



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: December 9, 2013

REPORT NO: 13-102

ATTENTION: Infrastructure Committee

SUBJECT: City of San Diego Sidewalk Policy Discussion

REQUESTED ACTION:

None; Informational Only

BACKGROUND:

The City of San Diego has approximately 5,000 miles of public sidewalks. Many of the City's sidewalks were installed during the rapid development of the City's roadway system from the start of World War II through the 1970s. The sidewalk system also includes much older walkways with some dating to the early part of the last century.

The City of San Diego ensures sidewalks are safe for public use by eliminating tripping hazards. These hazards are mitigated through ramping of uneven sidewalk panels and repairing sidewalks damaged by trees planted in the public right of way. In addition, the City issues a Notice of Liability to the abutting property owners asking them to perform permanent repairs to the sidewalk should responsibility of maintenance and repair fall under them in accordance with California Streets & Highways Code, Sections 5610-5618. It is important to note that most property owners are unaware of their responsibility to maintain and repair the sidewalk adjacent to their property. Because of this, sidewalks can deteriorate, becoming unsafe forcing the City to mitigate hazards and perform repairs that could have been addressed in advance by property owners.

DISCUSSION:

The City of San Diego receives approximately 200 requests for sidewalk repairs each month. Most of the requests for repair are related to damage caused by tree roots. The roots are from trees planted in the public right of way or on adjacent private properties. In fiscal year 2010, the City of San Diego allocated \$9.5 million in Deferred Capital Bond funds towards repairing sidewalks, curbs & gutters, and curb ramps. The City used these funds to help finance the repair of approximately 3,800 tree root-damaged locations. The average cost to repair a root-damaged sidewalk location is about \$2,500. The City allocates approximately \$400,000 annually for sidewalk repairs to mitigate sidewalk hazards and \$100,000 towards the 50/50 program.

Given the cost of sidewalk repairs and maintenance, many cities in California have adopted, or

are considering the adoption of new policies and regulations regarding the installation and protection of sidewalks. Many cities now have policies that either split the cost of sidewalk repair with property owners, or policies that assign the entire cost of sidewalk repair to adjacent property owners. Since many of these cities, similar to the City of San Diego, are faced with declining revenues, increased backlogs of deferred maintenance, and potential liability for trip and fall hazards, they are also considering new laws that emphasize the responsibility of property owners to maintain and repair sidewalks.

The City of San Diego bases its repair policy on a long standing state law; California Streets & Highways Code 5610-5618. Under that law property owners are responsible for maintaining and repairing the portion of the public sidewalk fronting their property.

Per the Streets & Highways Code and case law (Jones v. Deeter, 152 Cal. App. 3d 798, 805), the City is only responsible for repairing sidewalks adjacent to City-owned property and sidewalks that are damaged by City activities such as parkway trees planted and maintained by the City.

Under California Streets & Highways Code 5610-5618, the City is not responsible for repairing sidewalks damaged by grade subsidence, heat expansion, parkway trees planted or maintained by others, or for paying half the cost of repairing sidewalks deteriorated due to age.

However, in 1975, City Council adopted Policy #200-12 contradicting the Streets and Highway Code allowing the City to assume responsibility for sidewalk repairs otherwise covered by California Streets & Highways Code. In addition, the City established a (50/50) Sidewalk Repair Cost Share Program to assist property owners in the repair of sidewalk damage adjacent to their property caused by old age and deterioration.

City Sidewalk Cost Share (50/50 Program):

The City budgets approximately \$100,000 annually in Street Division's operating budget to fund the 50/50 Sidewalk Cost Share Program. The primary purpose of the program is to replace old and deteriorated sidewalks caused by natural wear and tear. The City recognizes that sidewalk replacement and repair can be a burdensome financial liability to property owners and this program relieves the property owner of 50% of the cost of performing such repairs.

In fiscal years 2011 thru 2013, only 13 property owners participated in the 50/50 Sidewalk Cost Share Program. To date in fiscal year 2014, a total of 14 property owners are participating in the program and an additional 87 property owners have submitted requests for participation. The recent influx of cost share requests is largely attributed to the City's proactive efforts to inform the public of this program and improved economic conditions.

During fiscal years 2011 thru 2013, the City's cost per project averaged \$5,300. Based on current participation, since July 1, 2013, the City anticipates allocating approximately \$74,000 toward this program.

New Walkways Annual Allocation:

The Transportation & Storm Water Department has allocated approximately \$1million per year for new and missing sidewalk projects. The annual allocation is funded by TransNet (half-cent sales tax). The City performed limited and scattered sidewalk assessments in the past to identify locations for sidewalk repair but has not comprehensively assessed the sidewalk infrastructure. The City has relied heavily on the public to report sidewalk damage or request installation of new or missing sidewalk.

Currently, there are approximately 425 requests for installation of missing sidewalks on the unfunded needs list. Funding in the amount of \$170 million would be required to install missing sidewalks throughout the City. However additional sidewalks are likely to be identified as a part of the pedestrian master plan and the City-wide sidewalk assessment.

Annual Tree-Related Sidewalk Damage Repairs:

Every fiscal year, the Transportation & Storm Water Department allocates approximately \$400,000 to repair sidewalks damaged by trees located within the right-of-way. These funds are primarily General Fund dollars and are augmented with TransNet and/or Prop 42 funds.

In Fiscal Year 2010, \$9.5M of Deferred Capital Bond #1 made it possible to repair 443,500 square feet or the equivalent of approximately 21 miles of tree root-damaged sidewalks and other related improvements such as the installation of new curb ramps.

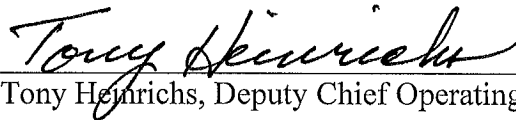
The yearly allocation of \$400,000 to repair tree damaged sidewalks yields approximately 21,000 square feet of sidewalk repairs; or the equivalent of approximately 1 mile in length.

Conclusion:

Currently property owners have little incentive to repair damaged sidewalks. Generally only the City of San Diego faces liability for injuries that occur from dangerous sidewalk conditions. To date, the City of San Diego does not include sidewalks in its asset inventory based on current State and case law. However with the City embarking on a City-wide sidewalk assessment; the Infrastructure Committee should explore options to amend Council Policy 200-12, as well as revisions to the Municipal Code to properly assign responsibility of sidewalk repair and encourage property owners to maintain and repair sidewalks abutting their properties.



Garth K. Sturdevan, Director
Transportation & Storm Water Department



Tony Heinrichs, Deputy Chief Operating Officer

Attachments: City Council Resolution R-308247 – Fiscal Year 2014 Sidewalk Assessment (6/19/2013)
City Council Resolution R-212590 – Sidewalk Maintenance Policy (2/6/1975)
City Council Policy 200-12 – Sidewalk Maintenance Policy (2/6/1975)
California Streets & Highways Code 5610-5618