintain the program, with 83% of those responding to the survey in support of NASCOP. In addition, during deployments, NASCOP staff are frequently approached by residents who express appreciation for the program.

The success of the program has resulted in reduced speeding in many residential neighborhoods throughout the City, especially vehicles speeding excessively over the posted speed limit. A recent analysis of 17 streets showed that average speeds have reduced by 8% after NASCOP deployment. Of significance is that the number of speeders driving 10 MPH and more over the posted speed limit has reduced by 62%. The data comparison on these 17 streets was collected between two to eight years after NASCOP was implemented. By effectively addressing neighborhood speeding concerns, the program has reduced the need for much more elaborate and expensive traffic calming devices such as chokers, concrete medians and road bumps.

Nationally, there are presently about 20 cities with a speed photo radar program. While a few other California cities have had speed photo radar programs in the past, these have all been discontinued, primarily due to budget constraints. In recognition of the effectiveness of programs like NASCOP, and potential future expansion of this type of program nationally, the Federal Highway Administration is currently in the process of developing guidelines for use by local jurisdictions in implementing and operating a speed photo radar program. San Jose's DOT staff is participating in the development of these guidelines.

Legislative History and Current Legal Climate

In 1995, the California Vehicle Code (CVC) was amended to authorize the use of automated enforcement systems by local jurisdictions to enforce CVC 21455 (red light running). In 2000, CVC Section 21455.6 pertaining to red light running automated enforcement programs was

amended to clarify that the use of photo radar was not authorized for speed enforcement purposes.

Last year, the City of Beverly Hills sponsored Senate Bill (SB) 1300 that was authored by Senator Sheila Kuehl. SB 1300 would have amended the Vehicle Code to provide express authorization for the use of photo radar equipment for the enforcement of speeding violations. However, SB1300 failed to make it out of the Senate's Transportation and Housing Committee. Prior to this, in 2005, Senator Kuehl had authored a similar bill, SB 466, that was sponsored initially by the City of Los Angeles, and later the City of Beverly Hills. SB 466 also failed to move forward in the legislative process.

In response to a court case in the Fall of 2006 regarding a NASCOP citation, the District Attorney's Office requested information from the City regarding how the NASCOP program actually worked. The District Attorney's office also requested copies of all notices that are sent to the registered owner following a speeding incident.

Options

Given the failure of SB 466 and SB 1300, the clarification in CVC Section 21455.6, a few complaints by recipients of notices from the City and the Court, and questions raised by the District Attorney's office, it is not recommended that the NASCOP program be continued indefinitely in its current format. The following three alternatives have been explored with regards to the NASCOP Program.

I. Discontinue the Program

Elimination of the NASCOP program would likely result in an increased level of speeding on the 177 streets that are currently served by the program. As these streets are in the NASCOP program due to high levels of neighborhood concern about speeding, program elimination would generate an increase in enforcement requests to the Police Department and in engineering studies with DOT to address the increased speeding levels. As speeds rise, it is anticipated that many neighborhoods will request the installation of costly physical traffic calming devices to reduce speeding.

Elimination of the NASCOP program would provide an approximate annual net \$340,000 cost savings to the City's General Fund. The NASCOP vans are staffed by three full-time positions and two part-time positions, of which one of the part-time positions is currently vacant. If the program were eliminated, efforts would be made to re-deploy remaining staff to other positions in the City.

The contract with Redflex was executed in November 2004, with four one-year options to extend. The existing contract expires November 30, 2007. The contract terms include provisions for the City to cancel the contract, without cause, upon 30 days written notice. Although not recommended, if the NASCOP program were to be eliminated, this should occur no sooner than the beginning of FY07-08. This would provide adequate time to

develop and implement an outreach plan to the neighborhoods that would be affected by the elimination of NASCOP. There would be an estimated cost of \$20,000 to eliminate the program associated with the removal of existing NASCOP signage.

II. Seek Legislative Authority

The next opportunity for San Jose to initiate a bill would be during the 2008 Legislative cycle. Given that SB 466 and SB 1300 both failed to move forward in the legislative process, it is unknown how a bill amending the CVC so that it expressly authorizes the use of automated enforcement systems to enforce the basic speed law would be received. The primary groups that raised concerns with SB 1300 included the California Association of Highway Patrolmen and representatives of other law enforcement groups. Pursuing legislation would require that the City fully understand the concerns raised by these groups and attempt to address these concerns.

III. Modify to a "Warning" Program

The NASCOP program has been an integral part of the City's Traffic Calming Program. Converting NASCOP to a warning program would respond to the above concerns while still enabling the City to provide a critical service to neighborhoods. It is anticipated that NASCOP would have a lesser impact on reducing speed levels if only warnings are issued. This would affect the ability of NASCOP to reduce speeds on streets that are new to the program. It is also probable that speeds would increase on streets that are currently part of the program. It is unknown to what extent a warning program would be less effective than the current NASCOP program, but it is anticipated that the impacts would not be as extensive as total elimination of the program.

Options to increase the effectiveness of a warning program would be to lower the existing threshold at which notices are sent to registered owners observed speeding. Lowering the threshold would result in a substantial increase in the quantity of notices that are sent to vehicle owners. In addition, informational material could be included with the warning notices that discuss the negative impacts of speeding, especially in residential neighborhoods and near schools. A warning program could also be used to provide enhanced proactive deployments in school zones during drop-off and pick-up periods.

Converting NASCOP to a warning program will result in an approximate annual net cost increase of \$80,000 to the City's General Fund as the City would no longer be receiving a percentage of fine revenue associated with NASCOP speeding citations. There would also be a one-time cost of approximately \$10,000 associated with modifying existing NASCOP signage.

Due to the substantial benefit that the NASCOP program provides to neighborhoods in improving the quality of life through reduced speed levels, discontinuance of the program is not recommended. As noted above, doing so would eliminate one of the most highly

requested services in the Traffic Calming Program and would likely lead to increases in speeding in many neighborhoods currently in the program.

It is recommended that DOT explore implementation of a warning program and report back to the City Council during the FY2007-2008 budget process on what steps would be involved in this process. It is also recommended that DOT work with the City Manager's Office and the City Attorney's Office exploring legal options to retain or reinstate the NASCOP program for the purpose of photo radar enforcement on local streets.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

JAMES R. HELMER
Director of Transportation

ROB L. DAVIS
Chief of Police

For questions please contact Amit Kothari, Deputy Director, at 535-3838.



Regular Meeting
of the
San José
Transportation & Environment Committee (Special Meeting)
held
February 22, 2007 at 1:30 P.M.

Roll Call

Present: Chair Forrest Williams; Vice Chair Sam Liccardo; Council Member Judy Chirco

Absent/Excused: Council Member Dave Cortese

Chair Forrest Williams opened the meeting by asking the Committee to vote on Deputy City Manager Ed Shikada's request to defer item #3 on the agenda. Upon the motion of Councilmember Sam Liccardo and seconded by Councilmember Judy Chirco the Committee voted to defer item #3 to the March 5, 2007 Transportation and Environment Committee meeting.

1. Recommended Modifications to the Photo Radar Speed Enforcement Program (DOT/PD)

Department of Transportation and Police Department staff presented the recommended modification to the NASCOP (Neighborhood Automated Speed Compliance Program). A brief history of how the program works was highlighted. Current legal climate and Legislative history clarified that the use of the photo radar was not authorized for speed enforcement purposes. Discontinue the program, seek Legislative authority or modify to a "warning" program were among the three options given as alternatives. Upon the motion of Councilmember Judy Chirco and seconded by Councilmember Sam Liccardo the Committee voted to accept the report and have staff report to the City Council at the March 6, 2007 Council meeting as a part of the FY 2007-2008 budget process on modifying the NASCOP from an enforcement program to a warning program.

2. Recycle Plus Transition Update and Service Rate Increase (ESD)

Chair Forrest Williams approved the Oral Petition on this item to be heard before the Committee prior to hearing the item. Larry Daugherty, President of Teamsters Local 350, represented his union by stating that they have been working with all of the companies involved in the Recycle Plus transition. Coordination has been successful but coordination with Green Waste has been challenging.

Environmental Services and Finance Department staff presented the status report on the 2007 Recycle Plus Hauler Transition. New contracts for Recycle Plus garbage, recycling, yard trimmings and street sweeping services for single-family service in District A and C were executed in November 2006. Details on the ongoing preparations for the start of service on July 1, 2007 were highlighted. Staff recommended that City Council authorize a public hearing be set for May 8, 2007, on the recommended Recycle Plus rate increase for Fiscal Year 2007-2008, and potential rate increases covering the following two fiscal years. Also in accordance with Proposition 218, direct Administration to send notices to San Jose residential property owners for receipt no later than March 23, 2007 informing them of potential Recycle Plus rate increases over the next three fiscal years. Upon the motion of Councilmember Sam Liccardo and seconded by Councilmember Judy Chirco the Committee voted to accept the status report and bring the recommendations to City Council on March 6, 2007.

3. **Water Pollution Control System Infrastructure Condition and Capital Funding (ESD)**

Deferred to March 5, 2007 Transportation & Environment Committee meeting.

4. **State and Federal Legislation Update (CMO)**

Department of the City Manager Intergovernmental Relations staff presented the quarterly State and Federal Legislative update in the areas of Transportation, Aviation and Environmental Services. Upon the motion of Councilmember Judy Chirco and seconded by Councilmember Sam Liccardo the Committee voted to accept the update.

5. **Oral Petitions**

There were no Oral Petitions

6. **Adjournment**

The meeting adjourned at 3:06 PM

By: Forest William

- Chair Transportation & Environment
Committee (Special Meeting)

Please note that this meeting can be viewed in its entirety on the City's website, www.sanjoseca.gov and click on the link to view meeting broadcast, you can find all Committee meetings as well as Council meetings.