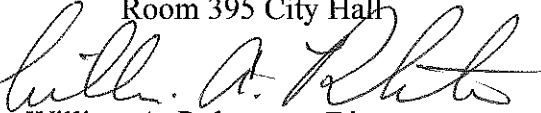


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: April 8, 2010

TO: Public Works and Budget and Finance Committees
of the Los Angeles City Council
Attn: Office of the City Clerk
Room 395 City Hall

FROM: 
William A. Robertson, Director
Bureau of Street Services

SUBJECT: Sidewalk Repair Options (C.F. 05-1853 and 05-1853-S1)

This report supersedes the previous Bureau of Street Services (BSS) report transmitted to the Public Works Committee, dated December 9, 2009. The recommendations and implementation plan have been adjusted in part due to the City's financial challenges and BSS' reduced workforce.

RECOMMENDATIONS

That the Public Works Committee:

1. Forward the attached City Attorney reports to the City Council, recommending adoption of the proposed Los Angeles Municipal Code change and associated California Environmental Quality Act finding.
2. Instruct the City Attorney's Office to incorporate into the attached report, to be forwarded to City Council, a revision of section 62.104 of the Los Angeles Municipal Code to increase the time required for adjoining property owners to commence the work of repair and/or reconstruction of sidewalks from "two weeks" to ninety (90) days.
3. Instruct BSS to devise a public outreach plan to notify and inform the City's property owners of this ordinance change.
4. Instruct BSS to implement a three-year Moratorium on its issuance of Notices to Repair Sidewalks to adjoining property owners. During this Moratorium, the Bureau will inform the public on how to respond to and comply with any subsequent Notices to Repair.
5. Instruct BSS to work with other City Departments, including the Planning Department and the Bureau of Engineering, to develop standards for sidewalk and parkway reconstruction and repair to ensure consistency and safety throughout the City's network of sidewalks.

BACKGROUND

The City is at a crossroad with regard to sidewalk construction, reconstruction, and repair. Previous reports under this Council File describe the magnitude of the problem in detail: over 40% of the system is estimated to be in disrepair (4,600 miles out of a total of 10,750 miles), exceeding a cost of \$1.2 billion. The City expended a total of nearly \$95 million from the General Fund from fiscal year 2000-01 through 2008-09 to reconstruct an estimated 550 miles of damaged sidewalk; yet, the amount of sidewalk damaged during this period of time is believed to have exceeded the amount corrected.

A Council Motion (Parks-Smith) was introduced in September of 2005, instructing BSS to work with other City Departments and outside stakeholders to develop recommendations for implementing a point-of-sale plan for fixing sidewalk, whereby damaged sidewalk would be required to be certified as safe before escrow closed on a property transaction.

Following initial investigation and research, BSS partnered with the USC Graduate School of Policy – Planning and Development to help develop viable options and a recommended alternative (see report on file dated May 2007). This study reinforced the feasibility of a point-of-sale program. In July of 2007, the City Council formally supported the concept of a point-of-sale program and instructed BSS to proceed with task force work. BSS solicited participation from all known affected City agencies and interested parties and formed four sub-committees to work on details associated with the Program Details, Workforce Development and Training, Legal issues, and Community and Business Outreach (Attachment 2 of the February 12, 2008 report on file includes the rosters for each sub-committee).

A comprehensive Point-of-Sale Implementation Plan, dated February 12, 2008, was then presented in a report to the Public Works Committee. After consideration, the Committee instructed BSS to develop alternatives other than point-of-sale; in particular, bonding, third party financing, and a risk/legal-based program. BSS did subsequently have discussions with the City Administrative Officer (CAO) - Debt Management and Risk Management Offices, as well as with the City Attorney's Office. BSS also reached out to a number of other Cities in an attempt to learn which policies may be working well and to find other policies that have not yet been assessed.

Momentum was re-ignited with the adopted City Budget for fiscal year 09-10, which calls for a point-of-sale program to be implemented. The four sub-committees were recently reorganized into two: a "Repair Policy Committee", chaired by the City Attorney's Office, and a "Finance Committee" chaired by the CAO. A list of eight potential options was narrowed down to five options. These all have broader support from the task force, particularly from the Real Estate Industry.

DISCUSSION

The Law and the City's *limited* exception

State Law (Improvement Act of 1911, aka California Streets and Highways Code – Division 7) and City Code (Los Angeles Municipal Code Section 62.104) already place the responsibility for sidewalk construction, reconstruction and repair on the adjoining property owner. However, in 1974, because of available federal funding, the City accepted responsibility for repairs to curbs, driveways or sidewalks required *as the result of tree root growth*. This limited exception is still effective today, despite the absence of funding.

Options Considered

The Sidewalk Repair Task Force has studied the following five options, including various combinations thereof, for implementing an effective Sidewalk Management Program for the City of Los Angeles:

1. "1911 Act" – Compliance

BSS investigators would be required to inspect sidewalk and cite property owners, directing that repairs be made in a prescribed period of time (LAMC 62.104 currently specifies two weeks; please see section below entitled Time For Repairs). The City would be required to make the necessary repairs (either through additional BSS construction resources and/or contractors) and assess the property owner in cases of non-compliance. The entire City would be covered in a time frame directly related to the resources allocated for the program.

2. Point-of-Service (or Sale) and Building Permits

"Point-Of-Service" would require the buyer of a property to obtain a Safe Sidewalk Certificate from BSS prior to utility connection, versus "Point-Of-Sale", which would require certification prior to the close of escrow. This effort would be combined with the requirement for a Safe Sidewalk Certificate to be obtained from BSS when any building permit is issued for repairs/improvements valued over \$20,000 (or other specified value).

3. Point-of-Service (or Sale) City-wide and "1911 Act" Compliance – Commercial Only

Although commercial property is primarily located in heavy pedestrian corridors, which should be a priority, commercial property is not transferred as often as residential property is transferred.

4. Point-of-Service (or Sale) and 50-50 Voluntary Sidewalk Repair Program

Challenges would include the question of providing City funds to help facilitate repairs that are the responsibility of private property owners and reserving these 50/50 City funds for property not pending or being considered for transfer.

5. "1911 Act" – Compliance Based on Liability Risks

The inspection and citation effort would be targeted at trip and fall claim locations and other known hazardous areas combined with a complaint driven effort.

Each of the five proposed options would require the adoption of an amending Ordinance, which would effectively place all sidewalk construction, reconstruction, and repair responsibility back on the adjoining property owners, regardless of the cause of the damage.

Please note that Benefit Assessment Districts, General Obligations Bonds and Third Party Financing were also assessed as options but were ultimately deemed infeasible due to lack of public support and/or logistical complexities.

Remove limited exception

In a report dated August 3, 2009 (City Attorney Report No. R09-0270), the City Attorney has transmitted a Draft Ordinance which would repeal the tree root growth exception, effectively eliminating City responsibility for repair of curbs, driveways and sidewalks damaged by any cause, including by tree root growth.

An accompanying City Attorney Report, dated August 14, 2009 (Report No. R09-0292), recommends

the adoption of a California Environmental Quality Act – Categorical Exemption Finding in conjunction with the LAMC amendment. Staff recommends that both City Attorney reports be forwarded for City Council and Mayor approval at this time. (See recommendation 1)

Time for repairs

Los Angeles Municipal Code Section 62.104 provides adjoining property owners, after being given a Notice to Repair, “two weeks” to commence the work of repair or reconstruction. BSS recommends that this provision be amended to provide adjoining property owners a more reasonable amount of time with which to commence the required repairs. Thus, staff recommends that the City Attorney’s Office be instructed to incorporate an additional revision of LAMC Section 62.104 to increase the time required for adjoining property owners to commence the work of repair and/or reconstruction of sidewalks from “two weeks” to ninety (90) days. (See recommendation 2)

Moratorium

For over 35 years, the City has had the responsibility for repair of sidewalk damaged by parkway tree root growth. As noted before, in 1974, the City assumed that responsibility in light of significant Federal funding. However, given that such funding no longer exists, proposals emerged to return that responsibility back to the adjoining property owners.

Because doing so would immediately shift a significant amount of responsibility back onto the adjoining property owners, staff recommends that Council couple the Ordinance Amendment with the implementation of a three-year Moratorium on the issuance of any Notices to Repair Sidewalks.

A moratorium on enforcement will allow for the following:

- Property owners to be notified of the change (See recommendation 3)
- Bureau of Street Services to inform the public on how to respond to and comply with Notices to Repair (See recommendation 4)
- Develop uniform standards for sidewalk and parkway reconstruction and repair (See recommendation 5)

BSS will report back to the appropriate City Council Committee after the first year with an update and additional recommendations including enforcement priorities and ideas for assisting property owners with compliance.

If you have any questions or if additional information is needed, please contact me or Assistant Director Ron Olive at (213) 847-3333.

Attachments

WAR:RRO:rr0

Desktop: sidewalk repair options report rev2