



CITY COUNCIL STAFF REPORT

ITEM 6.03

DATE: June 25, 2018

TO: Honorable Mayor and City Council

FROM: Darren Greenwood, Public Works Director
Paul Spence, Community Development Director

SUBJECT: Discussion and Direction Regarding Asset Management for Sidewalks

RECOMMENDED ACTIONS

Staff recommends that the City Council:

1. Adopt a resolution discontinuing both the City subsidy of private sidewalk repairs and the practice of the City completing repairs on behalf of private property owners.
2. Direct staff to draft an ordinance clarifying that liability for defective sidewalk rests with property owners consistent with the California Streets and Highways Code.

SUMMARY

The City is currently developing a comprehensive asset management program. This program has identified a large funding shortfall for the replacement of assets. An important part of this program is developing policy alternatives which will minimize cost or increase funding. State law currently requires adjacent property owners to maintain sidewalks. Staff is proposing to revise the current City sidewalk program with the goal of completing repairs in a more timely manner and at a lower overall cost to the community.

DISCUSSION

City staff is currently working on the development and implementation of a comprehensive asset management program in furtherance of an adopted City Council priority. The goal of this City Council priority is to ensure that the community continues to receive vital services through a sustainable infrastructure strategy. To date, staff has identified the need for \$40 million per year in order to replace all of the City's assets on an ongoing basis compared to current spending of about \$10 million per year. Current spending levels are projected to result in a backlog of \$600 million in deferred repair or

replacement projects over the next thirty years. In order to close this gap, Council has directed staff to evaluate a variety of potential policy options aimed at protecting the most critical services in a cost-effective manner.

The City of Livermore is currently home to approximately 16.2 million square feet of sidewalk. The City is directly responsible for about 160,000 square feet of sidewalk that is adjacent to City-owned properties (about 1% of total sidewalk). The City's consultant has inspected approximately 670,000 square feet in an attempt to create a profile of the condition of the sidewalk as a whole. In the surveyed section, the consultant discovered nearly 3,000 offsets with approximately 90% of those caused by tree roots. Extrapolated out to the entire City, this leads to an estimated total of almost 13,100 offsets which represents about 655,000 square feet of sidewalk that currently needs to be repaired or replaced.

Sidewalks are an important component of the public transportation network. Since 1941, the California Streets and Highways Code has placed the responsibility to maintain public sidewalk on the adjacent property owners. This responsibility applies to all sidewalks adjacent to the property, including along the frontage or side of the property, and even behind the property in areas with "backing-lot" sidewalks along arterial or collector roadways. In 1988, Livermore voters approved a measure to that permitted the City to assist private property owners in their obligations by expending "surplus funds" on a 50% subsidy for sidewalk repairs (see Attachment 1). The City expended these dedicated "surplus" funds and then began to use general funds to continue this subsidy. In 2007, the City Council approved a reduction in this subsidy to 25% citing the need to "minimize liability for both property owner and City, and to better keep pace with needed repairs" (see Attachment 1). The updated sidewalk repair policy acknowledged that, "maintenance and repair costs ultimately remain the property owner's responsibility" (see Attachment 1). Despite this acknowledgment, the City's practice has been to fund 100 percent of the replacement cost for backing-lot sidewalks behind private property.

Under the current sidewalk program, property owners notified of a defect in their sidewalk may choose to repair the sidewalk themselves and be reimbursed for 25 percent by the City, or to have the City complete the repairs and pay 75 percent of the cost. Either way, the property owner is placed on a list for reimbursement or repair and must wait until funding is available. Currently, most property owners choose to be placed on the list for the City to perform the repairs.

Since 2007, the backlog of identified sidewalk repairs has grown from two years of budgeted funds, to six years of budgeted funds. The City currently dedicates approximately \$260,000 and 1,200 hours of staff time to the sidewalk repair program which results in the repair of about 14,000 square feet per year. However, due to the fact that sidewalk repairs tend to be relatively small areas widely dispersed throughout the community, there are no economies of scale to the City's current program. In addition to these costs, staff further dedicates about 150 hours of time investigating and processing trip and fall claims related to defective sidewalk. These claims result in an average annual cost of about \$35,000.

Staff estimates that an average of 1% of the sidewalk (162,000 square feet) will fail each year. This is based on an expected lifespan of 100 years, and an anticipation that some sidewalk may fail multiple times in its lifespan, primarily due to damage caused by tree roots. At this rate, the current sidewalk repair program repairs only a small portion of the sidewalk that fails each year. Also, the existing program will not be able to address the current estimated backlog of approximately 655,000 square feet. Staff estimates that by the year 2048, 5 million square feet of sidewalk, or 31% of the total, will be damaged and in need of repair or replacement. Ultimately, the combination of the current policy and budget is unsustainable and will result in a significant degradation of the public's ability to safely and comfortably traverse the sidewalk network.

Locally, the County of Alameda and the Cities of Antioch, Brentwood, Concord, Dublin, Fremont, Foster City, San Jose, and Union City have adopted ordinances which state that private property owners bear the entire cost of maintenance of the sidewalk, as well as liability arising from claims relating to a failure to maintain sidewalk.

Staff recommends that the City immediately discontinue both the City subsidy of private sidewalk repairs and the practice of completing repairs on behalf of private property owners, instead shifting City efforts and existing resources to notification for private properties and repair of sidewalks adjacent to City properties. For property owners currently on the repair waiting list, staff recommends continuing to reimburse 25% of the repair costs, but have the private property owners complete the repair. Staff also recommends that the City adopt an ordinance clarifying that liability for defective sidewalk rests with property owners in order to better align the responsibility to maintain with the consequences of not maintaining sidewalks.

City staff reviewed the proposed sidewalk policy with the Community Asset Management Program (CAMP) Committee for their input and comments. While there were some initial concerns regarding the transfer of responsibility for backing-lot sidewalks, the CAMP members supported the proposed sidewalk policy, especially in light of the overall funding shortfall of up to \$40 million to maintain all City-owned assets.

Staff is recommending that the responsibility for all sidewalk repairs, including backing-lots, be placed on adjacent property owners at this time. However, should Council wish to minimize the potential impact on property owners from the backing-lot sidewalks, one option might be for the City to survey and complete a one-time repair of any serious defects prior to transferring responsibility. Staff estimates this one-time repair could cost up to \$1.5 million based on extrapolated survey data. If Council directs staff to include this option staff would complete a more thorough survey to confirm the estimated cost and return for Council direction.

If the proposed policy is approved by Council, the City would only fund repairs of sidewalks adjacent to City-owned property such as the Civic Center campus. However, the City would still be required to implement some level of inspection program and provide notification as well as possible enforcement to property owners with sidewalk

defects. A possible notification and enforcement program might include the City sending notices to property owners, while retaining the ability to abate the defect and place a tax-lien on the property to recoup the cost for the most serious of defects where the property owner fails to act. This might be similar to the City's annual weed abatement program.

Another component to the enforcement program might be to require an inspection or certification that there are no serious sidewalk defects at the time of property sale. Properties turn-over approximately every seven years on average and it is typical to repair property defects at time of sale. In addition to a time-of-sale certification, the City might also include a requirement to inspect or repair sidewalks as a condition of issuing larger or more significant building permits (perhaps over \$50,000 in value). And finally, as a resource to help property owners who might have previously requested the City to complete repairs, the City might establish a pre-approved list of sidewalk contractors that residents can contact for quotes or to complete the work.

Lastly, since many sidewalk defects are caused by tree roots, staff will also be updating the City's Tree Ordinance to ensure that procedures are in place to allow property owners sufficient flexibility to remove or control trees (via root pruning or barriers) that are impacting sidewalks. Staff will bring an updated Tree Ordinance back to Council for direction and consideration at the same time as the Ordinance shifting sidewalk liability.

FISCAL AND ADMINISTRATIVE IMPACTS

Staff estimates that under the current practice of funding 25 percent of private sidewalk repairs and 100 percent of private backing-lot sidewalks, the City would be responsible for an average of \$1.7 million per year in sidewalk repair costs, compared to the current funding of \$260,000 per year. Over a thirty year period, this would amount to \$51 million. Staff estimates that the proposed policies will reduce the City obligation for sidewalk repair to approximately \$200,000 per year and will result in better sidewalk conditions for the public. Over time, the proposed policy changes would eliminate the backlog of unrepaired sidewalks and result in a balance between the available City resources for sidewalks and the on-going cost to maintain those assets. Staff also estimates that the proposed policies will reduce staff time allocated to the sidewalk program by approximately 400 hours per year. As noted above, a one-time repair of the most significant backing-lot sidewalk defects is estimated to cost about \$1.5 million. If Council adds this component to the program, staff proposes to conduct a detailed survey to confirm that cost and return for direction.

ATTACHMENTS

1. Staff Report from March 12, 2007

Prepared by:

Anthony Smith
Management Analyst

Approved by:

A handwritten signature in black ink, appearing to read "Marc Roberts", written over a horizontal line.

Marc Roberts
City Manager

Fiscal Review by:

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Douglas Alessio
Administrative Services Director