



Lawrence Association of Neighborhoods

March 6, 2018

Dear City Commissioners, City Manager and City Staff,

Lawrence Association of Neighborhoods stands firmly in opposition to the proposed sidewalk hazard repair program as it is presently written. Sidewalks, like other infrastructure, constitute a public good and as such should be similarly maintained and financed. The City of Lawrence has the latitude to implement a policy which spreads the cost of sidewalk repair equally among Lawrence citizens.

Staff has not been clearly directed to consider other funding options.

While staff has looked at some examples of solutions being used by other communities throughout the country, it has not engaged the public on this topic. The city has a mechanism for public feedback which could be used to gather input on alternative policies. In the interest of transparency, please consider clearly directing staff to use its polling system and have public forums to discuss alternate funding options.

The prioritization of property zones for inspection is arbitrary and ignores the importance of sidewalks in areas of high pedestrian traffic. If the city is truly concerned about liability issues disrepaired sidewalks create, priority should fall on areas with higher pedestrian use. Furthermore, if liability to the city is a legitimate concern the backlog of sidewalks previously identified as hazardous that remain unrepaired should be addressed regardless of geographical area. Beginning implementation of the proposed policy in an area with fewer and newer sidewalks suggests more concern with enforcement than public safety or liability.

The proposed policy is not currently or predictably funded.

Implementing this policy without the funding to provide for the cost-sharing program or the financial assistance program would be a disadvantage to the first targeted area. There are ways to address this problem. We request that staff and commissioners arrive at a clear long term solution to funding before the policy is adopted or implemented.

There is no clarification in the policy for brick sidewalks.

The maintenance of brick sidewalks seems like a low priority to some. Nevertheless it is reasonable and wise to have a clear plan for how the city will address them before the policy is approved. A year ago at the unveiling of this policy the City Manager acknowledged this shortcoming. Please, clearly direct staff to address this.

While a workable sidewalk policy is overdue, it must be carefully crafted to address the complexities that exist in our community. This policy, in its current form, presently has several problems and unanswered questions. Property owners, renters and taxpayers in every neighborhood in Lawrence expect that policies approved by the City Commission do not give an advantage to some citizens over others. Given the importance of this issue, LAN urges the City Commission to give further consideration to this policy, and to allow for public input and involvement as we move forward. Please do not approve Administrative Policy 117 as it is written now.

Respectfully,
Courtney Shipley, LAN Chair

From: [David Cronin](#)
To: [Bobbie Walthall](#)
Cc: [Brandon McGuire](#)
Subject: FW: Sidewalk Hazard Repair Program
Date: Monday, March 05, 2018 4:54:24 PM

FYI – correspondence for sidewalk agenda item.

David P. Cronin, P.E., City Engineer
Public Works Department - [City of Lawrence, KS](#)
PO Box 708, Lawrence, KS 66044
office: (785) 832-3130 | fax: (785) 832-3398

From: Leigh Keck [mailto:leighkeck@gmail.com]
Sent: Monday, March 5, 2018 4:25 PM
To: David Cronin <dcronin@lawrenceks.org>
Subject: Sidewalk Hazard Repair Program

Mr. Cronin,

As a homeowner who has received notification about my sidewalk, generated by a complaint from someone who lives on the side of the street that does not have a sidewalk, I think it is absurd that sidewalk repair is 100% placed on the homeowner. I understand that is state law, but state law also does not limit the city from covering repairs. Sidewalks are for the community, not for the property owner, and therefore cost of repair should be shared by the community.

As far as Administrative Policy 117 goes, I do appreciate the inclusion of a city facilitated bid process. Then homeowners at least have a starting point instead of just being overwhelmed by the whole process after receiving a vague letter. However, the policy should go further in financial assistance for property owners. I support the Livewell Lawrence Health Build Environment Work Group's stance that the costs to homeowners should be significantly off-set by city-generated funding. I would be much more willing to spend my money on sidewalk repairs (instead of a new dishwasher, a fence, foundation repair, a new shed, etc.) if it was offset through community funds. While I would obviously prefer the city pay for all repairs, I think a 50/50 cost share is a fair compromise.

Also, 60 days to get the sidewalk fixed after first being notified is not realistic. It is difficult enough to get bids in that time period, let alone for repairs to be made. I would recommend extending the dates for the 1st & 2nd notice and condemnation period.

Please take cost-sharing under consideration in your review of Administrative Policy 117. Not just for those meeting HUD guidelines, but for all property owners. I did not build the sidewalk in front of my house. I do not use the sidewalk in front of my house. I'm glad there is a sidewalk for community use, but I do not think it should entirely be my financial responsibility.

Thank you for your consideration,

Leigh Keck
2231 Barker Ave
Lawrence, KS 66046
[913.579.5192](tel:913.579.5192)

From: [Brandon McGuire](#)
To: [Tom Markus](#); drpatmcq@sunflower.com
Cc: [Charles Soules](#); [Diane Stoddard](#); [Casey Toomay](#); [Toni Wheeler](#); [City Commissioners Email](#)
Subject: RE: manhole covers in sidewalks
Date: Monday, March 05, 2018 9:51:00 AM

Thank you for your well-thought-out comments, Mary. I copied the City Commissioners so they are aware of the staff response as they read the emails they received from you. You certainly speak from experience and point to real examples where street trees and public infrastructure have led to heaves, deflections and other sidewalk defects. The proposed sidewalk hazard repair program was developed with that in mind and the staff recommends that the City repair those defects that are caused by street trees and public infrastructure (e.g. storm sewer inlets). This is the current practice, as you pointed out in your message. With the proposed program, we hope to see a more focused and proactive effort to address these defects and those that are the responsibility of the abutting property owners.

Regarding your second concern about property owners tearing out existing sidewalks, the City Code prohibits anyone from removing sidewalk exception for the purpose of repair or replacement.

Thanks again for your input, I hope this information helps.

Description: signature


Brandon McGuire, Assistant to the City Manager – BMcGuire@LawrenceKS.org
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From: Tom Markus
Sent: Monday, March 05, 2018 8:52 AM
To: drpatmcq@sunflower.com
Cc: Brandon McGuire <bmcguire@lawrenceks.org>; Charles Soules <csoules@lawrenceks.org>; Diane Stoddard <dstoddard@lawrenceks.org>; Casey Toomay <ctoomay@lawrenceks.org>; Toni Wheeler <twheeler@lawrenceks.org>
Subject: Re: manhole covers in sidewalks

Thanks for your comments. By cc. I am asking City staff to review your comments.

Sent from my iPhone

On Mar 5, 2018, at 8:31 AM, "drpatmcq@sunflower.com" <drpatmcq@sunflower.com> wrote:

[I sent this message to commission members, but I wanted to share it with you as well. I think our various neighborhoods have differing sidewalk issues, in part, because of the inconsistency in commission decisions over the years. My statement relates to a problem in the

original part of Prairie Meadows, a costly one that the City created that the proposed policy would bill homeowners for.]

When setting sidewalk maintenance policy please consider that the City created some of the problem in Prairie Meadows, and, thus, has some responsibility to fix it. Please also make sure in your policy that you are not inadvertently giving incentive for sidewalk destruction.

The City inserted manhole openings and other utility openings in sidewalks in parts of Prairie Meadows. In some cases, the shifts in infrastructure have created substantial drop offs: a current one measures three inches. One of those resulted in my crushed wrist, damaged teeth, cut head, two surgeries followed by rehab, loss of employment for a summer, and substantial pain and expense. It was a distortion that formed a ramp and then a drop off that sent me crashing into the Visiting Nurses hospice house flowerbed. (The City rushed to fix the walk at 26th and Atchison within 48 hours of my accident, so these spots can be repaired quickly when the City has an incentive to do so.) Additional damage in my neighborhood has occurred as a result of City tree planting choices too near sidewalks in the original part of PM as was the case opposite the Nurses house on 26th and Atchison.

My accident and the fact that I walk twice a day in my neighborhood causes me to support sidewalk repair, but the City created a substantial portion of what those of us walking in PM have to navigate daily, so responsibility for City-instigated damage should be incorporated into any policy.

A second concern as a daily walker: What is to keep a homeowner from removing a sidewalk instead of repairing it? I think specifically of one in our neighborhood that is gravel with a base material overlay. Given its length and the fact that the fellow owns a BobCat, it would be cheap and easy for him to dig it up and leave us walkers with one less path. He's seldom home and seldom uses his own sidewalk, given the layout of his property, but I and the numerous other PM walkers do: another reason to consider distributing the monetary responsibility rather than giving homeowners incentive to destroy our walks.

Mary Pat McQueeney

3012 Rimrock Dr. 66047

Lawrence Preservation Alliance

P.O. BOX 1073 LAWRENCE, KANSAS 66044

City Commissioners

March 4, 2018

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MARCI FRANCISCO
EMERITUS

Re: Administrative Policy No. 117
Sidewalk Repair

This policy was last heard by City Commission one year ago. The policy states that it applies to all property owners, and that its purpose is to provide guidance concerning the maintenance, inspection and repair of sidewalks in the City of Lawrence Kansas.

This policy can't possibly apply to all citizens, however, as it does not address owners who have brick sidewalks, or bluestone sidewalks, abutting their properties. On March 19, 2017, LPA sent a letter to staff and commissioners, and also provided testimony at the commission's public hearing on this matter. Staff appears to have taken no action on our concerns.

Like sidewalks made of concrete, some brick sidewalks are in good condition, some need repairs, and others need to be replaced. Some are within historic districts or abut properties listed on historic registers. What will staff's message to the public be in these situations? We see no direction given in this proposed policy.

The City has standards for concrete sidewalk repair, but do we have them for brick or bluestone? If the City has no written standard for brick sidewalk construction, we need to have one. A key part of the process in using brick is using the correct underlay material. This and a few other items need to be spelled out in the standard. Bluestone, a type of sandstone, is another material that needs to be addressed in the standard. This historic material, which was installed in slabs, does crack but rarely deflects. It is still available but the cost of new material is prohibitive. A specific standard for this material should be drafted that removes the least amount possible to maintain safety.

We believe staff should work with representatives of LPA, LAN, and HRC to prepare guidelines to use when brick or bluestone sidewalks are encountered, and add them to Policy No. 117 before City Commission approves it. If these issues are not anticipated and planned for beforehand, the repair program will make that omission painfully obvious to both staff and the public once it begins to be implemented.

Sincerely,


Dennis Brown
President



Lawrence
Preservation
Alliance

Serving Lawrence and Douglas County
www.lawrencepreservation.org

PedCo

Lawrence Pedestrian Coalition



February 22, 2018

Dear Mayor Boley and City Commissioners;

Many of the sidewalks in Lawrence are badly in need of repair. This is especially true in the city core and the older areas of town. In Lawrence and most of Kansas the repair of sidewalks is the responsibility of the adjacent property owner. The neglect that precipitated this state of disrepair resulted primarily from the current complaint-based protocol used to identify sidewalks in need of repair. The city receives relatively few sidewalk complaints, and as a result, repair is not required, and more and more sidewalks fall into dangerous disrepair. One can imagine why residents hesitate to complain about neighborhood sidewalks; they know the property owner and most likely neighbors up and down the block will be saddled with a costly repair, they don't trust the process to guarantee them anonymity, and they just don't want to initiate an unpleasant battle.

Because the sidewalks have been neglected for decades, the cost of repairing them has become significant. The most recent estimate by city staff places the cost of repair at \$6.2 million, with an additional \$3.2 million in ADA ramp installation. A number of advocacy groups (Lawrence Association of Neighborhoods, Lawrence Pedestrian Coalition, LiveWell Healthy Built Environments Workgroup, Sustainability Action Network, etc.) have called on the city to correct this situation in a way that changes how sidewalk ownership and the responsibility for maintaining them are determined.

These groups, and many Lawrence residents, believe the sidewalks to be shared infrastructure, like streets, sewer and water mains, storm sewers, and streetlights. They believe that since all Lawrence residents use the sidewalks, the cost of repair should be the responsibility of the entire community, not just a subgroup of property owners who happen to have a sidewalk running through their property.

The City Manager and City Commission have resisted all attempts to induce them to take over responsibility for repair of sidewalks. They cite the high cost of repair and shifting of legal liability for "trip and fall" lawsuits to the city as the primary reasons for resisting change. PedCo consulted the city attorney on the question of liability. Here was our question and her response:

QUESTION: If the City of Lawrence were to take over responsibility for sidewalk repair, would it be possible to phase in the shift in legal responsibility from the adjacent property owner to the city as the repairs are made? In other words, as the city repairs the sidewalks, it assumes liability for trip and fall lawsuits only after repairs have been made and the street declared compliant with code.

ANSWER: It may be possible for a city to assume responsibility for sidewalk maintenance in a phased approach, and thereby its liability for any injuries resulting from the City's maintenance may also be phased based upon the maintenance activities. I remain concerned that the public may be confused and assume once we undertake some maintenance that we are responsible for ALL sidewalks in the City. As you may know, the cost of defending a lawsuit (even when a party is not liable and the stated claim has no merit) can be time consuming and expensive. The City may be faced with defending claims for which the City has no liability even in a phased approach to sidewalk maintenance.

The Pedestrian Bicycle Issues Task Force researched sidewalk maintenance funding methods and in their final report listed three towns that have assumed responsibility for sidewalk repair and fund the repairs in three different ways. Ann Arbor, Michigan uses property taxes. Ithaca, New York conducted a referendum and charges an annual maintenance fee to residents based on lot type, determined by the

amount of foot traffic. Madison, Wisconsin has implemented a 50-50% cost share with property owners. The property owner has the option of paying in installments over five years. The report states that "City staff and the transportation commission can create an approach that will work here." We agree.

When the Task Force report suggested that the city implement a plan to fix the sidewalks, staff responded with an inspection-based program that was so riddled with flaws that the Commission refused to take action on it. That was almost a year ago, and in the meantime, our sidewalks continue to deteriorate.

We believe there is a public will to fund sidewalk repair in a way that shares the cost among all residents. In addition to the examples cited above, another method to fund repair would be an increase to the existing 5% utility excise tax on electricity and natural gas. The report of the Public Health Law Center concurs that this is a viable option. This report states:

Lawrence, Kansas could use a utility charge to raise revenue for the maintenance and repair of sidewalks either under its Home Rule authority, or under one of the exceptions to the Kansas statute that prohibits the implementation of an excise tax. A utility charge would be permissible under the Home Rule so long as the charge imposed is a fee.

Additionally, although Kansas law prohibits local governments from implementing an excise tax other than a retailer's sales tax and a compensating use tax, the legislature created five specific exceptions to the law. Four of the exceptions are not relevant to this issue. However, one exception allows a city to contract "with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility." Based on this exception, the City of Lawrence may be able to impose a utility charge regardless of whether it is a fee or an excise tax.

Such a fund could be designed to generate approximately \$1 million annually, which, if estimates are accurate, would repair all Lawrence sidewalks in seven years. Once our sidewalks are up to code, we could use the fund to begin closing sidewalk gaps created during the middle of the last century when city staff and commissioners allowed developers to avoid ordinances requiring sidewalk construction in new housing developments. In another ten to fifteen years we could have sidewalks on every street in Lawrence. From that point on the fund could be used to repair and upgrade non-motorized transportation infrastructure city-wide.

The new sidewalks could be bid collectively, installed by the winning contractor, and supervised by city staff, resulting in consistently high-quality, lowest cost, uniform sidewalks and ADA ramps. Once the system is complete and in good repair, costs for maintenance would fall significantly. We believe the residents of Lawrence will support a referendum on this fund if they were provided the costs and benefits.

It should not be the responsibility of community groups to research and suggest viable funding methods. This should be the responsibility of city staff. It is time for our elected representatives to recognize the failure of our current sidewalk maintenance policy, and adopt a sidewalk repair and replacement policy with equity as a key guiding principle, avoiding a disproportionate burden or benefit to groups of citizens.

Sincerely,
Gary Webber
Facilitator, Lawrence Pedestrian Coalition



February 22, 2018

Dear Mayor Boley and City Commissioners;

PedCo sees the following problems and unanswered questions in the Sidewalk Hazard Repair Program Administrative Policy:

- 1) In order to repair their sidewalks, property owners would need to assume the role of general contractor, a role few are equipped to take on. Property owners would need to:
 - a. determine whether grinding is an option for vertical separation, and if it is, find a contractor who offers this service,
 - b. if they want to retain their brick sidewalk, find a contractor who offers this service,
 - c. contact multiple contractors and arrange for estimates,
 - d. follow up repeatedly when estimates are slow to arrive,
 - e. investigate the reputation of each contractor,
 - f. negotiate a final price and start date,
 - g. become familiar with all relevant city codes,
 - h. follow the progress carefully and make certain all city codes are followed,
 - i. deal with slow progress or failure to appear when promised, and
 - j. deal with increases in the price due to unforeseen circumstances.

Hundreds of property owners would need to grapple with this challenging task. Instead of dealing with one contractor (city staff), contractors would need to repeat this process hundreds of times with property owners who are new to the process.

- 2) The cost-share component for homeowners with more than one sidewalk appears to pay for replacement with concrete only; there is no provision for brick sidewalks. This also appears to be true of the program to assist low-income homeowners. How will the issue of historic brick sidewalks be resolved? Will the homeowner eligible for either the cost-share or assistance be required to pay for the more costly brick option?
- 3) When property owners fail to repair as required by the policy, and their sidewalk is condemned and repaired by the city, will the city replace historic brick sidewalks with concrete? This would appear to be the case, although the policy is unclear.
- 4) Low-income homeowners seeking assistance must use the HUD procedure for establishing eligibility. Would this process be onerous? Could they get help from the city if the process is challenging?
- 5) Where will the funding come from for:
 - a. Repair of sidewalks that are the responsibility of the city,
 - b. Cost -sharing for homeowners with more than one sidewalk, and
 - c. Assistance for low-income homeowners.

The Administrative Policy states that “The City Manager will recommend with the annual City budget/CIP, appropriate funding” for the city’s responsibility, the cost-share component, and the financial assistance component. Will appropriate funding be funds the city has designated for improving pedestrian/bicycle infrastructure? If so, it is quite possible that most or all ped/bike funds for the next 8 years could go solely toward sidewalk repair. This is certainly not what advocates for increased funding of improvements to ped/bike infrastructure have been demanding for many years.

If the Sidewalk Hazard Repair Program Administrative Policy is to be used as a starting point, we ask that it be amended to:

- 1) guarantee the city bid price is available to **all** property owners,
- 2) identify adequate funds to guarantee that **all** HUD-qualified homeowners can get assistance to cover the **entire** cost of repair,
- 3) identify adequate funds to guarantee that **all** homeowners with more than one sidewalk receive city cost-share to cover the **entire** cost of the additional sidewalk,
- 4) clarify how the city will repair brick sidewalks that are adjacent to city property, are damaged by city infrastructure, or are funded by cost-share and HUD-qualified assistance. Brick sidewalks have never been mentioned in any policies developed by staff,
- 5) provide help upon request to applicants for HUD-qualified assistance to make certain they are able to complete the paperwork and provide documentation required to qualify, and
- 6) identify the funds that will be used to pay for;
 - a. repair of sidewalks that are the responsibility of the city,
 - b. cost sharing for homeowners with more than one sidewalk, and
 - c. assistance for low-income homeowners,

Funding for these repairs must not come from our hard-won bike/ped infrastructure funds.

Thank you for your hard work on this important issue,
Gary Webber
Facilitator, Lawrence Pedestrian Coalition

February 20, 2018

Honorable Stuart Boley
6 East 6th Street
Lawrence, KS 66044

Re: Proposed Administrative Policy No. 117

Good sidewalks promote the public health, safety and welfare. The Lawrence-Douglas County Board of Health has reviewed the proposed City of Lawrence Administrative Policy No. 117, Sidewalk Hazard Repair Program, and found that it advances progress toward the community's public health goals.

Sincerely,



Shaun Musick, Chair
Lawrence-Douglas County Health Board

Cc: Tom Markus, City Manager



Lawrence-Douglas County
Health Department



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