



## CITY OF COMMERCE AGENDA REPORT

**TO:** HONORABLE CITY COUNCIL

**Item No.** \_\_\_\_\_

**FROM:** CITY ADMINISTRATOR

**SUBJECT:** REPORT PER REQUEST OF COUNCILMEMBER ORALIA REBOLLO ON THE CITY OF COMMERCE'S CODE SECTIONS AND STATE LAW THAT PROHIBIT STREET RACING

**MEETING DATE:** AUGUST 1, 2016

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### **RECOMMENDATION:**

Receive and file the report and give further direction as deemed necessary.

### **ANALYSIS:**

The City of Commerce has experienced issues with street-racing within the City boundaries and in areas adjacent to the City. These activities are extremely dangerous and have caused deaths and injuries to innocent bystanders. At a recent past City Council meeting, Councilmember Oralia Rebollo requested that City staff advise the Council on the City Code and other laws that regulate such activities.

Speed contests and exhibitions of speed are prohibited by State law. Vehicle Code § 23109 prohibits a person from engaging in, or aiding and abetting in a motor vehicle speed contest on a highway. A person convicted of a violation of § 23109 shall be punished by imprisonment in a county jail for not less than 24 hours nor more than 90 days or by a fine of not less \$355 nor more than \$1,000, or by both that fine and imprisonment. The person shall also be required to perform 40 hours of community service. The person's privilege to operate a motor vehicle may also be restricted for 90 days to six months. If a person is convicted of a violation and that violation causes bodily injury to a person other than the driver, the person convicted shall be punished by imprisonment in a county jail for not less than 30 days nor more than six months or by a fine of not less than \$500 nor more than \$1,000, or by both that fine and imprisonment. If a person is convicted of a violation for an offense that occurred within five years of the date of a prior offense that resulted in a conviction, that person shall be punished by imprisonment in a county jail for not less than four days nor more than six months, and by a fine of not less than \$500 nor more than \$1,000. If the perpetration of the most recent offense within the five-year period causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than \$500 nor more than \$1,000. Finally, if the perpetration of the most recent offense within the five-year period proximately causes serious bodily injury, to

a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than \$500 nor more than \$1,000.

The City cannot add to or change the criminal penalties imposed by State law. The Commerce Municipal Code (CMC) nevertheless provide for the seizure and forfeiture of vehicles used to participate in speed contests and exhibitions of speed and make it illegal for persons to be spectators at such events.

CMC § 9.80 provides that a peace officer may seize a vehicle that is determined to have been involved in a speed contest or an exhibition of speed. The taking of such property implicates constitutional procedural due process issues. Therefore, this Code section provides for a proper noticing and challenge process for the owner of the seized vehicle.

CMC § 9.81 makes it unlawful for any person to be knowingly present as a spectator at any illegal motor vehicle speed contest or exhibition of speed conducted on a public street or highway; or to be knowingly present as a spectator where preparations are being made for any such event. A violation of this section constitutes a misdemeanor, punishable by a fine not to exceed five hundred dollars, or by imprisonment not to exceed six months, or both.

There are other State Penal Code section that might apply, depending on the severity of the injuries caused or in the case of a death. Such situations may cause the person to be prosecuted for vehicular homicide or some other serious crime.

#### **FISCAL IMPACT:**

Not applicable.

#### **ALTERNATIVES:**

1. Receive and file.
2. Provide staff with further direction.

#### **RELATIONSHIP TO STRATEGIC GOALS:**

This item is not related to a specific 2012 Strategic goal.

Prepared by: Eduardo Olivo, City Attorney  
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