A.: My suggestion is that you write a polite letter to Grover Beach City Manager Robert Perrault, advising him of your concerns. Include photographs and a diagram of the areas(s) of your concern, if possible. My understanding is that Mr. Warne has been responsive to the concerns of the local community. Writing a letter will not only inform Mr. Warne of your concerns, but it will also put the City of Grover Beach on actual notice that there are dangerous conditions on their public streets. Your letter, photographs and diagrams may be presented at a City Council meeting and/or attached to a claim.

As far of the law is concerned, in order for a public entity to be held liable for a dangerous condition of public property, a plaintiff must prove each of the following elements:

1. the public entity owned or controlled the property at the time of the incident;
2. the property was in a dangerous condition at the time of the incident;
3. the property was a cause of the plaintiff's injuries;
4. the accident was a reasonably foreseeable consequence of the condition; and
5. the entity negligently created the condition or had actual or constructive notice of it before the incident (Government Code section 835).

The term "dangerous condition" is defined in the Government Code as "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable it will be used" (Government Code section 830(a)). "Used with due care" refers to use by the public generally.

"Actual notice" means the public entity knew of the condition and knew or should have known of its dangerous character, which is why I suggested that any and all communications to Mr. Warne be in writing. Always keep copies of everything for your records. On the other hand, "constructive notice" means "the condition had existed for such a period of time and was of such an obvious nature that the public entity, in the essence of due care, should have discovered the condition and its dangerous character" (Government Code section 835.2(b)).

There have been several California cases on this subject. For example, in the case of Nishihama v. City and County of San Francisco (2001) 93 Cal.App.4th 298, 122 Cal. Rptr.2d 861, the City of San Francisco was held liable for injuries sustained by the plaintiff caused by a pothole. On pages 303-304 of the opinion, the Court stated the following: "That the City maintained a system for the purposes of finding and repairing defects such as the pothole, was relevant to the question of whether the pothole should have been noticed before plaintiff's accident occurred. Plaintiff, therefore, was entitled to elicit evidence that City employees in fact inspected the track system for defects such as the pothole. In addition, plaintiff was entitled to elicit evidence that City employees could have repaired the pothole prior to plaintiff's injury, because she was required to show that the City had actual or constructive knowledge of the dangerous condition a sufficient time prior to the injury to have taken measures to protect against it. Finally, as the City can act only through its employees, it was proper to instruct the jury that the City was responsible for what an employee should have noticed, or could have done."