

March 8, 2002

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

PROPOSAL TO ADOPT A RESOLUTION TO EXTEND THE TEMPORARY CLOSURE OF 9100 TO 9400 TRADE PLACE PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 21101.4 AND SAN DIEGO MUNICIPAL CODE CHAPTER 5, ARTICLE 2, DIVISION 51 (SECTIONS 52.5101 *et seq.*)

BACKGROUND

In October 2000, the City Council amended the San Diego Municipal Code to add Sections 52.5101 *et seq.*, entitled “Temporary Street Closures Due to Serious and Continual Criminal Activity,” pursuant to authority set forth in California Vehicle Code section 21101.4. This ordinance was enacted as a means to solve the problem of illegal street racing and related criminal activity on certain streets in the City of San Diego. In 2001, the City Attorney prosecuted 248 cases involving violations of Vehicle Code section 23109(a) – engaging in a speed contest – or Vehicle Code section 23109(b) – aiding and abetting a speed contest. These are misdemeanor offenses. The spectators attracted to illegal street racing sites are also engaged in criminal conduct, including juvenile curfew violations, gambling, fights and disturbances, littering, drinking in public, urinating in public, trespassing, graffiti, and vandalism. Participation in illegal street racing as a racer or as a spectator shows disregard for the law and disregard for the health and safety of others.

To curb illegal street racing activity, municipalities throughout Southern California are using varied and multi-faceted approaches, including aggressive law enforcement, education, crime prevention through environmental design, and legislative changes to deter illegal street racers and spectators from gathering at illegal street racing locations. Law enforcement officers need to utilize varied approaches to address this difficult problem.

The Municipal Code makes it a misdemeanor to violate the temporary street closure, allowing law enforcement officers to arrest violators. Local authorities also have the ability to remove and impound vehicles that are parked or left standing on a street that is temporarily closed. Signs must be posted at the entrances to the temporarily closed street giving drivers notice of the closure. Pursuant to Municipal Code section 52.5105, the street closure does not apply to emergency or law enforcement personnel in emergency or law enforcement vehicles; City, County, or State employees in government vehicles acting within the scope of their official duties; commercial vehicles making deliveries to and from commercial properties adjacent to the designated streets; and individuals employed by businesses adjacent to the designated streets and showing identification upon request by law enforcement personnel.

In October 2000, the City Council, by resolution, designated 9100 to 9400 Trade Place in Mira Mesa subject to the street closure. Trade Place is a street approximately 1,612 feet — 3/10th of a

mile — in a business and industrial area in Mira Mesa. There are no residences in the vicinity. Trade Place businesses had been hit hard by criminal activity related to illegal street racing, and other measures to curb the criminal activity had not worked. The temporary closure of Trade Place on Fridays, Saturdays, and Sundays during the late night and early morning hours has stopped illegal street racing and related criminal activity at 9100 to 9400 Trade Place. Since the adoption of Section 52.5101 *et seq.*, the San Diego Police Department has arrested and the City Attorney has prosecuted fifty-five drivers who violated the street closure ordinance at 9100 to 9400 Trade Place. The most recent arrests occurred in September 2001. Through the prosecution of these drivers in violation of the ordinance, the message has gotten out to illegal street racers to stay away from Trade Place, or they will be arrested and their cars will be towed. This ordinance has brought peace to this business and industrial area without adversely affecting traffic flow, or the use of the area by property owners. The adoption of a resolution to extend the temporary street closure at 9100 to 9400 Trade Place for an additional eighteen months is necessary to prevent the reoccurrence of the serious and continual criminal activity related to illegal street racing.

The California Vehicle Code requires that temporary road closures due to serious and continual criminal activity may only last for a period of not more than eighteen months. The period may be extended for five additional consecutive periods of not more than eighteen months each after public hearing and the finding of the following conditions.

- (1) Continuation of the temporary closure will assist in preventing the occurrence or reoccurrence of the serious and continual criminal activity found to exist when the immediately preceding temporary closure was authorized. This finding and determination shall be based upon the recommendation of the police department
- (2) The highway has not been designated as a through highway or arterial street.
- (3) Vehicular or pedestrian traffic on the highway contributes to the criminal activity.
- (4) The immediately preceding closure has not substantially adversely affected traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway that was temporarily closed.

California Vehicle Code section 21101.4(b). Attached for your information is a copy of City Attorney Report RC-2000-9, dated September 29, 2000, which provides additional background information and legal analysis to support this action.

RECOMMENDATION

The City Attorney recommends that this resolution to extend the temporary street closure at Trade Place, originally enacted in October 2000, be adopted to continue to keep this Mira Mesa neighborhood free of illegal street racing and its related criminal activity. The temporary street closure is supported by the San Diego Police Department. Property owners are also supportive of the street closure.

The temporary closure of 9100 to 9400 Trade Place on weekends between the hours of 9:00 p.m.

Friday night and 5:00 a.m. Saturday morning, 9:00 p.m. Saturday night and 5:00 a.m. Sunday morning, and 9:00 p.m. Sunday night and 4:00 a.m. Monday morning has curbed the problem of illegal street racing and related criminal activity in the area, without adversely affecting traffic flow and use of adjacent businesses by property owners.

The proposed resolution will extend the temporary closure of 9100 to 9400 Trade Place for an additional eighteen months to ensure that the criminal activity will not reoccur. The City Attorney recommends adoption of this proposal.

Respectfully submitted,

/ S /

CASEY GWINN
City Attorney

SHS:JFD:jfd:smf
RC-2002-2
Attachment
City Attorney Report RC-2000-9