



CITY OF SACRAMENTO

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DEPARTMENT OF POLICE
HALL OF JUSTICE
813 - 6TH STREET

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

JOHN P. KEARNS
CHIEF OF POLICE

April 27, 1987

Law and Legislative Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: TRAFFIC DIVERSION - OLD SACRAMENTO

SUMMARY

Cruising has been a problem in Old Sacramento for several years. Recently this problem has escalated to the point where the Police Department must expend a significant amount of manpower every weekend to control the cruisers. The Police Department has developed a traffic diversion plan for use on weekend nights, or when otherwise needed, that may discourage cruising in Old Sacramento. California Vehicle Code Section 21101 authorizes the local legislative body to prohibit use of a public street by the passage of ordinance or resolution. The Police Department requests a resolution authorizing the closure of certain streets in Old Sacramento, at the discretion of the Police Department, for the purposes of limiting "cruising".

BACKGROUND

In October of 1983 an agreement was reached with the Old Sacramento Merchants Association regarding a traffic diversion plan. The plan is put into effect on Friday and Saturday nights at 11 p.m. The plan utilizes wooden barricades placed in the street by reserve officers.

The traffic diversion plan seems to mitigate the cruising problem and has received a positive response from the merchants. However, this method of traffic diversion is very labor intensive. It requires constant deployment of reserve officers in order to enforce the temporary diversion. The most prevalent problem with the plan is motorists circumventing the movable barricades or simply removing them in order to gain access to the blocked off areas.

April 27, 1987

The Police Department is still using the same diversion plan instituted in 1983. The plan is used at the discretion of the Sector Sergeant and involves a number of reserve officers distributing and monitoring the wooden barricades on selected streets.

PROBLEM AND ANALYSIS

Recently the cruising problem has been escalating. The Old Sacramento Citizens and Merchants Association has indicated that more has to be done by the Police Department to alleviate the cruising and associated problems. The Police Department is already expending a great number of man hours attempting to deal with the situation, with only limited success.

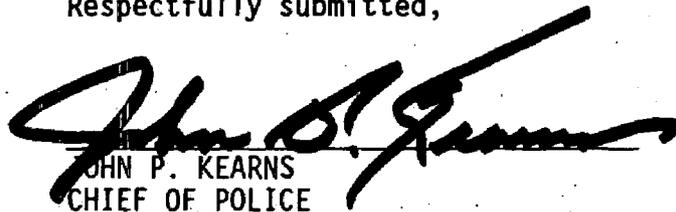
The Police Department has re-evaluated the matter and has developed a new traffic diversion plan. This new plan involves the use of bollards (removable steel posts that may be set into holes in the street and locked into place) at strategic locations. Because the bollards can be easily installed or removed and are locked into place, the manpower needed to enforce the diversion plan will be reduced.

The use of bollards has been reviewed by the City Attorney's office. That office has indicated that the Police Department has the authority to divert traffic in Old Sacramento pursuant to California Vehicle Code Section 21101. This Section states, in summary, that the local authority may temporarily close a street by means of traffic barriers but that street closures must be authorized by local ordinance or resolution. Additionally, Section 21103 of the California Vehicle Code mandates the posting of sign(s) giving notice of the diversion at all entrances to the affected streets.

RECOMMENDATION

It is recommended that the Law and Legislative Committee approve the proposed Resolution and forward this request to the City Council for adoption.

Respectfully submitted,


JOHN P. KEARNS
CHIEF OF POLICE

JPK/slw

REF: 4-58

RESOLUTION No.

Adopted by The Sacramento City Council on date of

**A RESOLUTION TO PERMIT THE DIVERSION OF TRAFFIC
IN OLD SACRAMENTO**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO:

That a plan for the diversion of traffic in the Old Sacramento area shall be put into effect for the purpose of enhancing public safety through limiting the extraneous vehicular traffic during certain peak hours.

That the placement of bollards at strategic locations in the Old Sacramento area for the purpose of diverting traffic is hereby authorized, and that said bollards may be removed or repositioned as necessary in the determination of the Chief of Police or his designee.

MAYOR

ATTEST:

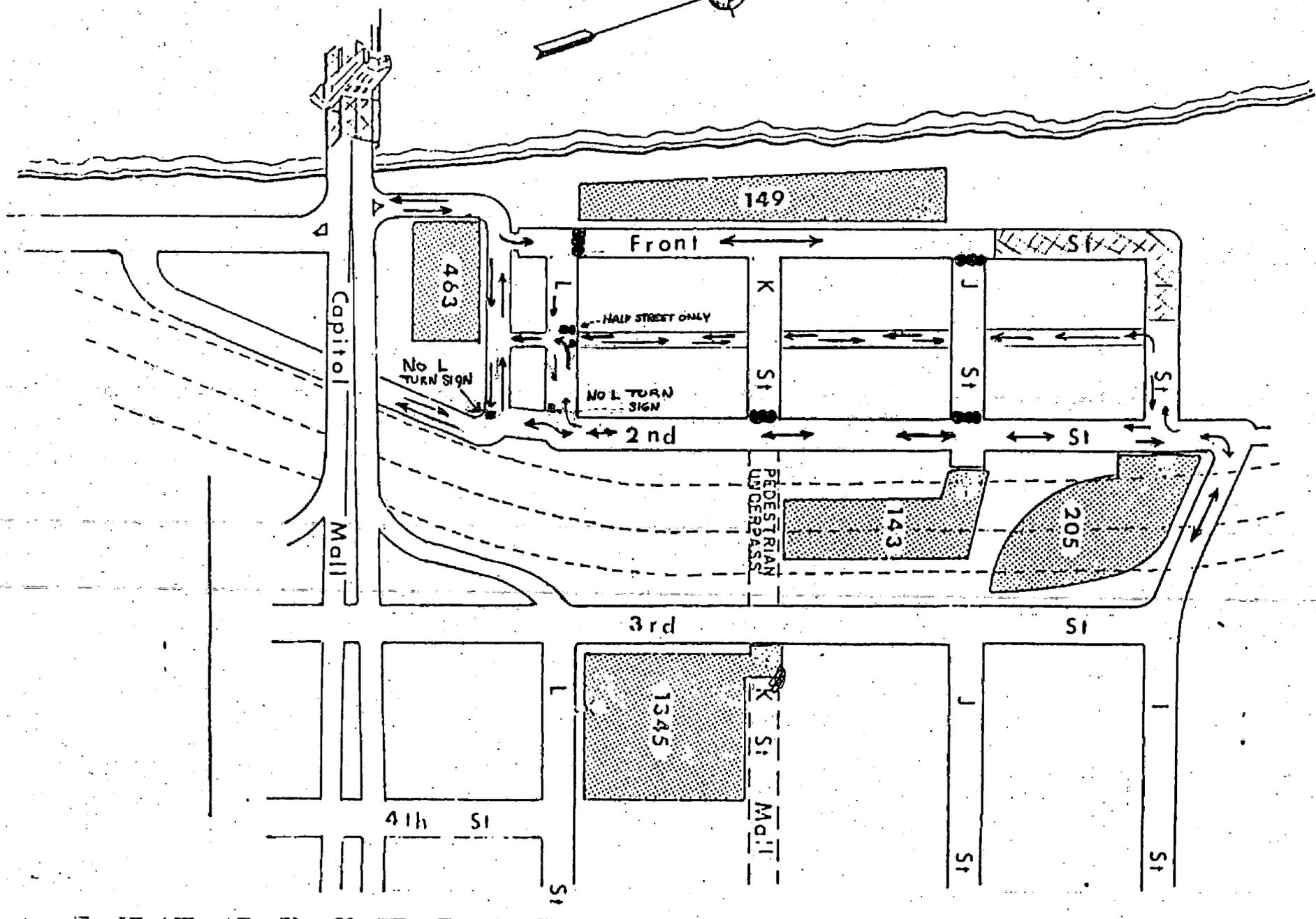
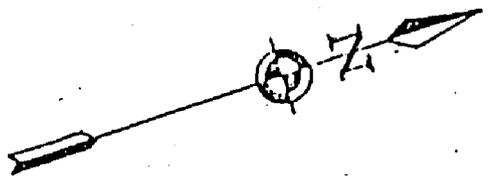
CITY CLERK

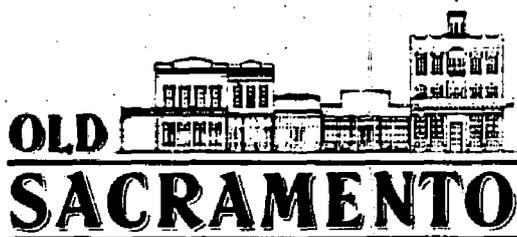
OLD SACRAMENTO DIVERSION

LEGEND: ● Bollard Locations
 ■ NO TURN SIGNS

Sacramento

River





OLD SACRAMENTO MANAGEMENT BOARD

April 23, 1987

Mr. Tom Stark, Deputy Chief
Sacramento Police Department
813 6th Street
Sacramento, Cal. 95814

Dear Tom:

Thank you for your recent presentation to the O.S.M.B. regarding a traffic diversion program for Old Sacramento. The Board is in full support of these efforts and the proposed resolution being presented to Council.

We look forward to working with you in the future on the specifics of the program. Board member Steve Mauer (441-4609) will be our liaison with your department on this matter.

Sincerely,


Dick Troy,
Chairperson

cc: Board Members



OFFICE OF THE
CITY ATTORNEY

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

April 1, 1987

812 TENTH STREET
SACRAMENTO, CA
95814-2694

916-449-5346

DEPUTY CITY
ATTORNEYS:
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
LINDA M. GONZALES

MEMORANDUM

TO: John P. Kearns, Chief of Police
C. Johnson, Commander

FROM: James P. Jackson, City Attorney
Samuel L. Jackson, Deputy City Attorney

RE: Traffic Diversion - Old Sacramento

QUESTIONS

I

Does the Police Department have the authority to divert traffic in Old Sacramento?

II

Can the Police Department use bollards placed at strategic locations in the streets of Old Sacramento to divert traffic?

ANSWERS

I

Yes. The Police Department has express authority to divert traffic in Old Sacramento pursuant to Vehicle Code §21101 subd.(f), which states in essence that the local authority may close a street by means of a traffic barrier. Vehicle Code §21101 also states that an

John P. Kearns, Chief of Police
C. Johnson, Commander
April 1, 1987
Page 2

ordinance or resolution must be passed before traffic can be diverted. Furthermore, Vehicle Code §21103 states that a sign giving notice of the ordinance or resolution must be posted at the entrance of the affected street.

II

Yes. Vehicle Code §21101 subd.(f) states only that the traffic barriers must not adversely affect the health and safety of citizens. Bollards placed at strategic locations in the streets of Old Sacramento should be acceptable as a "traffic barrier" so long as the bollards conform with the Police Department or City's standard safety measures.

FACTS

Old Sacramento is currently experiencing problems associated with cruising. The cruising is also creating a greater need for police traffic enforcement in that area.

In response to the cruising problem in Old Sacramento, the Police Department would like to divert traffic by placing bollards at strategic locations in the streets (see attached map). Holes have already been drilled in the ground at the proposed locations. The Police Department would like the authority to place bollards connected by a metal chain at these locations during cruising hours. The bollards will be removed during the non-cruising hours. The barriers will completely block off designated streets. Alternative routes will be available for through traffic and parking.

DISCUSSION

I. The authority of Police Department to Divert Traffic.

Vehicle Code §21101 states that local authorities may, for highways under their jurisdiction, adopt rules and regulations by ordinance or resolution on certain matters. Specifically, local authorities may close any highway to vehicular traffic when the highway is no longer needed for traffic; designate any highway as a through highway and require that vehicles observe traffic control devices; prohibit use of highway by certain vehicles; close particular streets during school hours; temporarily close a portion of a street for celebrations, parades, local special events and other purposes;

John P. Kearns, Chief of Police
C. Johnson, Commander
April 1, 1987
Page 3

and prohibit entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features (emphasis added).

Vehicle Code §21103 states that no ordinance or resolution enacted under Vehicle Code §21101 shall be effective until signs giving notice of the local traffic laws are posted at all entrances to the affected highway (emphasis added).

Case law indicates that the delegation of power to local governments to prescribe traffic rules has been strictly construed (Rumford v. City of Berkeley (1982) 31 Cal.3d 545). Unless expressly provided by the legislature in a statute, the city has no authority over vehicular traffic control (Rumford, supra). In Rumford, the California Supreme Court affirmed the lower court's order to remove barriers that partially closed Berkeley streets but left the streets accessible to use for local traffic. The Rumford court based its decision on the fact that Vehicle Code §21101 subd.(a), which permits local authorities to close streets no longer needed for vehicular traffic does not expressly permit a city to close a street to through traffic while allowing its use for neighborhood purposes. The court also held that the Department of Transportation had promulgated no "uniform standards" as required by Vehicle Code §21101 respecting the barriers used for traffic control.

Similarly, a recent Attorney General Opinion held that a city may not authorize "controlled access" to public streets in a residential neighborhood. (68 A.G. 103 (1985)).

The Vehicle Code and cases indicate that in the present situation, the Police Department should be able to divert traffic in Old Sacramento. Vehicle Code §21101 expressly allows a local authority to adopt traffic regulations by resolution or ordinance under certain circumstances. Specifically, Vehicle Code §21101 subd.(f) allows the local authority to prohibit entry to, or exit from, or both, any street by means of islands, curbs, traffic barriers, or other roadway design features. Thus, Vehicle Code §21101 subd.(f) gives the Police Department the authority to divert traffic in Old Sacramento. The Police Department must however, act pursuant to a resolution or ordinance on this subject. In addition, a sign giving notice of the ordinance or resolution must be posted at all affected street entrances (see Vehicle Code §21103).

Finally, the Police Department must close the streets to all through traffic. A barrier that distinguishes between "cruisers" and

John P. Kearns, Chief of Police
C. Johnson, Commander
April 1, 1987
Page 4

local residents or merchants would be subject to a constitutional challenge. (See Rumford v. City of Berkeley (1982) 31 Cal.3d 545).

II. Types of Barriers That May Be Erected.

Vehicle Code §21400 states that the Department of Transportation shall adopt rules and regulations prescribing uniform standards and specifications for all "traffic control devices."¹ Vehicle Code §440, however, specifically excludes "traffic barriers" from the definition of traffic control devices.²

Vehicle Code §21101 subd.(f) states that the local authority may close a street by means of a traffic barrier. This section gives no specific guidelines as to the type of barriers to be used, except that the barrier must be "consistent with the responsibility of local government to provide for the health and safety of its citizens." (Vehicle Code §21101 subd.(f)). No cases interpret Vehicle Code §21101 subd.(f). The language of the subsection, however, indicates that bollards placed in holes in the ground connected by a chain would be a permissible traffic barrier so long as the bollards do not threaten the health or safety of citizens. To this end, the Police Department should take extra precautions to ensure that the bollards are visible at night, are properly secured in the ground and are not in any other conceivable way a threat to health or safety. Bollards that conform with the Police Department or City health and safety regulations should be acceptable under Vehicle Code §21101 subd.(f).

CONCLUSION

The Police Department has the express authority under Vehicle Code §21101 subd.(f) to divert traffic in Old Sacramento. The City Council must, however, first pass an ordinance or resolution.

¹Cal. Administrative Code, Title 21, §1409.1-1409.9 prescribed, until the repeal of Title 21 in 1983, these uniform standards. Today, standards for traffic control devices are drafted by the Department of Transportation but are not required to be published.

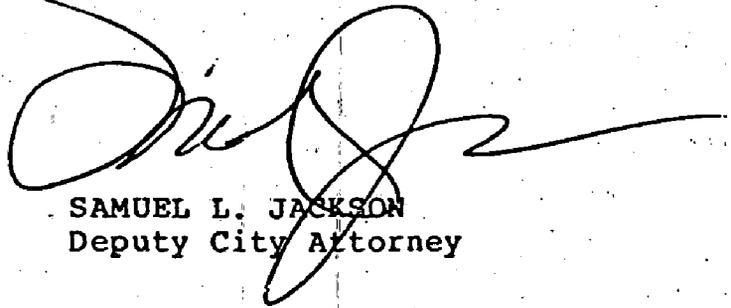
²Vehicle Code §440 was amended to specifically exclude traffic barriers after Rumford v. City of Berkeley (1982) 31 Cal.3d 545 (where the California Supreme Court upheld the removal of street barriers since the Department of Transportation had promulgated no "uniform standards" as to these barriers).

John P. Kearns, Chief of Police
C. Johnson, Commander
April 1, 1987
Page 5

Furthermore, the Department must post a sign giving citizens notice of the ordinance or resolution before the Police Department can divert traffic. Finally, the Police Department can use bollards as a traffic barrier so long as the bollards do not threaten the health or safety of citizens.

Very truly yours,

JAMES P. JACKSON
City Attorney

A large, stylized handwritten signature in black ink, appearing to read 'Samuel L. Jackson', is written over the typed name of the Deputy City Attorney.

SAMUEL L. JACKSON
Deputy City Attorney

SLJ: rmm