

Ventura County Grand Jury 2014 - 2015



Final Report

County Responsibility for Sidewalks

June 1, 2015

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County Responsibility for Sidewalks

Summary

Sidewalk maintenance and repair in unincorporated areas have been issues in Ventura County (County) for many years. With the passage of Proposition 13 in 1978, which limited property tax dollars, the Ventura County Board of Supervisors (BOS) rescinded previous funding for sidewalk maintenance. Instead it adopted procedures in the California Streets and Highways Code that place this responsibility on owners of properties adjacent to sidewalks.

In 2001, 2006, and 2014, the BOS directed the County Public Works Agency (PWA) to conduct an analysis of this issue. In October 2014 the BOS denied a motion to fund sidewalk maintenance and repair. However, it directed the PWA to use grinding (the shaving down of raised concrete slab edges), if appropriate, as a temporary repair method at no cost to the property owner.

In response to public complaints, the 2014-2015 Grand Jury (Grand Jury) initiated an investigation into the issue of sidewalk maintenance and repair in unincorporated areas by comparing the policies of County cities; interviewing County personnel; reviewing BOS minutes, exhibits, and videos; conducting Internet research; and reviewing California law.

As a result of the investigation, the Grand Jury found that the current County practice of sidewalk maintenance and repair is haphazard and complicated because both temporary and permanent repairs are only carried out when the Public Works Agency Transportation Department (PWATD) is already in an area doing street repair work. The current BOS policy—to grind sidewalks as a temporary repair at no cost to property owners—is not explained or readily available on the PWA website or in its published brochure.

The Grand Jury recommends that the Board of Supervisors direct the PWA to regularly assess the condition of all sidewalks in unincorporated areas, develop a repair/replacement plan, and oversee the completion of all needed work independent of street repair projects. The Grand Jury takes no position on funding for the repair.

The Grand Jury recommends that the Board of Supervisors direct the PWA to revise its website to be more complete and easily accessible, especially with regard to current BOS directives and PWATD practices related to sidewalk maintenance in unincorporated areas. The *Sidewalk and Street Tree Maintenance* brochure should include information about grinding of sidewalks at County expense.

Background

Prior to 1978, the BOS allocated \$45,000 annually to the PWA for sidewalk repair and replacement in unincorporated areas of the County. In 1978 California voters passed Proposition 13, which limited County property tax revenue. As a result, the BOS rescinded the annual allocation for sidewalk repair and adopted procedures set

forth in California Streets and Highways Code Section 5600: “the costs of curb, gutter, and sidewalk maintenance to be assessed on property owners.” [Ref-01, Ref-02]

In 2001, 2006, and 2014, the BOS directed the PWA to conduct an analysis of this issue. In December 2006, the BOS enacted County Ordinance No. 4355, which further clarified the homeowner’s responsibility and liability for sidewalk maintenance. [Ref-02, Ref-03]

As a response to complaints from property owners in unincorporated areas of the County, the Grand Jury conducted an investigation into County policies and procedures related to the responsibility for sidewalk maintenance. This investigation involved the review of current and past policies of the County as well as the processes used to communicate these policies. It also involved a review of sidewalk repair policies of cities within the County. (Att-01)

The following questions were investigated by the Grand Jury:

- How does the PWA implement current sidewalk repair policy?
- How is the public informed of the current sidewalk repair policy?
- Do property owners in unincorporated areas have the right to expect the same services as those provided by the cities in the County?

Methodology

The Grand Jury conducted an investigation that included:

- Reviewing the California State Constitution related to the streets and highways code
- Researching California case law related to property owners’ responsibility and liability for sidewalk maintenance
- Comparing the sidewalk repair policies of the County’s ten cities to the policy covering the County’s unincorporated areas
- Examining the PWATD survey of other California county and city agencies’ sidewalk repair practices
- Reviewing the League of California Cities’ presentation on sidewalk repair and liability
- Reading numerous relevant newspaper articles
- Interviewing County personnel

Facts

FA-01. With the passage of Proposition 13 in 1978, the BOS rescinded its annual funding (\$45,000) for sidewalk maintenance and repair in unincorporated areas. (This funding is equivalent to \$170,154 in today’s dollars.) [Ref-02]

FA-02. A section of the California Streets and Highways Code assigns sidewalk maintenance responsibility to property owners. In 1978 the BOS adopted

the procedures set forth in the California Code, Section 5600-5630. [Ref-01]

FA-03. Eight out of ten cities in the County assume fiscal responsibility for sidewalk maintenance and repair. The cities of Santa Paula and Port Hueneme are the exceptions. (Att-01)

FA-04. Some property owners in unincorporated areas of the County expect the same services, including sidewalk maintenance and repair, as those who live in the adjoining cities.

FA-05. In February 2014, the BOS directed the PWATD to review its current sidewalk maintenance policy. [Ref-04]

FA-06. On October 28, 2014, the PWATD presented to the BOS the results of its survey of the policies of California counties related to the responsibility for sidewalk repair. Out of 58 counties, 20 responded. Of the 20 responding:

- Nine counties require property owners to maintain sidewalks.
- Eleven counties assume responsibility for maintaining sidewalks.

The PWATD also stated that five counties that did not respond to the survey maintain sidewalks.

[Ref-02]

FA-07. According to the PWATD report of October 28, 2014, there are 150 miles of sidewalks in unincorporated areas of the County. Sixty percent of these sidewalks are located in Supervisorial District 2. The report also includes estimates of the cost for needed repair or replacement of all sidewalks in unincorporated areas at \$2.6 million with annual maintenance costs at \$200,000. [Ref-02]

FA-08. On October 28, 2014, the District 2 Supervisor presented to the BOS a proposal for a countywide, sustainable Sidewalk Maintenance Program: “to Revise County Policy to Re-Establish Public Funding of Sidewalk Maintenance...in the Unincorporated County and Include Grinding as a Temporary Sidewalk Repair Method.” This motion was not approved. [Ref-02]

FA-09. On October 28, 2014, a BOS motion “to include grinding as a temporary sidewalk repair method and perform the sidewalk repair while performing the street maintenance and not charge the property owner” was approved in a 3-2 vote. [Ref-02]

FA-10. According to the PWATD, grinding has been used as a temporary solution to sidewalk damage; however, the only permanent (long-term) solution is replacement. [Ref-02]

FA-11. The PWATD has repaired or replaced sidewalks at approximately 800 locations since 2009. Property owners have been assessed for these repairs. Replacement of sidewalk slabs cost, on average, \$320 if completed by the County. [Ref-02]

- FA-12.** Property owners have the option to hire a private contractor to repair or replace their sidewalks at their expense. A “no-fee” encroachment permit from the PWATD is required. In general the cost to hire a private contractor is more expensive than the average \$320 charged by the County. [Ref-02]
- FA-13.** Information about the October 28, 2014 BOS directive related to grinding sidewalks at County expense is not available on the PWATD website or phone message system. The fact that sidewalk maintenance is only performed in conjunction with road maintenance projects is also not available on the website. [Ref-06]
- FA-14.** The PWATD revised the brochure *Sidewalk and Street Tree Maintenance* on February 12, 2015. The revised brochure contains no information related to grinding sidewalks at County expense. [Ref-06] (Att-02)
- FA-15.** Information related to the PWA, accessed through the County of Ventura website, provides links to the Transportation Department pages that include the sidewalk brochure and information on current road maintenance projects, as well as priorities for these projects. [Ref-06]
- FA-16.** Property owners are notified in advance (within four to six months) when road maintenance will be conducted in their area. With regard to sidewalks, the notification letter says, “The enclosed photograph shows the sidewalk on your property has significant damage and needs to be repaired or replaced.” The letter gives information about replacement, cost, and homeowner responsibility for payment. (Att-03)
- FA-17.** Currently the PWATD has made a renewed effort to collect past-due amounts from property owners who have not paid their invoices for sidewalk replacement work done from December 2005 to January 2014. [Ref-06]
- FA-18.** On March 10, 2015, the PWATD presented to the BOS a report on its efforts to collect delinquent fees for sidewalk replacement. The BOS approved a motion giving property owners a 90-day extension to pay delinquent fees or face property liens. [Ref-05]
- FA-19.** The PWATD has no authority to grant exemptions to property owners for sidewalk maintenance costs.

Findings

- FI-01.** The issue of maintaining residential sidewalks in County unincorporated areas is both complicated and confusing. Information as to homeowner responsibility for sidewalk maintenance (repair versus temporary fixes) is not readily available. (FA-03, FA-04, FA-05, FA-06, FA-07, FA-08, FA-09, FA-10, FA-11, FA-12, FA-13, FA-14, FA-15, FA-16, FA-17, FA-18, FA-19)
- FI-02.** A funded countywide sustainable sidewalk policy would benefit property owners in Supervisorial District 2 to a greater extent than other districts because 60% of sidewalks in need of repair are located in that district. (FA-04, FA-07, FA-08)

- FI-03.** Current sidewalk maintenance practice is not related to the actual condition of the sidewalks. Sidewalk repairs—both temporary and permanent—are completed only when the PWATD is performing scheduled street repair in an area. (FA-04, FA-16)
- FI-04.** Information on sidewalk repair and maintenance is not easily accessed on the County website. Website pages do not contain clear and complete information. Examples include: navigation to specific information is difficult; information about free grinding is not available; there is limited information as to when sidewalk repairs will be done in an area. (FA-13, FA-14, FA-15)

Recommendations

- R-01.** The Grand Jury recommends that the Board of Supervisors direct the PWA to revise its website to be more complete and easily accessible, especially with regard to current BOS directives and PWATD practices related to sidewalk maintenance in unincorporated areas. The *Sidewalk and Street Tree Maintenance* brochure should include information about grinding of raised sidewalk sections at County expense. (FI-01, FI-03, FI-04)
- R-02.** The Grand Jury recommends that the Board of Supervisors direct the PWA to regularly assess the condition of all sidewalks in unincorporated areas, develop a repair/replacement plan, and oversee the completion of all needed work independent of street repair projects. The Grand Jury takes no position on funding for the repair. (FI-03)

Responses

Responses required from:

Board of Supervisors of Ventura County (FI-01, FI-02, FI-03) (R-01, R-02)

Responses requested from:

Public Works Agency of Ventura County (FI-01, FI-03, FI-04) (R-01, R-02)

References

- Ref-01.** State of California, Streets & Highways Code Sections 5600–5630, <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=shc&group=05001-06000&file=5610-5618> (accessed May 8, 2015).
- Ref-02.** Board of Supervisors Meeting, Support Documents for the Regular Meeting Agenda, Item #41, October 28, 2014, http://ventura.granicus.com/DocumentViewer.php?file=ventura_36fdd6b8f07acb4747727ad080b1ded0.pdf&view=1 (accessed May 6, 2015).
- Ref-03.** Ordinance Code No. 4355 of the County of Ventura, Division 12, Chapter 7 Maintenance and Repair of Sidewalks, Sections 12701-12703, http://portal.countyofventura.org/portal/page/portal/PUBLIC_WORKS/tr

[ansportation/One%20Stop%20Permit/Ordinances/Sidewalk%20Ordinance%20No.%204355.pdf](#) (accessed May 6, 2015).

- Ref-04.** Board of Supervisors Meeting, Motion Requesting PWATD to Provide Sidewalk Repair Report, Agenda Item #18, February 11, 2014, http://ventura.granicus.com/MediaPlayer.php?view_id=67&clip_id=3494 (accessed May 6, 2015).
- Ref-05.** Board of Supervisors Meeting, Support Documents for the Regular Meeting Agenda, Item #26, March 10, 2015, http://ventura.granicus.com/DocumentViewer.php?file=ventura_eb86757883673384f7b27615c7634f2f.pdf&view=1 (accessed May 8, 2015).
- Ref-06.** County of Ventura website, Public Works Agency Transportation Department, http://pwaportal.ventura.org/td/Residents/Streets_and_Transportation/FAQs_and_Citizen_Brochures/Brochure_SidewalkandStreetTreeMaintenance.pdf (accessed May 8, 2015).

Attachments

- Att-01.** City Sidewalk Repair Policies
- Att-02.** PWATD Brochure *Sidewalk and Street Tree Maintenance*
- Att-03.** Sample Letter of Notice to Property Owners of Sidewalk Repair

Glossary

TERM

DEFINITION

BOS	Ventura County Board of Supervisors
County	Ventura County
Grand Jury	2014-2015 Ventura County Grand Jury
Grinding	Technique used to shave down a raised side of two adjoining sections of concrete
PWA	Ventura County Public Works Agency
PWATD	Ventura County Public Works Agency Transportation Department
Sustainable	Able to maintain at a certain rate or level
Unincorporated area	Parts of the County not within the boundaries of an incorporated city

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Attachment 01

City Sidewalk Repair Policies

CITY SIDEWALK REPAIR POLICIES

City	Inspection	Inspection Schedule	Repair Work Performed By	Responsible for Costs	Description of Work Done
Fillmore	By Public Works and citizens	No. Generated by citizen complaints	City or city's contractor	City	Grinding/replacement
Camarillo	Yes. Two-phase program	Annually in high pedestrian areas; 3-year cycle of remaining walks	City and/or city's contractors	City	Grinding/cutting/replacement
Moorpark	Yes. All walks	Annually	City	City	Any work necessary
Ojai	Yes. 1/5 of walks by City, and by resident request	Annually, 1/5 of walks each year	City's contractor	City	All repairs, except when caused by property owner's tree
Oxnard	When requested by property owner	No. Generated by "Action Request" of property owner	City or city's contractor	City	Repair work and replacement by City or property owner
Port Hueneme	When reported by property owner	Yes. Intermittently every 12-24 months	City or property owner	Property owner	Repair work and replacement by City or property owner
Santa Paula	Sidewalk Maintenance Program	Approximately every 2 years	City or city's contractor	Property owner	All repairs including tree root cutting
Simi Valley	No	As reported by property owner and prioritized if in unsafe condition	City or property owner's contractor	City	Repair or replace by City or property owner
Thousand Oaks	Sidewalk Maintenance Program	Biennially	City or city's contractor	City	Grinding/patching/replacement
Ventura	Excel Spreadsheet Program	Review of 6-block increments by contractor or by property owner complaint	City's contractor	City	Grinding and replacement

Attachment 02

PWATD Brochure *Sidewalk and Street Tree Maintenance*

FREQUENTLY ASKED QUESTIONS (FAQ'S)

If you would like more information, please contact us at: (805) 654-2049 or through the "Contact Us" link at: <http://pwa.ventura.org/general/transportation>

Q. I am planning to trim or remove a tree in the parkway or repair the sidewalk in the R/W. Do I need a permit?

A. A road encroachment permit is required. Please contact the permit desk at (805) 654-2055 for details. The permit application can be found on the County website at <http://pwa.ventura.org/transportation-department/road-encroachment-permit>

Q. Do I have to replace a tree?

A. No, current County regulations do not require you to replace a tree removed from the road R/W. If you do plan to replace the tree in the road R/W, an encroachment permit is required. Replacement trees should be from the approved tree list as they are beneficial to the environment. A recommended list can be found on page 37 of the Ventura County Landscape Design Criteria, which can be found at <http://pwaportal.ventura.org/ESD/ESD/docs/Landscape%20Design%20Criteria.pdf>

Q. I want to retain my old tree. May I use alternate repair methods or reroute the sidewalk?

A. No. If you tree has been identified for removal, it is a public safety or public access concern.

Q. I received a notice to repair. How long do I have to respond or repair my sidewalk?

A. The notice will give you a time frame to comply. In general, you will have 90 days from the date of notice to obtain an encroachment permit and substantially complete the repairs. Reasonable extensions will be considered when requested.

Q. What standards do I have to meet to replace a sidewalk?

A. Sidewalks must comply with County of Ventura Sidewalk Repair Standards. These can be viewed by clicking on the "[County of Ventura Sidewalk Repair Standards](#)" located in the FAQs on the PWA Transportation Department home page.

Rev 2-12-15

SIDEWALK AND STREET TREE MAINTENANCE



**Public Works Agency
Transportation Department
800 S. Victoria Avenue
Ventura CA 93009-1620**

SIDEWALK and STREET TREE MAINTENANCE

INTRODUCTION

Sidewalks and trees benefit communities. Sidewalks provide a safe path for pedestrians, and trees are recognized as contributing to the environment and improving air quality.

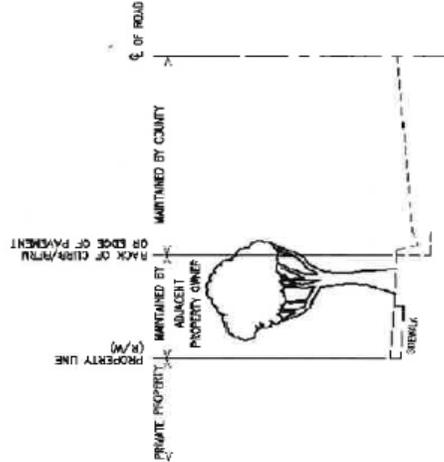
Property owners are responsible for the maintenance of sidewalks and street trees in unincorporated Ventura County per: Ventura County ordinance 4355, municipal Code section 12701-12703, California Streets and Highways Code (chapter 22, section 5600-5630), and the 1968 Ventura County Resolution Establishing Policy for Planting, Maintaining, Trimming and Removing Landscaping Encroaching Into County Road Rights of Way.

DEFINITIONS

Encroachment – Any obstruction, structure or object of any kind or character that is placed in the road right-of-way (R/W). Per Ventura County Ordinance 2041, the County will approve and permit or deny encroachments in the road R/W

based upon a permit application. The County will also require removal of any encroachment that endangers the public or restricts public R/W use.

Road Right-of-Way – Generally, the County road R/W extends 30 feet to each side of the road center line for a two-lane road. The R/W generally includes more than the area covered by asphalt or concrete. The County only maintains to the back of the



curb or edge of pavement. A typical delineation is shown on the sketch above.

Sidewalk and parkway strip – The area between the property line and the back of curb/edge of pavement that may include trees, bushes, other vegetation, sidewalks, curbing, or retaining walls. Placement of any vegetation must allow adequate

sight distance. Please refer to the brochure titled "Sight Distance – A Clear View" for more information.

Maintenance and Repair – Repair or removal and replacement of sidewalks; tree trimming, root pruning, trimming of shrubs and/or ground cover or other actions necessary to ensure the sidewalk is maintained in a safe and reasonable manner.

Property Owners – The legal owner of lots or portions of lots adjacent to or fronting on any portion of sidewalk between the property line and the street line.

RESPONSIBILITIES

The County of Ventura, Public Works Agency Transportation Department – Periodically inspects R/W and notifies property owners if sidewalks or parkway strips require repair or maintenance.

Property Owners – Maintain and repair the sidewalk and parkway strip to the limit of the R/W. If a property owner is issued a written notice and fails to complete the sidewalk repair or vegetation maintenance in the allotted time, the County will cause the repairs to be completed. The property owner will be billed for all costs incurred by the County to complete the maintenance or repair action.

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Attachment 03

Sample Letter of Notice to Property Owners of Sidewalk Repair



PUBLIC WORKS AGENCY
JEFF PRATT
Agency Director

July 24, 2013

Watershed Protection District
Tully K. Clifford, Director

Transportation Department
David L. Fleisch, Director

Engineering Services Department
Herbert L. Schwind, Director

Water & Sanitation Department
R. Reddy Pakala, Director

Central Services Department
Janice E. Turner, Director

«FirstName» «LastName»
«Address1»
«City», «State» «PostalCode»

**SUBJECT: MANDATORY PROPERTY OWNER SIDEWALK
REPAIR OR REPLACEMENT
PAVEMENT REJUVENATION COUNTY WIDE (PHASE1)
PROJECT NO. 50507**

Dear «FirstName» «LastName»:

The County of Ventura is currently preparing plans for resurfacing and roadway repair that includes the road adjacent to your property at «Address1». The project is anticipated to be under construction within the next four to six months.

In addition to asphalt resurfacing and repair, the project will repair or replace damaged pavement and concrete curb and gutter to restore proper drainage flow. Although trees are valuable components of the environment and add to the aesthetics of a neighborhood, their roots can also damage pavement, curbs, gutters and sidewalks. Sidewalks can also be damaged as the result of other causes. The enclosed photograph shows the sidewalk on your property has significant damage and needs to be repaired or replaced.

Per Ventura County ordinance 4355 and the California Streets and Highways Code (chapter 22, section 5600-5630) property owners are responsible for maintenance, repair and replacement of the sidewalk, trees and landscaping along their lot frontage.

You may choose to repair or replace the damaged sidewalk yourself, you may hire your own contractor, or you may choose to pay the County to complete the work through our contractor. As a courtesy, the County will obtain a price from our construction contractor to replace damaged sidewalks during construction of the pavement resurfacing project. We have found square feet of damaged sidewalk on your property that will cost an estimated \$ to remove and replace. We will notify you before construction begins of our contractor's actual cost to replace your damaged sidewalk if you choose to have the County complete the work. However, you are under no obligation to utilize the County's contractor. Mandatory repair or replacement must be completed, or arrangements made with the County prior to commencement of our project on November 12, 2013, or the



NAME
July 24, 2013
Page 2

County will remove and replace the damaged sidewalk as part of our project and bill you for the costs incurred.

A no-fee encroachment permit is required for any work in the road right-of-way, including sidewalk repairs. No encroachment permit will be required if you choose to have the County's contractor make sidewalk repairs for you during the performance of the County's paving project.

Additionally, if you have placed improvements such as landscaping, irrigation systems, concrete or bricks in the parkway adjacent to the curb, they are in the road right-of-way. Although we will do our best to minimize disturbance and damage to these types of private improvements, we may have to remove them. If we cannot restore these private improvements they are your responsibility to replace at your own expense.

If you have any questions, please contact me at (805) 654-3987.

Sincerely,

Raj Chikkiah

Raj Chikkiah
Project Manager
Transportation Department

Enclosures: Photograph of «Address1», «City», «State» «PostalCode»

c: project file