

**City of Berkeley
Sidewalks Subcommittee
of the
Public Works Commission**

MEETING AGENDA

Subject: Sidewalk Condition and Policy Review

Date: May 16, 2017, 7:00 pm – 9:00 pm

Location: Au Coquelet Café Restaurant
2000 University Ave, Berkeley, CA

1. Call to Order and Roll Call
2. Comments from the Public (3 minutes each speaker)
3. Informative Presentation by Preston Jordon
4. Discuss/Action:
 - A. Discuss and Form Recommendations for Changes to the Draft Transportation Commission Proposed Recommendations and Options for Sidewalk Repair Program
 - B. Delegation of duties to prepare recommended changes for Public Works Commission review.
5. Adjournment

ADA Disclaimer:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Public Works Department located at the address below.

Communications Disclaimer:

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Acting Commission Secretary:

Tracy Clay, Supervising Civil Engineer
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Attachment A
Draft Transportation Commission Proposed Recommendations and Options
for Sidewalk Repair Program

PROPOSED COMMUNICATION TO CITY COUNCIL

April 20, 2017

TO: Honorable Mayor and City Council

FROM: Transportation Commission

SUBJECT: Recommendations and Options for Sidewalk Repair Program

SUMMARY

Nearly 16% of Berkeley residents use the city's 300 mile sidewalk networks for work commuting and education. They travel to BART stations and bus stops, representing the 3rd highest walking rate in the Bay Area. At least half of Berkeley residents use city sidewalks daily. Included are Berkeley's thriving population of persons with disabilities who travel in wheelchairs, motorized scooters and other mobility aids that rely on the city's sidewalks to maintain their independent lifestyles.

However, the city's sidewalks are in desperate need of repair and currently Berkeley does not have a sustainable sidewalk policy maintenance program. In addition to normal wear-and-tear it is estimated much of the sidewalk damage is attributed to the city's 32,000 street trees.

Sidewalk deferred maintenance costs money. Public Works reported in 2014 the city's trip and fall incident settlement costs (between FY 2010-FY2014) totaled nearly \$1.2 million. During the same year the city reported approximately 15-20 miles of Berkeley's sidewalks needed permanent replacement at an estimated cost of \$4 million. At present, more than 2,000 locations are wait-listed for sidewalk repair.

The average sidewalk repair cost (bundled rate including a large area) is about \$x.xx per square foot, with ranges of \$x.xx to \$y.yy.

In 2015 the City of Los Angeles settled a \$1.4 billion class action lawsuit on behalf of a quarter-million disabled city residents after determining the city's broken sidewalks were in violation of the American with Disabilities Act (ADA). Given Berkeley's historic activism around designing safe, wheelchair-accessible sidewalks, this is unacceptable.

CURRENT PROGRAM

Although California State Law requires property owners to cover the costs of all sidewalk repairs, in 2011 the City of Berkeley's Public Works department adopted a 50/50 cost sharing program whereby the City and the property owner split the repair costs for damaged sidewalks regardless of the cause of damage. This eliminated ongoing disputes between owners and the City. However, after accounting for the funding sources in addition to the 50/50 plan, Public Works determined in its 2014 report, the city's Sidewalk Repair Program still lacks the sufficient funds to "significantly reduce sidewalk hazards and liability."

POLICY RECOMMENDATIONS

The Transportation Commission recommends the City Council establish a comprehensive sidewalk inspection, repair and maintenance policy.

In addition to the several recommendations and three funding options listed below, the Transportation Commission recommends the council enact the following **Guiding Principles** to ensure that Berkeley residents have a transparent, adequate, long-term and systematic approach to sidewalk maintenance and repair.

- **Coordination with Pedestrian Plan and Street Repair Programs:** As the sidewalk program is institutionalized, sidewalk repairs should be coordinated with the pedestrian improvements recommended in the pedestrian plan, as well as on-going street repairs.
- **Street Trees:** The city should continue to retain responsibility for street trees, and by extension, their damage to the sidewalks. If property owners were required to assume the maintenance of trees, there could be calls for fewer trees to limit costs to individual property owners.
- **Additional Dedicated Funding:** The city uses a mix of funding sources, including some general fund sources and additional funds dedicated to street repair, for sidewalk repair. The city should establish a firm policy that dedicates a percentage of the street repair funds to the city's share of sidewalk maintenance.
- **Proactive Approach:** The City should proactively inspect and program sidewalk repairs before the condition rises to the level of failure.
- **Elevation of Policy:** Sidewalks are important resources and changes to the maintenance and repair program policies should be discussed openly and endorsed by City Council.

Program Recommendation

The city should develop and then execute a pro-active 15-year Sidewalk Inspection and Response Program (see the City of San Mateo's program details below). Every year, at least 7% of the City sidewalks should be inspected and then scheduled for repair as necessary. The City would then contract for a "sidewalk repair blitz" through a competitively-bidding process and hire a qualified contractor to bundle all the repairs together to obtain economies of scale and a lower cost per repair.

FUNDING OPTIONS

Various funding options are identified below.

Funding - Option 1

Increased Provisions for 50/50 Program - The city and property owners alike will split the cost 50/50 for all sidewalks. The city would bill the owners for their share of the cost. The repair includes a 5 year warranty from the city. If a property owner does not pay within 90 days the city can impose a tax lien against the home. Or if the owner chooses to repair the sidewalk instead of the city, the owner must hire a licensed contractor and obtain the required City permits for the repair.

Funding - Option 2

Sidewalk Repair Special “Flat” Parcel Tax - Ask Berkeley voters to approve a 10 or 15 year tax measure to fund Berkeley’s sidewalk maintenance program to improve Berkeley’s sidewalks.

Funding - Option 3

Property Owner Pays - Property owners are 100% responsible (up to 72 sq feet) for the cost to repair sidewalk damage including street trees. Beyond 72 sq ft (about 6 ft x 12 ft), the city will pay the balance of the repair. Under this program, the city will not necessarily increase costs, but will need to actively manage the sidewalk repair contractual scope to ensure the bidding packages are both large and within the city budget constraints.

All Funding Plans – The Commission also recommends whatever funding option is chosen, that all include the following additional components:

Additional City Resources – With the passage of Measure BB and the new additional state gas tax funding, the city should increase its funding allocation of sidewalk repair.

Sidewalk Maintenance Certificate -Require Berkeley homeowners to obtain a sidewalk maintenance certificate by a city-certified inspector prior to selling their home.

Sidewalk Repair Financial Assistance Program – Financial assistance should be available for homeowners who meet the income eligibility requirements determined by the Housing & Urban Development (HUD) area median income (AMI) which is calculated annually. Or if they meet the income level criteria established by the city.

FISCAL IMPACTS OF THE RECOMMENDATIONS

The cost associated with the report is unknown currently.

PUBLIC WORKS

See attached 2014 Status of the Sidewalk Repair Program report

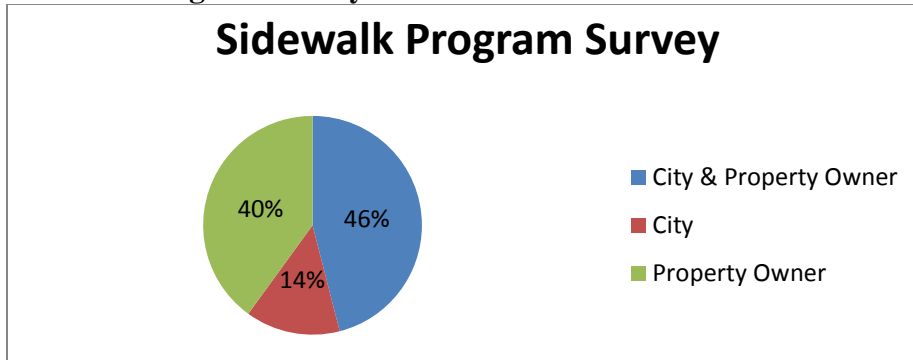
ENVIRONMENTAL SUSTAINABILITY

Unknown

APPENDIX

BEST PRACTICES

Sidewalk Program Survey – 82 Cities in 45 States



Source: City of Los Angeles Sidewalk Repair Program Presentation (2015)

Below is a summary of Sidewalk Program’s from other cities within the Bay Area.

CA City	Who is responsible for repairs?	Description
Oakland	City & Property Owners	Property owners are responsible for the cost of maintaining and repairing front property sidewalks. City repairs sidewalks damaged by City trees only. Where a defective sidewalk is identified without the presence of an official City tree, a Notice to Repair (NTR) is sent to the property owner requiring the sidewalk to be repaired within 30 days. If the owner fails to do so, the City may repair the sidewalk and bill the property owner. If the owner doesn’t pay for the repairs, a tax lien will be placed on the property. Owners may enter into a Voluntary Agreement with the City when the City has a planned project (where both private and public damage is being repaired along a corridor) to have the City contractor perform the work. By entering into an agreement, owners are bond to reimburse the actual cost of the repair.
San Francisco	City & Property Owners	Conducts a 25-year cycle proactive sidewalk inspections of all city sidewalks for repairs. Sidewalk damage that is the responsibility of city agencies or private utilities is also repaired as part of the program. Property owner(s) receive a (NTR), if the sidewalk adjacent to their property is damaged. Owner(s) can immediately make the repairs, or they can take part in a competitively-bid contract administered through Public Works. Owners who qualify under economic hardship may apply for a deferred payment plan up to \$5,000.

San Jose	City & Property Owners	Owners are 100% responsible for the cost of adjacent property line sidewalk repairs including street tree repairs. Sidewalk inspections are done by request only.
San Mateo	City & Property Owners	Proactive 15-Year Sidewalk Repair Plan inspection to ensure property owners and the City work together to repair damaged sidewalks. Owners have the option to have the city repair the sidewalk through a publicly-bid contractor. Residents can also hire their own contractor. Once notified property owner(s) are required by law to complete the repairs within 90 days. If, after 90 days, the property owner has not completed the repairs, the City will notify the property owner that the City will undertake the repairs and bill the property owner. If the property owner does not pay the invoice within 60 days of receipt, the City can place a tax lien against the property.
Sacramento	Property Owner	100% Property Owner, including damage caused by street trees. City will do the repairs and warranty for five years. City responds to requests for inspections, but does not proactively inspect. Street tree maintenance (other than roots and sidewalks) are a city responsibility.