

From: Akos Szoboszlai, President, Modern Transit Society (disbanded in 2011)

To: San Jose Bicycle Pedestrian Advisory Committee (SJ BPAC)

Date: Sept. 23, 2024

Subject: Request that SJ BPAC write a letter to City Council to completely repeal the ordinance prohibiting pedestrians along expressways, 11.32.070

Dear SJ BPAC Committee Members,

I led the fight to allow bicyclists to use expressways in San Jose and other cities. SJ DOT (Department of Transportation) fought against repealing the ordinance prohibiting bicyclists, but lost the vote in 1989, by a 11-0 vote. SJ DOT continued fighting against pedestrian use of expressways, and their facilities, by successfully keeping repeal off the San Jose City Council agenda, for decades.

At my request as the President of the Modern Transit Society (disbanded in 2011), the County Board of Supervisors (BOS) required the following along all expressways: **bike lanes** (1989, details added in 2003), **pedestrians paths** along the “entire expressway system” (1991), **trimming of shrubs** at intersections for pedestrian safety (1991 and 2003), **pedestrian use of expressway bridges** (1991), and **sidewalks** along all expressways as shown on Sidewalk Maps of each expressways (2008 County Expressway Plan).

Unfortunately, County Roads Department has **refused to comply** with much of the above because that would “encourage pedestrian to violate the City ordinance,” In other words, the City ordinance prohibiting pedestrians is the obstacle to achieving compliance with pedestrian safety requirements. Both County Roads and SJ DOT have fought against allowing both bicyclist and pedestrian (including transit patrons) use of expressways, and fought against their facilities on expressways, since 1987. County Roads lost all 7 out of 7 votes of the County BOS.

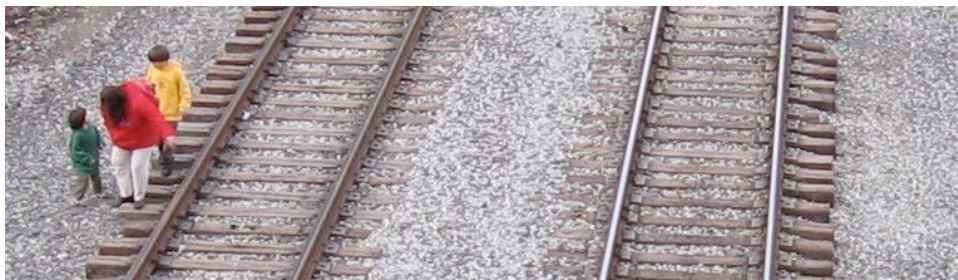
County Roads and SJ DOT caused multiple pedestrian fatalities on Capitol Expressway, by their actions as follows:

- a) **County Roads refuses to implement** the pedestrian safety requirements (above) by **citing the San Jose prohibitory ordinance**.
- b) **SJ DOT gives them a false excuse to avoid compliance**. In 1989, SJ DOT wrote the prohibitory ordinance in a way to circumvent State law, which only **authorized prohibiting pedestrians from freeways**. Then, **SJ DOT fought repeal** of that despite being proven illegal.

With help from VTA BPAC, I forced County Roads to comply with State law and remove all “Pedestrians Prohibited” signs on Capitol Expressway in 1997. This had the immediate result of greatly improving pedestrian safety, for example, by not forcing pedestrians to step across the railroad tracks and cross Monterey Highway at grade, by allowing use of the Capitol bridge. Multiple pedestrians had been killed by prohibiting use of the bridge with its 10-foot, double bike-lane width shoulders, as County Roads admitted.



View of railroad and Monterey Highway, a dangerous crossing with multiple pedestrian fatalities, seen from Capitol Expressway bridge.



Woman and two children crossing the train tracks because the bridge has "Pedestrians Prohibited" signs posted, despite that these signs are illegal under State law.



Family crossing the bridge by legally using the path and legally using the bike lane. They walked past illegal "Pedestrians Prohibited" signs, so man placed his hand over his face as I took the photo, in order not be recognized by police for later prosecution. SJ DOT and County Roads tried to force pedestrians either into a two-mile walking detour because the nearest safe crossing to this one was one-mile away, or to cross dangerously, shown above. Signs were forced removed in 1997. [Photos are circa 1996, by Akos Szoboszlay.]



County Roads *refused to comply* with the 1991 BOS path creation order because, “that would encourage pedestrians to violate the city ordinance.” However, the BOS made no such exception. These **pedestrians are subject to ticketing by police** for walking passed (illegal) prohibitory signs **when County Roads is the one violating the law.** Yet, even after County Roads was forced to remove these signs in 1997 (see sign, next photo), it has not — to this day — complied with the BOS to create paths.

These pedestrians are walking toward **Eastridge Transit Center**, in the next block. Pedestrians need to use this side of the road. **County Roads tries to force a double crossing of the expressway here, which already resulted in a pedestrian fatality at this location:** The pedestrian tried to reach the other side of the road, but was killed while crossing 8 lanes of car traffic. Notice the path (left) near the intersection. It was created by pedestrians’ footsteps. County Roads has refused to trim shrubs at “intersection areas” for pedestrian safety, as required by the BOS in 1991. [Capitol Expressway just south of Quimby Rd.; circa 1995]



Left: County Roads prohibits not only sidewalk use, but also access to the **Capitol Light Rail Station**, further down the road. Signs are illegal under State law, and forced removed in 1997. [Capitol at Snell Ave.]

Below: County Roads built this “Berlin Wall” to block people from using the sidewalk/path along Capitol Avenue. (This side of the wall was re-named “Capitol Expressway” in 1970.) VTA placed a gap in this wall that was blocking access to **Alum Rock Light Rail Station**, after County Roads stonewalled for 20 years.





Before-and-after photos (path left, destroyed right) show County Roads destroyed the existing paths by plowing them up to make them unwalkable. This was along 2.1 miles of San Tomas Expressway in San Jose and Campbell in 2007, after I requested them to remove the “pedestrians prohibited” signs. Notice the “Pedestrians Prohibited” signs at left above and left bottom that enable such destructions.



County Roads Director Mr. Freitas states, “County has not plowed ...”, but the tire tracks of the plowing machine (seen at right), and comparing before and after photos proves otherwise.

See 16 before-and-after photos of destroyed pedestrian paths along San Tomas Expressway, with location details: ModernTransit.org/st/destroyed-paths/destroyed-paths.html



Even today, County Roads is trying to prohibit access to the [Capitol Light Rail Station](#) (seen at left) by posting new signs: above left shows back side, above right shows front side. County Roads is trying to prohibit use of this unpaved pedestrian path despite the BOS requiring this path in 1991. County Roads also used the wrong sign because there is no intersection “crossing”, but a path the entire way. There are two more such signs at the other end of this block.



Bicyclist in the bike lane (left) in the same block. Most bicyclists ride near the solid line for better visibility and less tire punctures. The Vehicle Code allows pedestrians to walk in the bike lane if there is no “adjacent adequate” path or sidewalk. [CVC 21966] The same path is shown from a bicyclist’s view (left) from a pedestrian’s view (right).



At several San Jose locations, including here, County Roads destroyed the legal pedestrian facility, the bike lane. This sidewalk was built by Caltrans, crossing Fwy. 880 at Montague Expy. At the boundary (Caltrans to County), 100 feet from the onramp, pedestrians stepped onto the bike lane. No longer. Today, they step into the 45 mph traffic lane. Notice the oncoming truck next to curb. County Roads even jackhammered the ADA ramp here. County Roads refuses to create the path required by the BOS, by citing the City ordinance prohibiting pedestrians on expressways.

Removing prohibitory signs in 1997 also forced County Roads to construct paths or sidewalks along Capitol, but they only did that on one side of the road when they were supposed to do that on both sides. Today, this forces **needless crossings of the expressway, twice**. By far, the greatest number of fatalities on expressways are for crossing the expressway.

Please request Mayor Mahan and the City Council to **completely** repeal City ordinance 11.32.070, by a very brief letter. The SJ BPAC already did this in 2006. It states:

“The City of San José Bicycle Pedestrian Advisory Committee (BPAC) formally requests that the City of San José repeal San Jose Municipal Code section 11.32.070. ...

On November 13, 2006, BPAC unanimously passed a motion to submit this request to City Council.” [Full letter is in link, below.]

Unfortunately, SJ DOT, acting as staff liaison, censored this letter, and it never reached the City Council. Therefore, in your vote, instruct the Chair to hand deliver this letter to the Receptionist for Council members and the Mayor, on the 18th floor, with 13 copies.

More detailed reasons for repeal are in my letter to SJ DOT Director Ristow (at link below), but details can be omitted for this letter. The most important is to get it on the City Council agenda, because keeping it off the agenda has been the tactic of SJ DOT for decades.

Sincerely,



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Bicyclist (me) being ticketed \$149 for using the bike lane along San Tomas Expressway.

Links

This letter is uploaded as a pdf: ModernTransit.org/2024/SJBPAAC.pdf

My letter to SJ DOT Director Ristow provides **detail**: ModernTransit.org/2024/Ristow.pdf

My **rebuttal** to County Roads Director Freitas: ModernTransit.org/2024/rebuttal.pdf

Timeline of historical events for expressways: ModernTransit.org/expy/#timeline

Expressway Topics, Links page by Akos Szoboszlay, Modern Transit Society:
ModernTransit.org/expy

SJ BPAC letter to City Council in 2006: <http://moderntransit.org/expy/sj-bpac-letter.pdf>