

October 28, 2014

Board of Supervisors  
County of Ventura  
800 South Victoria Avenue  
Ventura, California 93009

Watershed Protection District  
**Tully K. Clifford**, Director

Transportation Department  
**David L. Fleisch**, Director

Engineering Services Department  
**Herbert L. Schwind**, Director

Water & Sanitation Department  
**David J. Sasek**, Director

Central Services Department  
**Janice E. Turner**, Director

**Subject: Receive and File a Report and Presentation on a Countywide Sustainable Sidewalk Maintenance Program; All Supervisorial Districts**

**Recommendation:**

Receive and file a report and presentation on a Countywide sustainable sidewalk maintenance program.

**Fiscal Mandates/Impact:**

There are no additional County costs associated with this Board action.

**Executive Summary:**

Currently, Road Funds are not used to maintain, repair, or replace sidewalks in the unincorporated County. On February 11, 2014, your Board directed Public Works Agency Transportation Department (PWATD) staff to research and report back on a sustainable sidewalk maintenance program. Sidewalk maintenance is not a new issue in Ventura County. Since 1968, several Board actions have addressed the issue of sidewalk and tree maintenance in the road right-of-way (ROW). PWATD received information from 20 California counties and four cities about their sidewalk maintenance programs. Nine counties and one city require the property owners to repair the sidewalks, and 11 counties and three cities maintain sidewalks. Five counties and three cities have published or adopted maintenance and repair criteria, with vertical displacements allowed from ¼" to 1½". A sustainable sidewalk maintenance program would cost \$5M to eliminate out-of-repair sidewalk, curb, and gutter (\$2.6M for sidewalk, \$2.3M for curb and gutter) and approximately \$200K on an annual basis for maintenance.

**Discussion:**

At your February 11, 2014, meeting, you discussed the topic of sidewalk maintenance and directed PWATD staff to research the subject further and return to your Board in the fall with a report specifically addressing the following: funding issues and costs of program



administration for a sustainable program of sidewalk repair and maintenance; the types of programs, including funding and options, for repair enacted in other counties throughout the state; and sidewalk repair versus replacement options and alternatives. This report addresses these topics. This is not a new issue in Ventura County. Following is a brief history:

On May, 28, 1968, your Board adopted a policy that defined a tree in the road right-of-way (ROW) as an encroachment and clarified the property owner's responsibility for any maintenance of the trees, except as necessary to remove dangerous trees from County roadways. In addition, this policy states that Road Funds will not be used to plant or maintain any landscaping or trees, except for trimming or cutting as necessary to remove dangerous branches or trees.

On September 26, 1978, as a budget policy decision, your Board adopted procedures as set forth in section 5600 of the California Streets and Highways Code for assessing the costs of curb, gutter, and sidewalk maintenance and repair on the adjacent property owners. It also concurrently rescinded a previous policy of your Board to support a sidewalk, curb, and gutter repair and replacement program that was funded at the level of \$45,000 in 1977.

On June 26, 2001, then-Supervisor Schillo requested that your Board review and change the policy for repair of roads, sidewalks, curbs, and gutters in unincorporated areas isolated within a city. The PWATD was directed to and completed a report on sidewalk, curbs, and gutter maintenance and repair in the unincorporated area that was forwarded to the supervisors via memo from then-CEO John F. Johnston on September 18, 2001. This report estimated the cost to repair sidewalk, curb, and gutter within the unincorporated County at approximately \$7.2M in 2001 (Exhibit 1, with attachment 3A only). The amount today is less based upon work completed since 2001 and will be discussed later in this report. The alternatives in this report are still appropriate and are revisited below.

On December 12, 2006, your Board enacted Ventura County Ordinance Code sections 12701 through 12703 concerning landowner responsibility and liability for sidewalk safety and maintenance. These sections specify that, pursuant to section 5610 of the Streets and Highways Code, "landowners adjacent to public sidewalks are responsible for maintaining such sidewalks in such condition that the sidewalk will not endanger persons or property or interfere with the public convenience in its use." Further, Ordinance Code section 12703 operates to make the adjacent property owners liable for personal or property damage resulting from their failure to perform their maintenance obligations. Courts have held that Streets and Highways Code section 5610 applies to both residential and commercial properties. Our liability-sharing ordinance is constitutional, not preempted by state law, and within the County's power to enact. A nearly identical ordinance was upheld by an appellate decision in 2004, in which the court found the ordinance

justified, in part, because property owners are in the best position to identify and address defects on their property.

The PWATD surveyed counties throughout the state through the County Engineers Association and also obtained input from the cities of Burbank, Camarillo, Santa Rosa, and Thousand Oaks. Exhibit 2 is a compilation of their responses.

- Nine counties require the property owners to repair the sidewalks. Eight of the 14 counties that responded impose this requirement – two by liability-sharing ordinance, three by resolution or published policy, and three by enforcement of the Streets and Highways Code. In addition, although it did not respond to the survey, the County of San Francisco also has an ordinance that places the maintenance responsibility and liability on the property owner. (Note: Sacramento County exempts single-family and residential duplex properties from this responsibility.)
- Eleven counties maintain sidewalks. Seven of 14 counties that responded (including Sacramento) maintain sidewalks. Three of these have special measure or sales-tax revenue that fund sidewalk repairs. Four use gas tax. Five additional counties that did not respond to the survey maintain sidewalks: Kern, Los Angeles, San Joaquin, San Mateo, and Santa Clara.
- Of the 20 counties, nine require the property owners to repair the sidewalks, and 11 maintain sidewalks. Of the 11 that maintain sidewalks, only Orange County has an ordinance to do so.
- Also, four counties (Alameda, Contra Costa, Sacramento, and San Luis Obispo) and the City of Santa Rosa specifically require the property owners to maintain the curb and gutter as well as the sidewalks.
- Budgets range from \$5,000 to \$500,000 per year.
- Of the cities, only Santa Rosa, by ordinance, places the maintenance responsibility and liability on the property owner. The City of Camarillo owns the ROW in fee, so it is the underlying property owner.
- Sacramento County (4 years and \$9M funded with tobacco settlement funds), and the City of Burbank (10 years and \$7.5M) adopted specific aggressive programs to repair all sidewalks in the ROW. These agencies both considered transferring the maintenance and liability to the property owners at the conclusion of the program, but did not.

The survey also revealed that only five of the 14 responding counties and three cities have published or adopted maintenance and repair criteria. Exhibit 3 summarizes this information. Only one of the eight agencies considers anything other than replacement as a permanent repair method. All of the remaining consider grinding, ramping, and patching as temporary repairs.

There are 150 miles of sidewalks in unincorporated Ventura County. The majority of the sidewalks – 122 miles (81%) – are located in Supervisorial Districts 1 and 2, with 92 miles (61%) located in District 2. The top two locations are Oak Park with 64.71 miles (43.1%) and Newbury Park with 19.4 miles (12.9%), totaling 84.11 miles (56%). Since 2009, the PWATD has repaired 797 individual locations with property-owner reimbursements totaling \$350,000 for the direct construction only. PWATD does not charge the property owner the administrative costs for design and construction management. An estimated amount of \$80,000 was required for these functions (these costs are not tracked separately for the sidewalk portion of the contracts).

The PWATD analyzed the information received from the other agencies, the 2001 Sidewalk Maintenance and Repair in the Unincorporated Area Report (Exhibit 1), the sidewalk repairs completed in the past five years, and conducted a general survey of the sidewalks in the County. From this review the PWATD estimates that it would require \$5M to complete a Countywide repair of sidewalk, curb, and gutter in the unincorporated area. This includes \$2.6M for sidewalk repair, \$2.3M for curb and gutter repair, and \$100,000 for tree removal. Once completed, the estimated annual maintenance cost would be \$200K. These costs include administration of the program. An additional potentially significant cost is the loss of joint and several liability the County will incur from the property owners. An example is a case recently settled in which the County costs (1/2 the total) were over \$68,000.

With regard to maintenance options, there are two items to consider: identification and notification, and repair versus replacement. For identification and notification, the California Streets and Highways Code has specific parameters for notification once a portion of sidewalk is identified as out of repair by the Road Commissioner. However, it does not provide any specific guidelines as to conducting a program to identify out-of-repair sidewalks, nor do Ventura County Ordinance Code sections 12701 through 12703. The PWATD current practice has two components:

1. Upon receipt of a complaint or if maintenance personnel, during routine operations, notice an out-of-repair sidewalk, the responsible property owner is notified via letter of their requirement to repair the sidewalk. This occurs two to three times per month.
2. During pavement rehabilitation contracts, the PWATD conducts a survey to identify sidewalk, curb, and gutter adjacent to the roads being resurfaced that require repair or replacement. The property owners are notified via letter that the affected area of sidewalk is in need of repair or replacement, and that they can complete the work on their own, or they can reimburse the County's contractor for replacing the out-of-repair portion based upon the contractor's bid price and the square footage the County identified as being out of repair. In the past five years, the PWATD has repaired 797 locations and nearly all property owners have opted to have the PWATD contractor complete the replacement.

For repair versus replacement, the type and severity of damage are the critical factors. Vertical displacements are the most common, accounting for more than 80% of the identified damage, although cracks and warping – a change in slope either parallel or perpendicular to the sidewalk – also occur. The most common causes of vertical displacement are tree roots, utility work, expansive soils, or poor compaction. The vertical displacement standards vary from ¼” to 1½” from the agencies surveyed. The Americans with Disabilities Act (ADA) guidelines limit vertical and horizontal displacements to ½”. Anything larger requires ramping or replacement. For out-of-repair conditions, unless the cause is abated, the displacement will generally continue. To abate the cause requires access to underneath the slab, which cannot be accomplished with surface repairs such as grinding, patching, or ramping. The standard the PWATD has applied is consistent with the ADA guidelines above.

When evaluating responses from the agencies, those that require property owners to maintain sidewalks generally allow temporary repairs (grinding, patching, or ramping) done by the agency staff or the property owner, with a caveat to the property owner that a permanent repair must be made. For those agencies that maintain sidewalks at their expense, a decision, usually budget driven, is made whether to temporarily or permanently correct the out-of-repair sidewalk. For those that are temporarily repaired, the agency generally expects to return and make the permanent repair in one to three years.

The 2001 report (Exhibit 1) offered four alternatives:

- Alternative A: Reaffirm and continue the existing Board policies and practices of the PWA (This would now include the 2006 ordinance).
- Alternative B: Direct staff to reinstitute a sidewalk repair program, either through use of General Funds or the Road Fund.
- Alternative C: Direct staff to more aggressively pursue repair by property owners.
- Alternative D: Direct staff to pursue alternative funding sources for sidewalk and curb and gutter repair through pursuit of limited federal and/or state grant funds. Conversely, a benefit assessment, such as a County Service Area (CSA), to fund the additional cost of sidewalk, curb, and gutter repair, could be instituted.

These alternatives are all still appropriate for consideration. However, the costs above are updated and more appropriate than those of Alternative B. Further, for Alternative D the grant programs currently available are more restrictive and generally focus on new construction or improvements as opposed to maintenance, so it is unlikely that any significant funding for maintenance would be available. A special assessment district would be the more likely avenue for alternative funding. Another option that has been used elsewhere is a cost-sharing arrangement between property owners and the County.

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This letter has been reviewed by the County Executive Office, the Auditor-Controller's Office, and County Counsel.

If you have questions, please call the undersigned at (805) 654-2077.

DAVID FLEISCH  
Director  
Transportation Department

Exhibit 1 – Report, "Sidewalk Maintenance and Repair in the Unincorporated Area" dated September 2001

Exhibit 2 – Agency (County/City) Summary

Exhibit 3 – Maintenance and Repair Standard Summary

Exhibit 4 – PowerPoint Presentation

# **SIDEWALK MAINTENANCE and REPAIR UNINCORPORATED AREA**

**SEPTEMBER 2001**



**COUNTY OF VENTURA  
PUBLIC WORKS AGENCY  
TRANSPORTATION DEPARTMENT  
800 S. VICTORIA AVENUE  
VENTURA, CA 93009**

# Sidewalk Maintenance and Repair Unincorporated Area

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## **Foreword and Executive Summary**

### **A. Foreword:**

On June 26, 2001, Supervisor Frank Schillo presented a recommendation to the Board to (1) review and change policy for repair of roads, sidewalks, curbs and gutters in those unincorporated urban areas isolated within a city, and (2) approve a cost analysis for those items for the unincorporated Newbury Park Casa Conejo neighborhood in order to apply for federal funding for repair.

The Board of Supervisors determined that the issue merited further evaluation and referred the item to the County Executive Officer (CEO) to review and report back to the Board. This report provides the results of that review. An executive summary is provided at the end of this section.

### **B. Executive Summary:**

To summarize the report, the County of Ventura's existing policies and practices assign the responsibility for maintenance of sidewalks, trees and other facilities within the parkway strip to the adjacent property owners. These practices and policies are longstanding and were generally a result of limited County Road Fund resources. This policy is consistent with the County's policy of not providing typical municipal services, as may be provided in incorporated cities, such as sidewalk repair, regular street sweeping or neighborhood street lighting, unless the residents of that area are willing to pay for such additional services by means of a County Services Area or other benefit assessment mechanism.

The funding status of the Road Fund has not substantially improved in the succeeding decades. Accordingly, no changes to the existing policies or practices are recommended unless additional or alternate fund sources can be identified to fund an enhanced or expanded sidewalk repair program. Alternatively, a limited program of repair and rehabilitation of local sidewalks, curb and gutter can be implemented by diversion of resources from other planned road repair work. Such a diversion would cause a delay or deferral of other planned work; most likely pavement rehabilitation. While there are no specific federal or state funding grants known to be available (or anticipated to be available) for street, sidewalk or curb and gutter repair or other maintenance on roads not eligible for federal aid, i.e., local or off-system roads, the Transportation Department will continue to pursue additional federal or state grant funding through our local and national legislative representatives, and any support or personal influence provided by Board members might be of benefit.

The State legislature recently approved placing a constitutional amendment (ACA 4) before the voters. This amendment would provide additional funding for road rehabilitation and other road needs, but at this point considering this future revenue source may be premature. It is recommended that your Board consider support for ACA 4 as appropriate.

## 1. **Background**

### A. Existing Board Policies:

The County's current program is derived from a May 28, 1968 Resolution titled "LANDSCAPING WITHIN THE RIGHTS OF WAY" and a 1978/1979 Road Fund Budget - Policy Decision by the Board of Supervisors approved September 26, 1978, Attachment 4-A. The 1968 Board Resolution established the following policy:

"LANDSCAPING ENCOURAGED. The County desires to encourage landscaping by owners within rights of way. Developments shall be conditioned to require landscaping and homeowners shall be encouraged to landscape adjacent rights of way. All plantings are subject to the Encroachment Ordinance and the encroachment permit shall specify the type of plantings, which will be placed within the rights of way. The type of plantings selected shall be one of several types approved by the Director of Public Works, and shall not constitute a hazard to pedestrian or vehicular traffic.

USE OF ROAD FUNDS. It shall be the policy of the Board that the County will not plant or maintain any trees or landscaping with County Road Funds, except for the trimming and cutting necessary to remove dangerous branches or trees."

In 1978, the Board adopted procedures set forth in Section 5600 of the California Streets and Highways code for assessing the costs of curb, gutter and sidewalk maintenance and repair on the adjacent property owners, Attachment 4-B. They also concurrently rescinded the previous policy whereby the Board had supported a modest sidewalk, curb and gutter repair and replacement program at the level of \$45,000 per year.

Sections 5600, 5610 and 5611 of the California Streets and Highways Code, are quoted herein for convenience of the reader. A full recital of Sections 5600 - 5630 is included in Attachment 4-C at the end of this report.

"5600: As used in this chapter "sidewalk" includes a park or parking strip maintained in the area between the property line and the street line and also includes curbing, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip.

5610: The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions

created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

5611: When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the superintendent of streets shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk."

B. Current Practice:

The Public Works Agency (PWA) has operated under these two Board policy directives since their respective implementations. The PWA's current practice is that when a problem is observed or reported, the property owner is advised of the County's policies, usually before a formal notice to repair is issued. In cases where a simple repair, i.e., ramping of a differential in the sidewalk, can render the sidewalk safe and useable, the Road Maintenance Division will normally make such temporary repairs at no expense to the property owner. If more extensive repairs are warranted, a notice of repair will be issued to the property owner adjoining the sidewalk. If the property owner does not make repairs within the proscribed time period, a second notice of repair will be issued. If the property owner does not subsequently take action to commence and complete repairs to the sidewalk with due diligence, the PWA will cause the repairs to be made. The property owner will then be invoiced for the cost of the necessary repairs. Should the property owner fail to reimburse the County for the cost of repair, a lien may be placed against the parcel. The PWA does try to work with adjoining property owners to explain the County's policies and consult as to the proper method of repair. A "no cost" encroachment permit will be issued to the property owner in such case for any work in the road right of way.

Curb and gutter is also a concern. The general function of a street curb and gutter system is to direct street storm drainage. Curb and gutters are not traditionally anticipated to be used as a pedestrian or bicycle path. They are usually out of the traveled way and do not usually interfere with the flow of traffic, therefore, a section of damaged curb and gutter does not generally rise to the level of an emergency or require immediate repair. There is, however, a benefit to the road system in maintaining a reasonable street drainage flow line and keeping the water from intruding into the road sub-base. Where the PWA is repairing or renovating a street, repairs to the curb and gutter will generally be considered as incidental to the repair of the street, and accomplished as part of the street repair, without charge to the adjoining property owner. However, this does mean that curb and gutter repairs may be delayed for several years, just as the road overlay program cycle is currently at a 50 year average cycle countywide.

C. Sources of Damage:

The prevalent reason for damage to curb, gutter and sidewalk is upheaval caused by adjacent tree roots. Trees are recognized as contributing significantly to the County's unique aesthetic, biological, cultural, and historical environment as well as its air quality, (County of Ventura Ordinance Code Section 8107-25.1). Repair to the sidewalk, curb and gutter generally requires removal and trimming of the tree roots. The PWA is authorized by County ordinance to trim tree limbs and roots as necessary or to issue encroachment permits, as necessary, for the maintenance of the public right of way. However; in some cases, trimming and removal of the roots can render the tree unstable and a potential risk to fall. Accordingly, when in the opinion of the PWA, trimming of the tree roots might render the tree unstable, the tree is removed. PWA's practice is to notify the Planning Department of the Resource Management Agency (RMA) and the appropriate Supervisor's office prior to a tree removal (except in case of emergency). However, removal of any tree has often evoked opposition from some environmental groups or individuals. Consistent with the 1964 Board Resolution, and the County Encroachment Ordinance #2041 (Division 12 of the Ventura County Ordinance Code), PWA will not replace a tree so removed from the right of way. The property owner may, however, obtain an encroachment permit and replace a tree. The replacement tree must be of a type or species recommended to be planted in the road right of way, and the property owner is responsible for the planting and future maintenance of the tree. Such an encroachment permit will be issued at no cost.

D. Notices to Repair:

The PWA has not been overly aggressive in issuing notices to repair. There are a number of reasons for this. The first is that the practice of ramping the sidewalk, while it is not a permanent solution or aesthetically pleasing, often resolves the immediate safety problem. The second is that the procedures in the Streets and Highways code, while definitive, are not very flexible and impose a significant workload for which adequate staffing is not currently available or designated to administer. The third is that the policy is not widely understood and a hostile reaction may be engendered when a notice to repair is issued. Since 1990, legal action has been initiated in three instances by property owners to compel the County to pay for the cost of repair. In all three cases, the County prevailed.

E. Funding Limitations:

The policy decisions of the Board in 1968 and 1978 were reflective of the limited funding available to the County Road Fund. These funding limitations continue to exist today, and sufficient funding does not exist within the operating or grant funds available to the County Road Fund, to re-institute a sidewalk, curb and gutter repair program.

A full discussion of the funding history, situation and anticipated limitations of the County Road budget is beyond the intent and scope of this analysis. Various

reports have been made to the Board over the past decade regarding the funding limitations of the Road Fund and the reductions in staffing or other service reductions necessary to maintain a solvent Road Fund. Most recently this was discussed when the Multi-Year Pavement Rehabilitation Plan (2001) County Unincorporated Area was presented to and approved by the Board on February 27, 2001 in which the Public Works Agency reported:

"The length of our pavement rehabilitation cycle mirrors, in general, the funding availability. On the average, we are able to overlay the roads on the federal aid system (on-system, 253 miles) on about a 40-year cycle. The average cycle for the other roads (not eligible for federal aid or off-system, 290 miles) is about 70 years. The overall combined average is about 50 years. The additional \$4 million that we recently received from the state for road repairs will primarily be used off-system, but it will not do a lot to reduce the overall cycle length since the cycle is so long. The recommended asphalt pavement rehabilitation cycle is 12 to 15 years. To provide a program to meet this objective would require a continued funding source of approximately \$3 to \$4 million additional annual funding. While the additional AB 2928 funding is greatly appreciated and will allow us to rehabilitate more local roads than we might otherwise be able to do, it does not solve the need for additional long term funding for pavement rehabilitation or road repair needs for the County."

However, the problem of adequate funding for public works is not unique to Ventura County. An August 5, 2001 article appearing in the Los Angeles Times titled "The '90s: Private Boom Stingy on Public Good" provides a comprehensive discussion of the general problem of inadequate funding for public or common services, improvements and maintenance inherent in our society today, Attachment 4-E.

As part of the state budget recently passed by the legislature, there was agreement to place before the voters a constitutional amendment (ACA 4), which would shift the sales tax on gasoline from the states's general fund to transportation beginning in fiscal year 2003-04. The portion of these funds returned to the cities and counties would be for street and road maintenance, rehabilitation, reconstruction and repair of storm damage. This measure, if it passes, will be a boon for the County Road Fund, however, it will still leave an annual shortfall of approximately \$2-3 million between projected funding available and total anticipated road rehabilitation needs. Further, the additional funding would not be available for cities and counties until fiscal year 2008-09. At this point it is premature to consider ACA 4 as a future revenue source for the County Road Fund.

F. Claim History:

Another issue is liability or potential financial exposure to the County Road Fund for a tort liability action claiming a "Dangerous Condition of Public Property" as defined by the California Government Code Section 830. While the responsibility of

maintenance of sidewalks has been assigned to the adjacent property owners, that assignment may not relieve the County from liability in all cases. The Courts have generally found that mere transference of the financial responsibility for maintenance does not completely transfer liability for injury which may result from lack of sidewalk maintenance.

Accordingly, records provided by the General Services Agency, Risk Management Department were reviewed. Between the time period July 1, 1995 to June 27, 2001 nine (9) claims were received related to an unsafe condition of a public sidewalk (trip and fall, sidewalk related). The total number of claims received related to the County road system for the same period was 213. The cost of resolving these sidewalk related claims for this time period was approximately \$15,000. Considering the number of miles of the County maintained road system, this does not appear to be a significant number of claims. The Transportation Department's practice of promptly repairing sidewalks by ramping with asphalt may have contributed to the low number of such types of claims, although as mentioned earlier these types of repair are considered temporary and less than aesthetically pleasing by some residents.

## **2. Alternatives**

A total of four alternatives have been developed for consideration by the Board of Supervisors. These alternatives are not mutually exclusive. For example, Alternative D, Pursue Alternate Funding Sources, can be implemented to complement Alternatives A, B or C.

### **Alternative A:**

Reaffirm and continue the existing Board policies and practices of the PWA. This policy has been in existence for almost three decades. It is supported by current law, and has proven to be a reasonable decision in light of the resource limitations affecting the County Road Fund. It also recognizes the inherent differences in municipal services and funding level in the unincorporated area versus incorporated cities.

### **Alternative B:**

Direct staff to reinstitute a sidewalk repair program (including curb and gutter). This alternative introduces a series of complexities, depending upon the amount of funding directed or whether the Board desires to give priority to one area over another. For example, the Board letter of June 26, 2001 envisioned that municipal or urbanized areas of the County that are bordered within an incorporated city limit, such as areas typically known as "islands", would be given priority.

### **Alternative B.1:**

Allocate use of General Funds for sidewalk and curb and gutter repair. While the Board may allocate the use of General Funds for road repair, General Funds have not been used to supplement the County Road Fund for several decades. Although General Funds are a significant source of funding for road repair in most cities, they are not anticipated to be available in the County Road Fund budget for the foreseeable future because of other County priorities and commitments. Accordingly, Alternative B.1 is not recommended.

### **Alternative B.2:**

Direct the Transportation Department to divert funds from the existing Road Fund budget for sidewalk and curb and gutter repair. The only funds in the current Road Fund budget that are reasonably available to divert are the funds currently anticipated to be budgeted for road rehabilitation and repair for local roads. Federal funds may not be diverted for this use, because federal funds may not be expended on off-system roads without special Congressional authorization.

If the Board directs this alternative, a second issue would be the amount of funding the Board wishes to divert. As indicated in Section 3 of this report, the amount of

funding required countywide to repair sidewalks (including curb and gutter) is approximately \$7.2 million. It would not be practical to try to accomplish all of this work in one year. While a five-year program might be desirable, that would require diversion of approximately \$1.44 million, or more than the total amount of funding anticipated to be available in the multi-year pavement rehabilitation plan for pavement overlay program for rehabilitation of local roads throughout the County. Accordingly, if the Board desires to direct the diversion of funds from the pavement rehabilitation program to sidewalk repair for the unincorporated area, it is suggested that no more than 10% of the funds available or reasonably anticipated to be available for pavement rehabilitation of local roads be diverted. We have budgeted approximately \$800,000 to \$1,000,000 annually for rehabilitation of local roads. On the average 10% would equate to \$90,000 per year for sidewalk repair. Unfortunately, it would take over 80 years to repair the sidewalk, curb and gutter problems estimated countywide in the unincorporated area at this rate of expenditure. If Newbury Park, as an example of an unincorporated urban island, were determined to be the highest priority area in the unincorporated area, it would take approximately eleven years to repair the Newbury Park area only (with no similar work being accomplished in any other location in the unincorporated area). Thus, if the Board selects Alternative B.2 and opts to direct the re-allocation of \$90,000 annually from pavement rehabilitation (overlay) to sidewalk repair, it is recommended that the Board also direct the Public Works Agency to include a prioritization of this amount within the context of the multi-year pavement rehabilitation plan which will be delivered to the Board for review this fall. If the Board selects this alternative, the PWA proposes to allocate such funds on an equitable basis by the length of sidewalk and curb miles within the respective supervisorial districts compared to the total lengths in the unincorporated area.

Alternative C:

Direct staff to more aggressively pursue repair by property owners. This would require staff to survey each area, mark areas of needed repair, and issue numerous notices to repair to each affected property owner. Should the property owner fail to commence repair, the PWA must not less than 10 days after the first notice, issue a second notice of repair. Should the property owner still fail to commence and complete necessary repairs, the PWA would cause the repairs to be made by contract or in-house forces. At the conclusion of the work, each such property owner would be sent an invoice. If the invoice were not paid, the Board would be requested to approve placement of a lien on each such property. This alternative requires the PWA to "front" the initial cost of the repair. Appeals to the Board for the amount of the lien may be anticipated. The administrative and record keeping requirements are extensive and beyond the resources of current staffing levels in the PWA, unless the staff is supplemented or diverted from current projects or workload.

Alternative D:

Direct staff to pursue alternative fund sources for sidewalk and curb and gutter repair. There are basically two sub-alternatives: Alternative D.1 involves pursuit of federal and/or state grant funds. Alternative D.2 involves the pursuit of a benefit assessment such as a County Service Area (CSA) to fund the additional cost of sidewalk, curb and gutter repair.

Alternative D.1:

Direct staff to pursue additional Federal or state funding grants. The PWA has been very active in pursuit of every known Federal or state grant funding opportunity to date. We have been successful in obtaining over \$40 million in Federal and state grant funding since 1992. However, PWA's practice is that the grant opportunity must be "cost effective" and produce an overall benefit to the County to warrant the time and expense that often accompanies the application process.

There are approximately 15 separate federally financed elements available for potential grant funding for local agencies under the Federal Transportation Program. There are also 8 state-funded programs. These programs are shown on Attachment 4-F. The dollar amounts shown on this chart are the approximate funding levels available statewide. There are also restrictions that affect the use of federal and state funding. For example, federal grant funding is generally restricted to use on federal aid eligible highways only (on-system roads). Most local residential streets are not eligible for federal aid (off-system roads). The Pedestrian Safety Program and the Safe Routes to School Program are of limited applicability; they are generally limited to new or improved routes or innovative pedestrian improvements.

The use of federal fund grants usually requires the local agency to provide local funds to "match" the federal funds. The average percentage of local funding requirement for federal grant funds is 20% of the amount of federal funds provided, assuming the project is authorized at 100% of the total estimated cost. High Priority Project funds, since they are specifically authorized by Congress, may be used on local roads. Our Congressional representatives might be petitioned to include funding for sidewalk repair in the unincorporated area overall or for one or more select areas in the reauthorization of the Transportation Equity Act which is expected to be considered by Congress in 2003/2004. In 1998 Congressman Brad Sherman was successful in getting \$466,000 included in the Transportation Equity Act for the 21st Century, commonly called TEA-21, as a High Priority Project for street repair in the Oak Park community, although this amount was half of the total funds requested and the grant required a 20% local fund match.

State funding grant programs are generally not as available as federal fund programs. The majority of state transportation funds are reserved for major projects of regional or statewide importance or for maintenance of the state highway system. The Public Works Agency has, however, competed successfully for a portion of the

Transportation Development Act Bicycle and Pedestrian grant funds, and has used these funds for installation of disabled access ramps throughout the County. However, the local fund match requirement for this program is approximately 51%, and the amount of money available statewide on an annual basis is very limited.

To summarize, the availability of federal or state grant funds is limited and requires matching local funds that range between 20 to 51%. The PWA staff currently monitors potential grant fund opportunities, and will continue to do so in the future. However, additional emphasis from the Board members to our congressional representatives may be helpful.

#### Alternative D.2:

Direct staff to pursue a Benefit Assessment. The second category of potential additional funding is a benefit assessment. A benefit assessment is an involuntary charge levied on property to pay for public improvements such as roads, streetlights, or sidewalks that benefit property. The philosophy behind benefit assessments (also known as special assessments) is to link the cost of public improvements to those landowners that specifically benefit from those improvements. The amount of an assessment on a particular property is related to the amount of benefit that property receives. An assessment may be a flat amount per parcel or based on a measure such as square footage. Assessments should not be based on the value of property. The provisions of Proposition 218 in 1996 further amended the California Constitution. Any new or increase in charges to a benefit assessment requires a majority approval by property owners, and the parcel charges must relate to the level of benefit each tract receives. This generally involves a mailed ballot election process. A special versus a general benefit must be determined. A special benefit is a distinct benefit over and above the general benefits to the public at large.

There are several alternative mechanisms for assessment districts. Attachment 4-F illustrates some. However, a discussion of the details of alternate assessment district funding mechanisms is also beyond the scope of this analysis. It does appear to be the most equitable method of funding service requirements such as sidewalk repair, accelerated street repair or other such services where the benefits are limited to one neighborhood or area. The disadvantage is that a mailed ballot election process is required and an engineering report (which can be quite costly) must be prepared. Benefit assessments can also be politically unpopular and difficult to obtain approval for unless there is a strong indication of support from the property owners of the local area requesting such extraordinary services for a benefit assessment. Specialized legal and financial counsel is usually required. This can be a significant unreimbursed expense to the County, particularly if the benefit assessment does not pass.

The County General Plan (Section 4. Public Facilities and Services) identifies goals, policies and programs applicable to public facilities and services throughout Ventura County at both a local and regional level. Two policies are applicable to this issue:

"4.1.2.4 Within a City's Sphere of Influence, annexation to the City is preferable to formation of new or expansion of existing County Service Areas"

"4.1.2.6 Within a City's Area of Interest, but outside that City's Sphere of Influence, unincorporated Existing Communities should financially support County-administered urban services which are comparable to those services provided by cities."

Taken together, these policies provide that for areas within a City's Sphere of Influence, annexation is preferable to creation of County Service Areas for funding of urban services. A County Service Area is a form of benefit assessment. For areas outside of a City's Sphere of Influence, but within its Area of Interest, annexation is not preferable. However the residents of such areas should be expected to support (presumably with County Service Areas) urban services comparable to those provided by cities. Logically, if residents within a City's Sphere of Influence choose not to annex, they too should support urban services through a County Service Area or an equivalent benefit assessment.

**3. Cost Estimates**

- A. Countywide, by sub-area
- B. Newbury Park, sub-area only (detailed analysis)

**Comments:**

Cost estimates for the cost of repairing the sidewalks, curb and gutter in the unincorporated area were prepared and are presented in this section. A preliminary cost estimate was prepared for the entire unincorporated area using mileage records available in the Public Works Agency, and an assumption of repair requirements approximately equal to the sub-area measured as a representative sample. A detailed cost estimate was prepared for the Newbury Park sub-area by an on site survey and field measurements, and this area was chosen as the representative sample. The estimated cost for each sub-area is also provided.

To summarize, the cost of repair for the entire unincorporated area is \$7.2 million. The cost estimate for the Newbury Park sub-area is \$960,000.

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**SIDEWALK, CURB AND GUTTER REPAIR ON COUNTY ROADS**

Area	Curb & Gutter		Curb only		AC Berm		Sidewalk				Tree Removal Cost	Total Cost
	Mile	Cost	Mile	Cost	Mile	Cost	PCC		AC			
							Mile	Cost	Mile	Cost		
BAR		\$ -	1.00	\$ 10,560	0.50	\$ 3,168		\$ -		\$ -	\$ 1,000	\$ 14,728
CAS	0.08	\$ 1,183	0.05	\$ 528	2.48	\$ 15,713		\$ -	0.06	\$ 760	\$ 1,000	\$ 19,184
CHT	3.58	\$ 52,927	2.36	\$ 24,922	6.60	\$ 41,818	6.07	\$ 102,559	1.19	\$ 15,080	\$ 9,000	\$ 246,304
CNO	5.18	\$ 76,581		\$ -	14.56	\$ 92,252	5.38	\$ 90,900		\$ -	\$ 7,000	\$ 266,734
CRK	0.52	\$ 7,688		\$ -	1.07	\$ 6,780	0.64	\$ 10,813		\$ -	\$ 1,000	\$ 26,281
CSP		\$ -	0.06	\$ 634	0.66	\$ 4,182		\$ -		\$ -	\$ 1,000	\$ 5,815
DEL	4.36	\$ 64,458		\$ -	5.30	\$ 33,581	3.36	\$ 56,771	1.50	\$ 19,008	\$ 6,000	\$ 179,818
EOJ		\$ -		\$ -	4.49	\$ 28,449		\$ -	0.14	\$ 1,774	\$ 1,000	\$ 31,223
ERO	10.60	\$ 156,710	0.94	\$ 9,926	2.26	\$ 14,319	3.59	\$ 60,657		\$ -	\$ 5,000	\$ 246,613
HVL		\$ -		\$ -	4.10	\$ 25,978		\$ -		\$ -	\$ 2,000	\$ 27,978
LIM		\$ -	0.07	\$ 739	2.18	\$ 13,812		\$ -	0.17	\$ 2,154	\$ 1,000	\$ 17,706
LOA		\$ -		\$ -	0.39	\$ 2,471		\$ -		\$ -	\$ 1,000	\$ 3,471
LPE	6.48	\$ 95,800		\$ -	24.48	\$ 155,105	3.64	\$ 61,501	2.33	\$ 29,526	\$ 7,000	\$ 348,933
LPV		\$ -		\$ -	0.04	\$ 253		\$ -		\$ -	\$ 1,000	\$ 1,253
LWD		\$ -		\$ -	2.10	\$ 13,306		\$ -		\$ -	\$ 1,000	\$ 14,306
MOK	4.91	\$ 72,589	0.67	\$ 7,075	10.99	\$ 69,633	1.25	\$ 21,120	0.09	\$ 1,140	\$ 2,000	\$ 173,558
MON	1.80	\$ 26,611	2.36	\$ 24,922	1.12	\$ 7,096	0.52	\$ 8,786		\$ -	\$ 1,000	\$ 68,415
MPK		\$ -		\$ -	4.20	\$ 26,611		\$ -	0.13	\$ 1,647	\$ 1,000	\$ 29,259
MRM	12.86	\$ 190,122		\$ -	8.92	\$ 56,517	9.11	\$ 153,923	0.28	\$ 3,548	\$ 12,000	\$ 416,110
NBP	13.90	\$ 220,000	6.26	\$ 70,000		\$ -	20.16	\$ 360,000		\$ -	\$ 310,000	\$ 960,000
NMR	5.07	\$ 74,955	1.22	\$ 12,883	3.45	\$ 21,859	0.61	\$ 10,307		\$ -	\$ 1,000	\$ 121,004
NYE		\$ -		\$ -	2.86	\$ 18,121	0.02	\$ 338		\$ -	\$ 1,000	\$ 19,459
OPK	68.98	\$ 1,019,800		\$ -		\$ -	57.85	\$ 977,434	1.42	\$ 17,994	\$ 70,000	\$ 2,085,228
OVW	8.15	\$ 120,490	3.31	\$ 34,954	3.08	\$ 19,515	7.96	\$ 134,492		\$ -	\$ 10,000	\$ 319,450
OXB	17.86	\$ 264,042		\$ -		\$ -	2.78	\$ 46,971		\$ -	\$ 4,000	\$ 315,013
OXP	0.51	\$ 7,540	0.36	\$ 3,802	4.19	\$ 26,548	0.44	\$ 7,434	0.12	\$ 1,521	\$ 1,000	\$ 47,844
OXW	0.06	\$ 887	0.15	\$ 1,584	5.67	\$ 35,925		\$ -	1.79	\$ 22,683	\$ 2,000	\$ 63,079
PIU	0.96	\$ 14,193	2.92	\$ 30,835	0.78	\$ 4,942	0.60	\$ 10,138		\$ -	\$ 1,000	\$ 61,108
RIN	0.10	\$ 1,478		\$ -	0.44	\$ 2,788	0.10	\$ 1,690		\$ -	\$ 1,000	\$ 6,956
RLO		\$ -		\$ -	3.92	\$ 24,837		\$ -		\$ -	\$ 2,000	\$ 26,837

## SIDEWALK, CURB AND GUTTER REPAIR ON COUNTY ROADS

Area	Sidewalk											Tree Removal Cost	Total Cost
	Curb & Gutter		Curb only		AC Berm		PCC		AC				
	Mile	Cost	Mile	Cost	Mile	Cost	Mile	Cost	Mile	Cost			
SAT	2.67	\$ 39,473	2.18	\$ 23,021	1.02	\$ 6,463	0.78	\$ 13,179		\$ -	\$ 1,000	\$ 83,136	
SMT		\$ -	0.30	\$ 3,168	1.12	\$ 7,096	0.29	\$ 4,900		\$ -	\$ 1,000	\$ 16,164	
SOM	2.39	\$ 35,334	0.46	\$ 4,858	10.48	\$ 66,401	1.03	\$ 17,403	0.03	\$ 380	\$ 2,000	\$ 126,376	
SRV	15.51	\$ 229,300		\$ -	8.90	\$ 56,390		\$ -		\$ -	\$ 20,000	\$ 305,690	
SSA	2.16	\$ 31,933	1.10	\$ 11,616	12.39	\$ 78,503	2.35	\$ 39,706		\$ -	\$ 3,000	\$ 164,758	
SSP	0.78	\$ 11,532	0.95	\$ 10,032	1.82	\$ 11,532	0.26	\$ 4,393		\$ -	\$ 1,000	\$ 38,488	
UOJ		\$ -		\$ -	0.90	\$ 5,702		\$ -	0.32	\$ 4,055	\$ 1,000	\$ 10,757	
VPK		\$ -		\$ -	1.08	\$ 6,843		\$ -		\$ -	\$ 1,000	\$ 7,843	
VTA	5.81	\$ 85,895	1.06	\$ 11,194	0.68	\$ 4,308	5.61	\$ 94,787	0.81	\$ 10,264	\$ 8,000	\$ 214,448	
YBA	0.72	\$ 10,644		\$ -	1.17	\$ 7,413	0.72	\$ 12,165		\$ -	\$ 1,000	\$ 31,223	

Total	\$ 2,912,166	\$ 297,251	\$ 1,016,231	\$ 2,302,364	\$ 131,535	\$ 503,000	\$ 7,162,549
Use	\$ 2,920,000	\$ 300,000	\$ 1,020,000	\$ 2,310,000	\$ 140,000	\$ 510,000	\$ 7,200,000

**Note:**

It is assumed that 8% of existing sidewalks and 7% of existing curb & gutter need repair

County/ Agency	Adjacent Property Owner Responsible for Sidewalk Repairs	How Implemented	Miles of Sidewalk	Annual Budget for Sidewalk Maintenance	Funding Sources for Sidewalk Maintenance	Average Cost for Repair or Replacement	Criteria for Repair/ Replacement	Street Tree Policy/List	Repair/ Replacement Method Used	When Completed, Construction Project/Routine Maintenance
Alameda County	Yes	Ordinance	unknown	\$200K to aid property owners in specific communities	Measure B	N/A	No	Yes	Grinding, patching and replacement	Both
Contra Costa County	Yes	Ordinance	340	N/A	N/A	Patch/grind \$27/sf, Replacement \$55/sf	Yes	No	Grinding, patching and replacement	As needed
Humboldt County	Yes	Resolution/ published policy	Unknown	N/A	N/A	N/A	Yes	No	Temporary ramping is okay, but must be followed by replacement	N/A, but can be done during projects
Imperial County	Yes	S&H Code	40	None	N/A	N/A	No	No	Grinding, patching and replacement	Both
Lake County	No	N/A	10	\$5000 unanticipated costs; And specific amounts fo	Gas Tax	N/A	No	No	Grinding, patching and replacement	Routine maintenance
Orange County	No	Ordinance	540	\$328,465	Gas Tax	Unknown	No	Yes	Grinding, patching and replacement, temp asph ramp unitl per repairs are made	Both
Riverside County	No	N/A	524	No specific budget for sidewalk repair, but spend about \$60K/year	Gas Tax	\$6.32/sqft.	No	Yes	Grinding, patching and replacement	Both
Sacramento County	Yes & No (mostly single family/duplex residential)	Resolution/ published policy	2470	\$300K	Measure A	repair unknown; replace \$2000/area	Yes	Yes	Grinding w/approval of Engineer; Patching temp rprs; replacement	Both
San Bernardino County	Yes - case by case	Resolution/ published policy	Unknown	No specific budget for sidewalk repair	N/A	N/A	In draft only	Yes	Grinding, patching and replacement	N/A, ADA ramps only
San Diego County	No	N/A	511	\$250K	Gas Tax	Repair \$373/cy; Replacement \$450/cy	Yes	Yes	Grinding, patching and replacement	Both

County/ Agency	Adjacent Property Owner Responsible for Sidewalk Repairs	How Implemented	Miles of Sidewalk	Annual Budget for Sidewalk Maintenance	Funding Sources for Sidewalk Maintenance	Average Cost for Repair or Replacement	Criteria for Repair/ Replacement	Street Tree Policy/List	Repair/ Replacement Method Used	When Completed, Construction Project/Routine Maintenance
San Luis Obispo County	Yes	S&H Code	102	N/A	N/A	N/A	Yes	Yes	N/A	N/A
Santa Barbara County	No, but can be if they want done sooner	N/A	Unknown	\$200K - 500K	Local Sales Tax, State revenue, Grants, partner w/ prop owner	Varies	No	Yes	Grinding if less than 1" or ramp, but put on list for replacement in either case	Both
Sonoma County	No		120	No specific budget for sidewalk repair	Gas Tax, Local Sales Tax, & General Fund	Repair\$335/each grinding	No	No	Grinding, patching and replacement	Both
Yolo County	Yes - case by case	S&H Code	Unknown	\$0	Gas Tax	Unknown	No	Yes	Remove and replace	Routine maintenance
Ventura County	Yes	Ordinance	150	\$0	N/A	N/A	Draft	Yes	Remove and replace	Both
City of Burbank	No	N/A	370	\$300K/yr after \$7.5M for 10 yrs	Gas Tax, General Fund, Measure R	\$5.01/sf	Yes	Yes	Grind and replacement	Annual contract plus small maintenance
City of Camarillo (owns ROW in Fee)	No	N/A	290	\$300-500K/yr	N/A	Unkown	Yes	Yes	grind and replace	Both
City of Santa Rosa	Yes	Ordinance		N/A	N/A	N/A				N/A
City of Thousand Oaks	No	N/A	650	\$540K	Gas Tax	Repl \$500 ea. Grind \$25 ea.	Yes	Yes	Grinding and replacement	Both

**Agencies with Maintenance/Repair Standards**

<b>Agency</b>	<b>Vertical Displacement</b>	<b>Horizontal Displacement</b>	<b>Permanent Repair method</b>	<b>Temporary Repair Method</b>	<b>Require Prop owner repair Curb &amp; Gutter</b>
Contra Costa County	1/2" or greater	No standard	Replacement	Grind or ramp	Yes
Humboldt County	less than 1"	No standard	Replacement	Ramp	No
Sacramento County	Greater than 3/4"	Greater than 1.25"	Replacement	Grind or ramp & crack fill	Sometimes
San Diego County	Greater than 1.5"	Greater than 1/4" in width	Replacement	Grinding	N/A
San Luis Obispo County	Less than 3/4"	Less than 3/4"	Grind or patch	Grind or patch	Yes
	Greater than 3/4"	Greater than 3/4"	Replacement	N/A	
Ventura County (proposed)	1/2" - 1"	1/2" or less	Replacement	Grind or horizontal cut, crack fill	Sometimes
	Greater than 1"	Greater than 1/2"	Replacement	N/A	
City of Burbank	greater than 1/2"	N/A	Replacement	Grind/patch	N/A
City of Camarillo	1/2" - 1"	N/A	Replacement	Grind	N/A
	Greater than 1"	N/A	Replacement	N/A	
City of Thousand Oaks	1/4" - 1"	None	Replacement	Grind	N/A
	1" - 1.5"		Replacement	ramp (patch)	
	Greater than 1.5"		Replacement	ramp (patch)	