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Sidewalk maintenance falls to Lafayette residents

By Pippa Fisher



A curbside in Lafayette, which owners must maintain. Photo P. Fisher

To what extent, if any, are property owners responsible for repairs to the sidewalk, defined as the area between the property line and the street line, whether or not it has a sidewalk or parking strip, gutter or curb?

That was the sticky issue the Lafayette City Council dealt with Feb. 27, with the subject continuing from the previous city meeting. City staff offered several options for proceeding with the issue of frontage maintenance.

Currently sidewalks are the owner's responsibility per Section 8-123 of the Lafayette Municipal Code, established in 1996.

The council heard from Matt Luttropp, senior engineer for Lafayette. He presented five options, ranging from option 1, continuing the policy "as is" to option 5, totally eliminating Section 8-123, whereby the city would pay all costs.

In between those extremes he outlined option 2, which, he explained, would be to amend the code to require property owners to maintain their frontage improvements only when a sidewalk exists, as is the case in Orinda. Since Lafayette has few sidewalks this

would be estimated to require an additional \$188,000. Also it would impact the Public Works Department to the tune of an estimated \$30,000 annually.

Option 3 would be similar to the previous option obliging the homeowner to pay for repairs but only in cases where a hazard caused by the owner is evident, such as is the practice in Moraga and Pleasant Hill. This option raises potential questions about the burden of proof of the reason for damage.

Option 4 would amend the LMC to reflect a sharing of the costs between city and owner. This potentially raises the perception of inequity.

As at the previous city meeting, several residents made their dissatisfaction with city's policy clear. Addressing the staff's concerns that residents would demand refunds for past work they had to pay for should the code now be amended, Lafayette resident John Sallay gave the example of paying a fine for speeding and suggested that the offender could not be asking for a refund of his speeding fine if the speed limit law were subsequently changed. Additionally, he repeated his accusation that the city is "double taxing." While many cities do have similar policies to Lafayette's, he said, not all do and there is no need for this council to follow like sheep.

Karl Schaarschmidt, a retired civil engineer and local resident, made the practical point that the curb and gutter is part of the roadway and should be built together as one unit to ensure even wear and integrity.

Council members Ivor Samson and Mark Mitchell were both in favor of option 3. Both acknowledged a need to look at an appeal process and how to compensate previous residents who have paid.

However, Vice Mayor Don Tatzin made the point that these rules reflect what residents wanted back in 1996 when bonds were passed and an effective plan for road reconstruction was put in place.

Council member Cam Burks echoed the sentiment that in the interest of equity it is unfair to change rules now since by 2019 all failed roads in Lafayette will have been addressed. He voiced concerns over taking the city to another level of bureaucracy regarding appeals that would accompany option 3 and felt it was fair to leave it as it is to avoid fiscal burden on the city.

Mayor Mike Anderson said that he would recommend "staying the course" and consider amending the code later if necessary.

In the end the staff recommendation to continue current policy was carried by three votes from Anderson, Tatzin and Burks to two against from Samson and Mitchell, with a recommendation to look at the matter again after road construction is complete in 2019.

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