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§ E. Pulst

**STATEMENT of J.H. McQUISTON on  
PROPOSED ALTERNATIVES for SIDEWALK REPAIRS**

Honorable Chairman and Members of the Committee:

**1. Transportation Handbooks say So Cal pedestrians will walk only 700 ft or else take other means to get to their destinations.** Sidewalks are primarily a convenience for *neighbors* of properties.

Sidewalks allow neighbors to cross a property. **Property owners have a duty to neighbors to make the crossing safe.** State Requires such per California Streets & Highways Code. See §§ 5600 et seq & 5870 et seq (*ALTERNATIVE State mandates*). (Reconstruction-cost will be below \$9 per month per property.)

Code requires **the owner of the property on which horticultural plantings or pedestrian walks lie and not the City to construct or reconstruct safe-passages for persons crossing that property.**

If the property owner ignores improper-condition, **Code requires City to order property owner to correct the improper condition.** If City does not order correction, Courts hold City liable for passer-by injuries. But only after notice and expiration of time may the *City-itself* correct the improper condition.

If the City corrects an improper condition, **Code mandates the City to assess the statutory-cost upon the property owner, either by direct bill, addition to property tax, or by installment -contract.**

Code (per Supreme Court long-ago) **does not permit the City to absorb the cost of work.**

**2. Street Services' proposal obviously is not in accordance with State law.**

Prior to 1970's City did notify property owners<sup>1</sup> and the work was usually done by the property owners.

If Street Services automates the notice-process, City budget will be minimally-affected. Neighborhood Councils, per-Charter required to participate in the process, will minimize City labor-cost.

This Committee may accomplish the objective by requiring Street Services to establish a proper notification system forthwith.

**3. There is no political-consequence for the City's merely-obeying State Code.** We who were notified and assessed before 1970's wonder why the City abandoned that "fairness" of requiring each property to keep passage over-it safe for people, including the property's neighbors.

**4. City employees who arrange work on sidewalks and street horticulture without process of Code are personally-liable for City funds paid-out for that *ultra vires* work.** See, e.g, *Foxen v City of Santa Barbara*, 166 Cal 77 (Calif Supreme Court).

**5. Please obey the Code and direct the Department per #2 above.**

Respectfully submitted,

J. H. McQuiston

<sup>1</sup> LAMC currently requires City to notify property owner, owner is required either to perform the work or to exercise option letting City perform the work and be compensated therefor