

## AMERICA'S FINEST CITY IS NOT ALWAYS AMERICA'S CLEANEST CITY

The Council of the City of San Diego finds and declares that:

“The City has a history and reputation for well-kept properties, and that the property values and the general welfare of this community are founded, in part, upon the appearance and maintenance of properties. Every person has the duty to maintain real property which is under his or her control free from weeds, rubbish and **other forms of waste.**”<sup>1</sup> (Emphasis added)

### ***SUMMARY***

America's Finest City is not putting its best foot forward! The cleanliness of our downtown streets leaves a lot to be desired. Simple sweeping is not sufficient for health or aesthetics. It is time for the City to take control and implement a solution. Residents and tourists alike deserve better.

### ***PURPOSE***

The purpose of this report is to point out that, in many areas, the sidewalks of downtown San Diego are littered with human and animal waste, dirt, and refuse. Members of the Grand Jury have observed this situation on numerous occasions and in numerous areas.

### ***PROCEDURES EMPLOYED***

Site Visits:

- Grand Jury members walked most of the downtown area, observing and inspecting the sidewalks for cleanliness.

Documents reviewed:

- Various media reports
- Centre City Development Corporation, *Redevelopment Defined*
- *San Diego Property-based Business Improvement District (PBID) Assessment Engineer's Report*
- Downtown San Diego Partnership reports
- *Clean and Safe News*, the official newsletter of the Downtown San Diego PBID

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<sup>1</sup> San Diego Municipal Code 2000, § 54.0201

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- *Study of 1993 Storm Water Ordinance for San Diego*
- Study of Environmental Services reports
- Street Division response to the Grand Jury letter regarding keeping the sidewalks free from potential hazards and to maintain pedestrian access.
- San Diego Municipal Codes- 43.0305, Chapter 4, Article 3, division 3.

The Grand Jury interviewed:

- Representatives from the Neighborhood Code Compliance Department
- Supervisor from the Environmental Services Department, Code Compliance
- The Executive Director of the Clean and Safe program used by the Assessment District
- President of Downtown Partnership.

### ***DISCUSSION***

The Grand Jury recognizes that the issue of sidewalk cleaning is a complex problem involving State and Federal laws and regulations, and Municipal Code requirements. Downtown San Diego is rapidly being redeveloped. The number of residents, tourists and baseball fans using City sidewalks is growing. With this growth, comes an increased problem related to maintaining clean sidewalks.

Responsibility for management of keeping the sidewalks clean is not clear. The Downtown Property-based Business Improvement District (PBID) was formed in 2000. One of its responsibilities is to maintain clean sidewalks. The City of San Diego, by code, has the final responsibility to see that the sidewalks are clean. Yet other government agencies determine how this can be accomplished. The Grand Jury has determined that no one is successfully addressing this problem.

Code enforcement is only being done on a reactive basis. Businesses are given administrative citations only if a complaint is lodged against them. Because the businesses are apparently not able to solve the sidewalk problem, the City Council should consider whether or not to take back from the PBID the responsibility for maintaining clean sidewalks.

This ongoing problem must be addressed by the City of San Diego, whose ultimate responsibility it is to develop and enforce a solution.

### ***RECOMMENDATIONS***

**The Grand Jury recommends that the San Diego City Council:**

- 04-14-1** Inspect and determine the condition of the sidewalks in Downtown San Diego.
- 04-14-2** Develop, implement, and enforce a solution to rid the downtown area of unclean and unhealthy sidewalk conditions.

### ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933 (c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b),(c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding.
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of

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the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required by the date indicated:

<b><u>RESPONDING AGENCY</u></b>	<b><u>RECOMMENDATIONS</u></b>	<b><u>DATE</u></b>
<b>San Diego City Council</b>	<b>04-14-1, 04-14-2</b>	<b>10/04/04</b>