



# Council Communication

Office of the City Manager

Date

August 21, 2006

Agenda Item No. 60  
Roll Call No. 06-  
Communication No. 06-530  
Submitted by: Jeb E. Brewer, P.E.  
City Engineer

## AGENDA HEADING:

Approving revised assessment policy for new sidewalk construction.

## SYNOPSIS:

At recent meetings, the City Council had discussions regarding construction and assessment of sidewalks on arterial streets. The Engineering Department was asked to review the current special assessment policy regarding sidewalks and make recommendations. Staff from the City Manager's Office, Engineering, and Legal Departments met to discuss the sidewalk assessment policy. A proposed policy was sent to the Council on March 20, 2006, for review and comment. This recommendation incorporates that feedback and details a new sidewalk assessment policy.

### Proposed Assessment Policy for New Sidewalk Construction

Construction of new sidewalk, on one side or both sides of the street, shall be assessed to the abutting property owners on a front foot basis. The abutting property is assessed only for the actual sidewalk (4" and 6" at driveways) fronting the property. Sidewalks at intersections that do not abut private property are constructed at City cost. The property owner will be assessed for only 50% of the actual sidewalk construction costs plus a maximum of 10% engineering costs. The City of Des Moines will pay for the cost of grading, wall construction, tree removal, reconstruction of driveway approaches where necessary, right-of-way and easement costs, and engineering costs over 10% of the construction costs. A subsidy program will be available for residential property owners meeting income guidelines, which will pay 100% of the sidewalk assessment for qualifying property owners.

The same exceptions will apply on the new program as on the current sidewalk program being:

- Multipurpose recreational trails are not assessed.
- If a sidewalk is constructed on a project utilizing federal funds or other non-City sources, the remaining cost of the sidewalk is not assessed to the abutting property owners.
- If a sidewalk is constructed as part of a streetscape project such as the Locust Streetscape project, the abutting property owners are not assessed
- If there are special circumstances such as a major construction project where the sidewalk is an incidental item, or at the direction of the City Council, the special assessments may be reduced or eliminated.

## FISCAL IMPACT:

Amount: The City costs, or City participation in the assessment schedules, will increase, as the City will be paying for a larger percentage of the costs associated with new sidewalk construction as detailed in the comparison of the existing and proposed sidewalk assessment policies below.

Funding Source: The additional City cost would need to be budgeted in future Capital Improvements Program.

### **ADDITIONAL INFORMATION:**

The Engineering Department has reviewed the current special assessment policy regarding sidewalks and the history associated with the policy. The following is a recap of the current policy, previous Council actions, and policies, and comparisons of the current and proposed policies.

#### **Existing Sidewalk Assessment Policy for Construction of New Sidewalk**

The City of Des Moines' current policy for assessment of new sidewalk construction is that the abutting property owner is assessed for 100% of the sidewalk pavement construction only, plus a maximum of 10% of the construction costs for engineering services provided. The City of Des Moines pays the cost associated with construction for grading, construction of walls, tree removals, reconstruction of drive approaches, acquisition costs associated with right-of-way or easements necessary for the construction, and engineering costs that exceed 10% of the contract construction costs. The City of Des Moines does have a special assessment subsidy program for construction of new sidewalks that would pay 100% of the special assessment for residential property owners that meet the income guidelines.

There are exceptions to this existing policy where the property owners are not assessed for 100% of the pavement construction of new sidewalks including the following:

- The abutting property owners of sidewalks constructed on safe school routes are only assessed 50% of the normal amount to be assessed for the sidewalk construction items only.
- Multipurpose recreational trails are not assessed.
- If a sidewalk is constructed on a project utilizing federal funds or other non-City sources, the remaining cost of the sidewalk is not assessed to the abutting property owners.
- If a sidewalk is constructed as part of a streetscape project such as the Locust Streetscape project, the abutting property owners are not assessed.
- If there are special circumstances such as a major construction project where the sidewalk is an incidental item, or at the direction of the City Council, the special assessments may be reduced or eliminated.

#### **Sidewalk Construction on One Side of the Street with Both Sides Assessed**

In the past, the City Council has considered a policy whereby the property owners on both sides of the street would be assessed for sidewalk construction only on one side of the street. In 1981, the Engineering and Legal Departments prepared a policy for Council consideration on this method of assessment. Under Roll Call No. 2103, dated April 27, 1981, the City Council reviewed and considered a communication from the City Solicitor regarding the guidelines to be followed in assessing residential property owners on both sides of the street for a sidewalk constructed only on one side of the street. This policy was continued for several Council meetings but was not adopted. The City Solicitor who wrote the opinion cautioned Council on its use and to expect assessment appeals from property owners. The policy statement had five criteria to be followed to determine when it was appropriate to assess using this method and stated that property owners on both sides of the street shall be assessed on a proportional basis at the same assessment rate. The Solicitor's opinion further stated that Section 364.12 of the Iowa Code provides that the abutting property owner is solely responsible for snow removal and repair and maintenance of the sidewalk once constructed. The proposed policy effectively created very few

situations where the opposite side could be assessed any significant amount. This policy was not adopted and has never been utilized for construction of new sidewalk.

### **Comparison of Existing and Proposed Sidewalk Assessment Policy**

The basic difference between the proposed policy and the existing policy is the reduction from 100% of the sidewalk costs on some properties, to 50% of the sidewalk costs to be assessed on all residential sidewalks. Currently if a residential property is on a safe school sidewalk route, the property owner only pays 50% of the sidewalk costs. The new policy would make the cost to the property owner the same on a residential street as a school sidewalk route street; and would also apply to arterial and collector streets thereby making the costs of the sidewalk uniform regardless of where the sidewalk is constructed. Staff does not recommend adoption of a policy to assess both sides of a street for sidewalks only constructed on one side of the street. The proposed policy of only assessing 50% of the sidewalk construction to the abutting property owner would have the same affect from a cost standpoint as assessing the property owners on both sides of the street for construction of sidewalk only on one side of the street, except that instead of the property owners on the opposite side of the street paying approximately 50% of the cost, the City of Des Moines would pay that 50%. This policy would eliminate the potential for challenges in court of special assessments, if the City would assess both sides for sidewalk constructed only on one side. This policy would also apply to arterial streets such as Fleur Drive and S.E. 14<sup>th</sup> Street where the property owners abutting the sidewalk construction would be assessed for 50% of the actual sidewalk construction. This policy would make the sidewalk construction affordable to most property owners and provide some revenue to the City of Des Moines to offset the cost of sidewalk construction.

Engineering staff has researched four recent years of sidewalk construction data to determine the additional City of Des Moines cost associated with the proposed 50% Assessed Policy. Tabulated below are the sidewalks constructed and the associated cost and length of sidewalk constructed. There wasn't any sidewalk constructed in 2004. The additional City of Des Moines cost for the proposed 2006 construction plus the actual 2005 and 2003 sidewalk construction is \$43,947.89 for 4,847.4 linear feet of sidewalk constructed; or a 3-year average of approximately \$14,650 in additional cost annually for 1615 linear feet of sidewalk. Note that these numbers do not include SW 15<sup>th</sup> Street from Geil Avenue to Havens Avenue which was deleted by Council from the program; however, the information is shown below for reference. SW 15<sup>th</sup> Street is a Designated School Route and the assessments were reduced to 50 % in accordance with current adopted Council Policy.

**2006 Construction.** The following streets will have sidewalk constructed in Summer 2006. The total additional cost to the City of Des Moines would be \$8,178.35 based on preliminary assessment estimates under the proposed new policy of 50% assessed sidewalk construction.

#### **Shriver Avenue – 5600 Block**

- 185 linear feet of sidewalk on one side of street
- \$3,577.94 assessed under current 100% assessed policy with City cost of \$600.00.
- \$1,788.97 would have been assessed under the new 50% assessment policy with additional City cost of \$1,788.97.

#### **M. L/ King, Jr. Parkway 3600/3700 Block**

- 151 linear feet of sidewalk on one side of street
- \$3,238.75 assessed under current 100% assessed policy with City cost of \$8,262.00.
- \$1,619.36 would have been assessed under the new 50% assessment policy with additional City cost of \$1,619.39.

SW 60<sup>th</sup> Street from Muskogee Avenue to Dead End South

- 463.88 linear feet of sidewalk on both sides of street
- \$9,539.99 assessed under current 100% assessed policy with City cost of \$4,140.01.
- \$4,770.00 would have been assessed under the new 50% assessment policy with additional City cost of \$4,769.99.

**2005 Construction.** The following streets have sidewalk that was constructed in Summer 2005. The total additional cost to the City of Des Moines would be \$9,403.20 based on actual final assessment costs under the proposed new policy of 50% assessed sidewalk construction.

McKinley Avenue from Fleur to 920' East

- 680 linear feet of sidewalk on one side of street
- \$18,806.40 assessed under current 100% assessed policy with City cost of \$19,911.80.
- \$9,403.20 would have been assessed under the new 50% assessment policy with additional City cost of \$9,403.20.

The following street sidewalk was proposed for construction in Summer 2005; however, was deleted by Council at the hearing on the Resolution of Necessity, and is shown for information only. The total additional cost to the City of Des Moines would be \$0.00 based on preliminary assessment estimates under the proposed new policy of 50% assessed sidewalk construction as SW 15<sup>th</sup> Street is a Designated School Route and the assessments were reduced to 50 % in accordance with current adopted Council Policy.

SW 15<sup>th</sup> Street form Geil Avenue to Havens Avenue

- 3,016.1 linear feet of sidewalk on one side of street
- \$29,746.10 assessed under current 50% assessed policy for Designated School Routes with City cost of \$42,644.69.
- \$29,746.10 (No change) in assessments under the new 50% assessment policy with additional City cost of \$0.00 (No Change). The City of Des Moines would have paid \$29,746.10 under current 50% assessed policy for Designated School Routes.

**2004 Construction.** There wasn't any sidewalk constructed in the summer of 2004.

**2003 Construction.** The following streets have sidewalk that was constructed in Summer 2003. The total additional cost to the City of Des Moines would be \$26,366.34 based on actual final assessment costs under the proposed new policy of 50% assessed sidewalk construction.

SE 8<sup>th</sup> Street from E Watrous Avenue to E Miller Avenue

- 1,351.49 linear feet of sidewalk on one side of street
- \$22,610.67 assessed under current 100% assessed policy with City cost of \$19,153.23
- \$11,305.34 would have been assessed under the new 50% assessment policy with additional City cost of \$11,305.33.

SE 14<sup>th</sup> Street from E Thornton Avenue to E McKinley Avenue

- 2,016.03 linear feet of sidewalk on one side of street
- \$30,122.01 assessed under current 100% assessed policy with City cost of \$62,822.93
- \$15,061.00 would have been assessed under the new 50% assessment policy with additional City cost of \$15,061.01.

**PREVIOUS COUNCIL ACTION(S): NONE**

Date: April 27, 1981

Roll Call Number: 81-2103

Action: Communication from the City Solicitor regarding the guidelines to be followed in assessing residential property owners on both sides of the street for a sidewalk constructed only on one side of the street.

**BOARD/COMMISSION ACTION(S): NONE**

Date:

Roll Call Number:

Action:

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**