

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works		(2) MEETING DATE 5/22/2012		(3) CONTACT/PHONE Frank Honeycutt, Transportation Division Manager (805) 781-5252	
(4) SUBJECT Submittal of letters opposing AB 2231(Fuentes) which would transfers the cost of sidewalk repair from the adjoining property owner to the County.					
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board Oppose State Assembly Bill 2231 (Fuentes) and sign the attached letters urging our State Senator and our State Assembly member to oppose.					
(6) FUNDING SOURCE(S) N/A		(7) CURRENT YEAR FINANCIAL IMPACT N/A		(8) ANNUAL FINANCIAL IMPACT N/A	
(9) BUDGETED? N/A					
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)					
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> Other - Letters			(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
(15) LOCATION MAP N/A		(16) BUSINESS IMPACT STATEMENT? No		(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(18) ADMINISTRATIVE OFFICE REVIEW  <i>Nikki J. Schmidt</i>					
(19) SUPERVISOR DISTRICT(S) All Districts -					

Reference: 12MAY22-C-7

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works / Frank Honeycutt, Transportation Division Manager (805) 781-5252  
Paavo Ogren, Director of Public Works

DATE: 5/22/2012

SUBJECT: Submittal of letters opposing AB 2231(Fuentes) which would transfers the cost of sidewalk repair from the adjoining property owner to the County.

### **RECOMMENDATION**

It is our recommendation that your Honorable Board Oppose State Assembly Bill 2231 (Fuentes) and sign the attached letters urging our State Senator and our State Assembly member to oppose.

### **DISCUSSION**

The staff recommendation to oppose AB 2231 is consistent with the position of the California State Association of Counties (CSAC) and the California League of Cities. The CSAC opposition letter is included as Attachment "C."

Under existing law, the obligation for repair or reconstruction of damaged sidewalks is the responsibility of the adjoining property owner upon proper notice by the County. The statute has been in effect and dates back to the 1940's. Existing law also provides property owners with time to make the repair, and if not made, then County staff may perform the repair. Lastly, existing law provides that the County may assess the property owner for the cost of the work.

AB 2231 proposes to require the County to make all such repairs and would prohibit the County from assessing the property owner for any of the cost "if that sidewalk is owned by the local entity, or if the repairs are required as a result of damage caused by plants or trees." The proposed legislation is problematic for at least three reasons.

Currently, State law allows the County to develop equitable approaches to sidewalk repairs. The proposed legislation would prohibit the County from assessing property owners even in those cases where the property owner is responsible for the damage.

Secondly, the proposed legislation places the burden of sidewalk repair on the sidewalk owner. However sidewalk ownership is not clear. Most sidewalks are constructed by private development via an encroachment permit. Also, while these sidewalks are constructed in the public right of way, the underlying land is often privately owned 'out to the center of the road.'

Finally, this proposed legislation requires sidewalk owners to make all repairs from uprooting from trees. AB 2231 does not consider who decided to plant the tree. In other words, damage from a “mandated street tree” would be treated the same as damage from a tree on private property that was planted at the discretion of the property owner.

The Legislative Counsel’s digest of AB 2231 is included as Attachment “B” for your reference.

There are 102 miles of sidewalk along the County maintained road system. In 2008, the Department estimated there to be 40,000 square feet of sidewalk needing some level of repair at an unfunded estimated cost between \$3 to \$4 million. While some of the repairs have since been addressed, it is also likely that new damages have appeared. The General Fund and the Roads Fund have been greatly reduced over the last several years and are not nearly adequate to take on this new responsibility. The legislation would create an additional unfunded mandate from a local government perspective. While the legislation is subject to review by the Commission on State Mandates, there is no stated revenue provided for agencies to take on this additional burden.

Staff recommends that your Board oppose AB 2231. The letters included as Attachment “A” were drafted to express this point to our State legislators.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

The California State Association of Counties (CSAC), the League of Cities, and the County Engineers Association of California (CEAC) all oppose AB 2231.

### **FINANCIAL CONSIDERATIONS**

There is no direct fiscal impact unless or until this legislation is passed. However, on top of any backlog of sidewalk repairs previously stated, staff estimates an additional average annual sidewalk maintenance cost of at least \$200,000 each year.

### **RESULTS**

Approval of the recommended action will continue to allow work on County roads to be performed in the most timely, efficient, and cost effective manner.

File: Roads – General

Reference: 12MAY22-C-7

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### **ATTACHMENTS**

1. Attachment A - Proposed Letter to State Legislators
2. Attachment B - Legislative Counsel Digest - AB2231
3. Attachment C - CSAC/League of Cities/CEAC Opposition Letter