

*City Manager/City Clerk: Please post this **Additional Supplemental** also with **Public Hearing Item XIII-b (Public Sidewalks/Private Property Responsibility Ordinance)** of the 6-PM Regular City Council Meeting of July 27, 2021. Thank You.*

July 27, 2021

To: Hermosa Beach City Council (Mary Campbell-Collins, Justin Massey, Raymond Jackson, Michael Detoy, Stacey Armato), City Clerk Eduardo Sarmiento, City Manager Suja Lowenthal, and Contract City Attorney Michael Jenkins.

From: Howard Longacre, Resident

**Re: THIS IS AN ADDITIONAL SUPPLEMENTAL TO THE ORIGINAL SUPPLEMENTAL THAT I SUBMITTED ON THIS PROPOSED ORDINANCE AND WHICH PRIOR SUPPLEMENTAL IS ATTACHED FURTHER BELOW.**

Re: *Public Hearing Item XIII-b Hermosa Beach City Council July 27, 2021*

**AN ORDINANCE TO REQUIRE PRIVATE PROPERTY OWNERS TO BRING TO STATE STANDARDS, THE PUBLIC LAND AREAS ABUTTING THEIR PRIVATE PROPERTY, INCLUDING, BUT NOT LIMITED TO PUBLIC SIDEWALKS, CURBS, GUTTERS, PUBLIC TREES, PUBLIC PARKWAY LANDSCAPING, AND MORE, ALL WHICH ARE LOCATED ON THE CITY'S PUBLIC RIGHT-OF-WAY PROPERTY ABUTTING/ADJOINING THOSE RESPECTIVE PRIVATE REAL PROPERTIES, WITH SUCH PUBLIC AREAS KNOWN TO HAVE BEEN NEGLECTED BY THE CITY WHILE OTHER OF SUCH PUBLIC AREAS ABBUTTING/ADJOINING PRIVATE PROPERTIES WERE SELECTIVELY NOT NEGLECTED BY THE CITY FOR DECADES.**

## **Councilmembers and others:**

- 1) **Again, all in this communication/testimony are of my understanding, views, and suggestions, and is freely contributed to hopefully aid the present extremely dysfunctional Hermosa Beach legislative process.**
- 2) It finally occurred to me (**how could I not see it initially**) as to what is going on vis-à-vis this proposed, completely sham ordinance-proposal toss-out. What is the 'method to its madness'?
- 3) If what I believe it is really about is true, then it really is more than despicable by all the parties involved in such a cheap scam.
- 4) And if again true and there are three members of Council who were completely unaware themselves of the little scam, then those three should publicly reprimand all involved for such a deceitful bit of slimy government abuse of the men, women, and children of Hermosa Beach, as well as the private and commercial property owners

who are no doubt to be ripped off ultimately again, one way or another by actions of this sitting city council, its contract City Attorney, and its City Manager.

- 5) So what is believed to be the latest Hermosa Beach scam?
- 6) Clearly the proposed ordinance is a complete over-reach absurdity and was apparently thrown quickly together, to be 'Dead-On-Arrival', **however someone(s)' sneaky agenda has more-than-likely just commenced via this first step.**
- 7) So throw this absurd ordinance proposal out and see how it plays, even attempt to actually enact it, and wait for the pushback.
- 8) Then after the probable pushback, simply retract it and claim well we have to solve this problem of maintaining the sidewalks and public spaces. How can we pay to do this?
- 9) Answer, use the damn money the City has, but wait, that's for our councilmember personal agendas use. Don't you know that as councilmembers we're powerless without that slush fund of tax money to divert to our own personal agendas?
- 10) So how else can we get the damn money? Of course! A recurring "Fee" on the property owners, and who gives a damn about their property tax bills.
- 11) Just think about it, why would such a clearly 'Dead-On-Arrival' over-reach insane ordinance have been so-quickly cooked up in the first place, and with only the City Attorney handling the entire thing, staff report and all? Does it look kind of fishy?
- 12) Clearly even if such an over-reaching, absurd ordinance as proposed were to be acceptable, it would certainly require a vote of the people basis the California State Constitution. **All tax measures require a vote of the people as since Proposition 218 was voted by the people and became part of the California State Constitutional.**
- 13) Contract City Attorney Michael Jenkins knows this very well.
- 14) Now you are probably interested in knowing, "What tax", where was a tax mentioned in this item?
- 15) This proposed ordinance, mandating stuff that was not in place at the time Prop 218 was approved, clearly is a trick, it's a de factor back-door implicit tax given the egregious expense now to be transferred from the City to every private residential and commercial property citywide. It's a shift of monetary burden from the City treasury onto the private property owners. It's a de facto tax.
- 16) It's a back-door tax. The contracted City Attorney will probably claim otherwise, but his given counsel, his views, has been dubious at best repeatedly over the decades, especially dating back to the cancellation of the Macpherson Oil Contract by the city.

Remember Macpherson then won in court for that stupid cancelling of the contract the City had made with Macpherson.

- 17) Remember the Cyprus Gym; they also won in court against the city.
- 18) Who was the Hermosa Beach counsel at the meetings when multiple elected councils took the actions that lead to the costly lawsuits? Right. It goes on and on.
- 19) This proposed ordinance is clearly a setup to then use the “Fee” loop-hole ingeniously placed in Prop-218 to make sure it got support from cities and approved by the voters during its ballot campaign.
- 20) The voters didn’t really know much about the “Fee” scam loophole buried in Prop-218 that now bites them in their wallets too often.
- 21) Just as Hermosa Beach has shifted the sewer maintenance responsibility onto the backs of the City’s property owners, (some seniors over 65 thankfully exempted) you can take it to the bank that the Hermosa Beach City Council is now going to hire another (in my view, sleazy) consultant (or already has one booked or participating in this scam) to whip up another sham “Fee” (**really a tax**) to cover the year-to-year costs of maintaining city sidewalks, curbs, gutters, trees, and more, whatever they can get away with, because the bottom line of the present sitting council is, that without freeing up tax money, **they currently have to pay for such stuff**, the Council can’t continue onward playing with their personal agenda interests using that taxpayer money.
- 22) Councils are impotent without money to wheel and deal, and thus they always need more taxpayer money, and unless the public speaks out strongly, this sitting council will once again ream their own constituents. They have shown themselves as being shameless.
- 23) Thus like the sewer fee, which generates over \$1-million per year from Hermosa’s property owners, this council will now waste a ton of money on another ‘need-for-greed’ consultant specializing in Prop-218 trickery to ream the property owners via another city Fee to be appearing on your annual property tax bills, and to, of course be adjusted upwards every year.
- 24) Council, when, if you do this bit of slimy “Fee” trickery again, as was done for the sewers, **best to be sure to include the same seniors exemption**.
- 25) The only thing the City Council of Hermosa Beach seems to be able to do well anymore is to figure out ways to ream its own constituents, such that some on Council can continue to believe they are big shot Hermosa politicians.
- 26) I’m speaking especially of the two most senior council members and everyone knows who they are. They both belong off the council for what they’ve cost the city over the Cyprus gym, and especially what they did to their own duly elected colleague, former

Councilman Hany Fangary. I.e., the two self-obsessed councilmembers, Justin Massey, and Stacey Armato.

27) And of course the no-bid-contract-city-attorney-for-life-Michael-Jenkins' city-attorney services contract is decades overdue to be placed out for RFPs and bids. Jenkins is no doubt ready, himself, to retire, however he appears to be morphing into the city new people, one by one, to keep his contract rolling along long after he's retired. After all he's referred to as the 'no-bid-contract-city-attorney-for-life' isn't he?

28) Btw, remember always, that Jenkins previously indicated, in a quite po-ed manner, that if the City Council placed the attorney services out for bid that he would not submit a bid. **Let's hope he holds to that pledge when the Council finally comes to their senses and places the lucrative city attorney services contract out for RFPs and bids.**

29) Now also, some might ask the question, "So why are you giving the Council any ideas re: a sidewalks maintenance Fee", after all they haven't even attempted a street-pavement-maintenance fee?

30) Answer: Are you serious? The one thing these council people and city managers are always thinking about, besides their egos, of course, is where they can get easy money to play with, and to be big shots awarding contracts.

31) What easier way then to suck it right out of the wallets of their own constituents? Show me a politician, and you'll see that once they get into office they virtually always want to stay in office, and forever, and ever, and ever, and ever.

32) After all, especially when we're talking about big shot Hermosa politicians. Big shots! The days of old are long gone.

33) Prop 218 stopped cities from freely passing taxes with just 3 council votes, and instead requiring such taxes to be placed on the ballot.

34) However the "Fee" loophole placed in Prop 218 has become beyond filthy, rotten, and despicable as facilitated into use more and more by the (in my view) sleazy, opportunist, Prop-18 "Fee" consultants who poison city council after city council.

35) Now just presuming the proposed ordinance had a modicum of viability, can you imagine if you had a big old city tree on the public land that you are now responsible for, and it was damaging the sidewalk?

36) Now, not only would you have to pay to have it trimmed and pay to replace the sidewalk, you couldn't even remove it without going through massive hoops. And further if it got sick you'd have to pay for an arborist to help make it better.

37) Have you ever viewed one of the Hermosa Beach Public Works Commission meetings where some poor schmuck desires to, at his own expense, remove a

sickly, nasty, or in the way city tree? The poor schmuck these days has to have a noticed public hearing, and then people come from all around saying I love that tree, how dare you want to tear it down?

38)And then there's for example, El Segundo. In that city the property owner is supposedly responsible for the sidewalk, has been since long before Prop-218, i.e., the sidewalk in front of their home, but is responsible for nothing else. However the city of El Segundo routinely performs maintenance on all the sidewalks, grinds off edges, takes care of the trees, replaces concrete sidewalks, nothing at all like this proposed ordinance or for that matter what Hermosa Beach even does since City Manager Suja Lowenthal was hired by the Council.

39)"Malibu Suja" has all but totally destroyed the Public Works Department operation. The department under "Malibu Suja" is in complete shambles. It's unconscionable.

40)And also, I've learned that evidently rarely does an El Segundo private property owner find themselves responsible for a trip-and-fall or actually paying for the repair of a sidewalk as quite often a city tree is what caused the trip hazard or damaged sidewalk.

41)Of course developers have to bring all the sidewalks, etc., into conformance in all cities including Hermosa Beach, and thankfully they are the ones who have significantly improved the sidewalks in Hermosa Beach.

42)However this proposed over-reaching absurd ordinance is about existing property owners who have long-held, vested rights, after having paid taxes for decades for the right to the peace and tranquility of their own property without the City Council trying to scam them for more de facto tax money, such that the Council can use the city revenue instead for their pet personal council agenda and resume building stuff.

43) How do we get these people on the City Council who so-often evidently think and act in such small self-serving ways?

44)And thank you for pardoning typos, and grammatical errors likely above.

End of Supplemental:

Attachment: Original Supplemental as first submitted follows next page.

Note: In paragraph numbered 47. below the original word present, "**complicating**", was not the intended word, it has been corrected to be "**contemplating**". The spellchecker had changed the mis-entered intended word to "complicating" which I had not caught during copy edit.

**AN ORDINANCE TO REQUIRE PRIVATE PROPERTY OWNERS TO BRING TO STATE STANDARDS, THE PUBLIC LAND AREAS ABUTTING THEIR PRIVATE PROPERTY, INCLUDING, BUT NOT LIMITED TO PUBLIC SIDEWALKS, CURBS, GUTTERS, PUBLIC TREES, PUBLIC PARKWAY LANDSCAPING, AND MORE, ALL WHICH ARE LOCATED ON THE CITY'S PUBLIC RIGHT-OF-WAY PROPERTY ABUTTING/ADJOINING THOSE RESPECTIVE PRIVATE REAL PROPERTIES, WITH SUCH PUBLIC AREAS KNOWN TO HAVE BEEN NEGLECTED BY THE CITY WHILE OTHER OF SUCH PUBLIC AREAS ABBUTTING/ADJOINING PRIVATE PROPERTIES WERE SELECTIVELY NOT NEGLECTED BY THE CITY FOR DECADES.**

**Staff Recommendation:**

Staff recommends City Council introduce and waive full reading of an ordinance titled, **“An Ordinance of the City of Hermosa Beach California, Adding Chapter 12.42 to Title 12 (Streets, Sidewalks and Public Places) to the Hermosa Beach Municipal Code to Require Property Owners to Repair the Sidewalk Area Abutting their Real Property.**

Online Granicus Staff Report with “Draft” Ordinance by Contract City Attorney Michael Jenkins, direct link.

<https://hermosabeach.legistar.com/LegislationDetail.aspx?ID=5067638&GUID=AAc919CA-BE8B-4795-A585-2DC8976EE2F7>

**Attachment:** Text of *“Draft Ordinance”* (as found at the above link at the time of this writing) follows immediately below this written communication.

**Councilmembers and others:**

1. Was, and if so, when was direction first given for a ‘needs-assessment’ for this all-encompassing ordinance that’s to be affecting every private residential and commercial property owner in city on such an unequal basis? And by whom was such direction given?
2. When then was such ‘needs-assessment’ first worked up via public study sessions? And where are the records of such public study sessions?
3. When was the contracted City Attorney directed, and by whom, to work-up an ordinance basis the likely absence of a well-prepared ‘needs-assessment’ indicating the criteria and limits the City was interested?
4. When was this “Draft Ordinance” first vetted before, i.e., the Public Works Commission, prior to its being presented for 1<sup>st</sup> reading and “introduction” into law by the City Council (the step the proposed ordinance is already now at)?
5. **By the way, all in this communication/testimony are of my understanding, views, and suggestions, and is freely contributed to hopefully aid the present extremely dysfunctional Hermosa Beach legislative process.**

6. And with such legislative aid being most-evidently needed, especially after reviewing the subject ordinance's staff report and proposed ordinance, with both having been drafted by again, only the contracted City Attorney, Michael Jenkins, and which is reflective of the Hermosa Beach legislative process having become one sham 'railroad-job' after another.
7. Unconscionably, once again, an ordinance (**this one having "misdemeanor" and likely very expensive consequences for Hermosa Beach private property owners who do not follow a staff bureaucrat's directive**) has been tossed together, most-evidently, with little if any forethought or consideration of its impact, or historical approaches, not to mention its costly litigation consequences for the City by someone(s) behind-the-scenes having in-secret evidently decided that this ordinance should be brought forward in such an extremely hasty manner. Was it a member or members of the City Council, the City Manager, and/or the contracted City Attorney?
8. The proposed ordinance is to instantly be affecting every private Hermosa Beach residential and commercial property owner, but apparently unequally, and with absolutely no reasonable forewarning or notice being given to those private property owners for any consequential opportunity for their input prior to the work-up of such a significant ordinance by the contracted City Attorney.
9. The ordinance as presented with no 'needs-assessment' having been publicly formed, and with no vetting by any Commission or other, is little more than a **"wham, bam, thank you ma'am"** sham.
10. There's been virtually no transparency as such to date for such a monumental change in policy by the City. So what else is new of recent years in Hermosa Beach?
11. Unfortunately the process utilized to date for this ordinance is becoming quite a routine occurrence vis-à-vis City Manager Suja Lowenthal, contracted City Attorney Michael Jenkins, and of course two or possibly even three senior members of the City Council.
12. The present Hermosa Beach City Council (those 2 or 3 mentioned), the City Manager, and the contracted City Attorney know well that they are operating improperly with next to no real transparency.
13. That such an ordinance was to be coming forward, as noted only in the arcane "Tentative Future Agenda Items" is not very significant notice, and it's not even a valid noticing location given especially the very few who even know of, or bother reviewing the deeply buried agenda-linked document.
14. That an ambiguous small legal advertisement appeared in the back of the City's adjudicated newspaper for this Public Hearing, especially given most people have

to go out of their way to even find a copy of same these days, is absolutely rock bottom minimum notice for such a substantial and city wide impacting ordinance.

15. There's been no discussion whatever of this broad burden to suddenly be placed on private residential and commercial property owners either in i.e., the Public Works Commission, or the City Council, basis an agenda discussion item specifically addressing such matter. It's just come ad hoc out of nowhere!
16. That the very first agenda item coming forth anywhere is itself the ordinance for "introduction" into law on 1<sup>st</sup> reading is nothing less than outrageous.
17. This ordinance will lead to very costly consequences (into the thousands of dollars) for many years-long privately owned residential and commercial properties for issues the City has virtually never made these property owners aware of, and will be used now to threaten these private property owners with '**misdemeanor**' consequences for failing to carry out improvements to public right-a-ways and spaces that happen to abut/adjoin their properties along any boundary, corner lots included, as along Prospect Avenue, or Monterey Blvd where there are substantially wide public swaths between property lines and the street pavement, or as such along 6<sup>th</sup> Street East of Monterey Blvd, not to mention Cypress Avenue and so many other streets.
18. What is really egregious is that the ordinance is so ambiguous and leaves its interpretation wide open and entirely up to a non-professional, non-state-licensed city staff bureaucrat (likely not even one who lives in city) to decide what needs to be brought up to some state standard.
19. Nonetheless the ordinance is way to loosey-goosey, and of absurd general language, clearly without much forethought, with no public input, no "needs assessment", virtually nothing in the way of direction, and with no prior discussions via agendized items brought forth by the City Staff for the City Council, the Public Works Commission, or the Planning Commission, and of course zero written notice to the individual property owners to be so-significantly affected in such an uneven manner.
20. While the City has neglected many misuses and defects of its public parkway spaces, including pedestrian sidewalk issues in this city over the decades, and still does today, especially regarding the parking of cars on sidewalks, and more, in other cases the City has spent significant money to improve public areas adjacent to other private properties in an ad hoc manner, especially business properties, and some particular residential properties, while completely neglecting others.
21. There's no tabulation even provided for a high impact major ordinance, of what exactly El Segundo, Manhattan Beach, Redondo Beach, have in place ordinance-wise and how they handle issues of use of public areas by private property owners, those i.e., utilizing public sidewalk easements or other for private patios,

auto parking, gardens, basketball courts and more, and how those cities maintain on a regular basis their sidewalks, i.e. regular grinding off of potential trip hazards, patching, etc.

22. However this ordinance is to be dropped into law without considering the fact that it was the City's choice of which sidewalks to ignore and which not to, all along.

23. The City has been repairing sidewalks for years. As such the main thing that is missing is "grandfathering" from such ordinance consideration. The city has no honorable choice if it is to enact an ordinance, knowing full well of the condition of the present sidewalks, or lack of same, and which may be considered a hazard due to private property trees, or something other of the City itself damaging the sidewalk.

24. While some form of an ordinance may be appropriate at some point since the City in the most recent years refuses to take care of basics, to a greater and greater extent, while trying to hoard as much tax revenue for the Council's personal agenda items, and of course staff management always wants to make sure there will be plenty of money for their compensation adjustments.

**25. Grandfathering until the City brings conditions to the standards of the ordinance's effective date has not been spelled out.**

**26. Missing from the ordinance that's been presented is clear language that the effective date of the ordinance for a particular private residential or commercial property will be the first date that the public property abutting/adjoining the private property is in conformance to the standards of the City. The property owner will then-afterward be perhaps responsible for maintaining such standards.**

**27. Standards that are not presently met, and which are not equivalent of other properties presently meeting standards, need to first be brought up to the standards by the City prior to such private property owner being then responsible into the future.**

28. The contracted City Attorney's staff report gives no details of the state standards his ordinance mentions, other than section numbers, nor does he include even a list giving information of what particular sidewalks, curbs, gutters, parkway spaces or other that presently have issues. Without such tabulation the proposed ordinance is egregiously wrong and presumptive as it gives carte-blanche to a staff bureaucrat to make such decision after the fact.

29. And what precisely is the private property owner's appeals rights? Is that to be in the Public Works Commission? Surely a staff bureaucrat doesn't have the final say? That opens up the door for graft and all kinds of sleazy stuff. As it is this proposed ordinance is likely to generate a lot of sleazy wheeling and dealing. It's completely missing transparent public oversight, including ultimately by the elected officials.

30. The City Attorney's staff report gives no indication of what constitutes a safe repair, i.e. as seen in many cities, as accomplished by the City itself, routine grinding off of sidewalk trip hazard edges, or adding concrete patches or fills on a routine basis. Where are the detailed specifications and schedule of charges the city will make for performing the work.
31. The ordinance leaves it all essentially up to one city bureaucrat; currently not even a state licensed engineer to dictate, with no specifications indicated whatever by the ordinance other than the arcane State's general standards.
32. First order of business toward a viable ordinance would best be to have an agenda item for a general discussion in the Council of what the issues really are citywide, with some background data provided, including perhaps the consultant's report of all the sidewalks in town that are supposedly substandard, if any, including whether adjoining private property was causing any damage, i.e., a private property tree, etc., or whether the situation is simply long overlooked acceptance of no sidewalk being present, or other uses of the public area by the private property owner, or improperly by the City itself.
33. Such sidewalks-consultant-report was supposedly paid for by the City just several years ago at the time the street condition indexes were updated. What happened to it?
34. Further a list of all known "hazardous" sidewalks should be immediately available from staff and published on the City's website. If staff doesn't have such a report then that represents a more serious issue with City Management. This ordinance should not be enacted as a cover for incompetent City Management and which more and more appears to be the case these days.
35. The next order of business leading to an eventual ordinance would most importantly be to send a public notice information card to every private residential and commercial property owner in city, including to the address as indicated on the property tax rolls, of the City's interest in enacting **an ordinance transferring full responsibility to the private property owner for the maintenance of all things adjacent to their property on public lands, including sidewalks, curbs, gutters, parkway landscaping, trees, to the street pavement or to the center of the sidewalk in the case of walk streets.**
36. Included with such mailer should be instructions of how to submit comments, concerns, suggestions for consideration, and also indicate the date(s) of upcoming public workshop(s) and study session(s) by the Public Works Commission, with such workshop(s) then leading to recommendations to the City Council of what the Council would best then direct city staff both to, and not to include, in their work-up towards any eventual ordinance.

37. After the Public Works Commission and/or Planning Commission study session(s) and recommendations to the City Council, followed by the City Council's public review process, and direction to staff of what they then expect in such an ordinance, the City should then again send to all residential and commercial property owners a card notice of the date and time for a public hearing for the actual ordinance to be considered for introduction into city law, **and with such proposed ordinance being available for public review by the public a minimum of ten full days before such public hearing.**
38. This is the minimum way an honorable city council would attempt such a wide-ranging and significant change of policy to be so-significantly affecting every private residential and commercial property owner in city.
39. Such ordinance potentially is to be obligating hundreds of private residential and property owners to be absorbing significant costs, and/or special assessments to their property taxes, as well as threats of their being guilty of misdemeanor(s) and more.
40. The analogy of the subject ordinance sham at hand at this moment would be for a city, after unconscionable years of neglect of its city sewers, to suddenly say to an individual property owner, "The sewers on your street have been now mostly repaired and are in great condition, however directly adjacent to your property (under your sidewalk) the City sewer has collapsed. You must within 28 days have this sewer completely repaired and at your cost entirely. And by the way last year we, the City, also repaired many of the sewers but now we've enacted an ordinance which demands that owners of properties that happen to be next to the defective portion of a sewer to hereinafter fix those at their costs. If you don't we will charge you with a misdemeanor as well as the costs of repairing the sewer."
41. What this ordinance is saying is unquestionably essentially the very same thing.
42. Clearly the ordinance presented by contracted City Attorney Michael Jenkins, a non-resident, non-elected official of the City, is gratuitously full of general statements, allowing for virtually any interpretation by a city staff bureaucrat.
43. The ordinance references state standards extremely loosely. It has not presented to the Council, nor the Public any information of, which if any sidewalks, or public spaces abutting/adjoining private property in the entire city even meet those state standards today. His entire ordinance is an ambiguous 'red herring' and he likely very well knows it. It looks like it was just copied from somewhere else. He's no doubt planning on again profiting from the net effects of this additional city ordinance?
- 44. Any property owner who is demanded to repair public property without having been even noticed of this ordinance after its having been sham-railroaded through the City Council at this late date, as this ordinance is**

being attempted, will certainly have a clear case against the City, or a class action case on behalf of many, if not all private property owners so-affected after the fact, given all that has been stated in publicly recorded Council Meetings during the many years of, i.e., the 8<sup>th</sup> Street (Valley Drive to Hermosa Avenue) sidewalks project, not to mention the 16<sup>th</sup> Street (Prospect to PCH) sidewalks project of a few years ago, regarding especially the issues with trying to impose such after-the-fact costs upon private property owners with so many years of the City having looked the other way.

45. An ordinance may be fine to implement, whatever it is the Council desires to accomplish, however without the City bringing all existing sidewalks first to the standard the City expects, i.e., a level playing field, given that many are already there as a result of many reasons, and that the City has selectively ignored maintaining others, leaves the City little choice but having property owners obligated only from the time of the ordinance being adopted, but then also only after their sidewalk and other public areas adjacent their property are brought into the level of conformance by the City itself whichever date comes later.
46. The Council has no honorable choice if enacting such ordinance, but to assume costs of bringing up to their now-desired standard, those public areas not meeting the City's or state's standards as mentioned in the ordinance.
47. The City would be inflicting a new obligation upon some private property owners which it was not inflicting onto other property owners. That would be seen as a de facto scheme that would be patently and egregiously unfair, with no real notice made in writing to those property owners that the City was even contemplating such uneven treatment citywide via this sham ordinance.
48. The City has been well aware of missing sidewalks, defective sidewalks, public areas being used to park cars, having patios, and much more, and have selectively chosen to repair/maintain many, while ignoring many others.
49. The City has responsibility to level the playing field before an ordinance inflicts costly and punitive damages onto to some private property owners, while others who have been significantly at fault in the past were given a bye and even given thousands of dollars in improvements by the City.
50. By the way, is the City to be providing the land surveys to establish where actual property lines are of adjoining properties, i.e. to determine exactly which property owner is to be responsible?
51. There is so much more that's wrong with this proposed ordinance. I've not even scratched the surface. It's the most absurd thing ever brought forth so cavalierly that I can recall, especially with no work-up involving the stakeholders, whatever.

**Attachment Following:** Proposed Ordinance as available at the time of this submittal follows on the next page.

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF HERMOSA BEACH,  
CALIFORNIA, ADDING CHAPTER 12.42 TO THE  
HERMOSA BEACH MUNICIPAL CODE TO REQUIRE  
PROPERTY OWNERS TO REPAIR THE SIDEWALK AREA  
ABUTTING THEIR REAL PROPERTY

The City Council of the City of Hermosa Beach does hereby ordain as follows:

**Section 1.** Findings.

- A. Pursuant to Chapter 22, Division 7, Part 3 of the California Streets and Highways Code, property owners have a duty to maintain and repair the public sidewalk adjacent to their property. For purposes of the state maintenance obligation, a “sidewalk” includes “a park or parking strip maintained in the area between the property line and the street line,” including a parkway (or “planting strip”).
- B. State law provides that the “superintendent of streets” shall notify responsible owners of dangerous conditions and necessary repairs on public sidewalks. If the owner fails to act with due diligence, the City shall make the necessary repairs and recover its costs from the responsible owner.
- C. The purpose of this Ordinance is to require property owners within the City to repair and maintain the “Sidewalk Area” between the property line of the lots and the street line, including parkways, parking strips, sidewalks, curbs and gutters in a condition that is not dangerous to property or to persons using the Sidewalk Area in a reasonable manner.
- D. This ordinance advances the interests of public health and safety because property owners are often in the best position to quickly identify and address potentially dangerous conditions that might occur in the Sidewalk Area as opposed to the City.
- E. As permitted by state law interpreting the sidewalk maintenance provision of Streets and Highway Code section 5610, this ordinance imposes liability on the property owner for any person’s injuries and damages arising from a dangerous condition of the Sidewalk Area abutting the owner’s property.

**Section 2.** Chapter 12.42, entitled “Sidewalk and Parkway Repair” is hereby added to Title 12 (Street, Sidewalks, and Public Places) of the Hermosa Beach Municipal Code to read as follows:

## CHAPTER 12.42 SIDEWALK AND PARKWAY REPAIR

- 12.42.010**            **Duty to Repair.**
- 12.42.020**            **Liability for Injuries to the Public.**
- 12.42.020**            **Notice of Repair.**
- 12.42.030**            **Failure to Make Repair.**

### **12.42.010**            **Duty to Repair.**

The owners and/or persons in possession of lots or portions of lots adjacent to or fronting on any portion of parkways, parking strips, sidewalks, curbs and gutters (“Sidewalk Area”) shall repair and maintain such areas. For the purposes of this part, maintenance and repair of the Sidewalk Area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, supervision, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips and curbs, so that the Sidewalk Area will remain in a condition that is not dangerous to property or to persons using the Sidewalk Area in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

A property owner’s duty to repair the Sidewalk Area pursuant to this section, is in addition to an owner’s obligation to maintain trees located in the parkway adjacent to their real property so as not to cause or constitute a nuisance, pursuant to Sections 12.36.040 and 12.36.090 of this Code.

### **12.42.020**            **Liability for Injuries to the Public.**

The property owner required by Section 12.42.010 to maintain and repair the Sidewalk Area shall owe a duty to members of the public to keep and maintain this area in a safe and non-dangerous condition. If the failure of an abutting owner to maintain the Sidewalk Area results in damage or injury to a member of the public, said abutting owner shall be liable to such member of the public.

### **12.42.030**            **Notice of Repair.**

Whenever any Sidewalk Area upon any public street in the City is out of repair, is in need of repair, or is in a condition dangerous or impassable to pedestrians, the City’s Public Works Director may give notice in writing to the owner of such property abutting on such sidewalk to repair the same within four (4) weeks after service of such notice. The written notice requiring repairs and stating the general nature thereof shall be served by leaving a copy thereof with the tenant or occupant of such real property abutting on such sidewalk, if any there be, and by depositing in the United States Mail a copy of such notice

addressed to the owner of such property at his last address as given on the assessment rolls of the City, or in case such address is not given, addressed to General Delivery, City of Hermosa Beach. In case there is no occupant or tenant of the property, the notice shall be posted in a conspicuous place upon the property and a copy shall be mailed to the owner of the property as aforesaid.

**12.42.040 Failure to Make a Repair.**

In the event that the property owner fails or refuses to make the repairs identified in the notice provided for in Section 12.42.030, the City may make the repairs at the owner's expense pursuant to the procedure for abatement of nuisances set forth in Chapter 8.28 of this Code. Further, any person who shall fail to make the repairs necessary to such Sidewalk Area adjacent to his or her real property within four (4) weeks after the service of the notice shall be guilty of a misdemeanor as set forth in Section 1.04.020 of this Code.

**Section 3.** The City Council finds this ordinance is exempt from the California Environmental Quality Act ("CEQA") as provided in Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3). The ordinance is enacted pursuant to the City' police powers to impose liability on property owners for injuries occurring in the sidewalk area abutting an owner's property arising from the owner's failure to repair and maintain this area in a non-dangerous condition. Therefore, it can be seen with certainty that adopting this ordinance would not have a significant adverse effect on the environment under CEQA Guideline 15061(b)(3).

**Section 4.** Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage

**Section 5.** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Hermosa Beach's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and cause it to be published or posted in accordance with California law.

**PASSED, APPROVED and ADOPTED** this \_\_\_th day of \_\_\_2021.

VOTE:           AYES:  
                      NOES:  
                      ABSTAIN:  
                      ABSENT:

\_\_\_\_\_  
**MAYOR** of the City of Hermosa Beach, California

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney