



**COMMUNITY ASSET MANAGEMENT PROGRAM COMMITTEE
(CAMP)**

**SPECIAL MEETING
CIVIC CENTER LIBRARY
1188 S. LIVERMORE AVENUE
6:00 p.m.**

**Wednesday, March 27, 2019
Minutes**

1. CALL TO ORDER

The meeting was called to order by Chair Susan Frost at 6:05 p.m. at the Civic Center Library, 1188 S. Livermore Avenue, Livermore, California.

2. ROLL CALL

Committee Members Chair Susan Frost
 Vice Chair Bob Dashner
 Regina Bonanno
 Jennifer Estridge
 Jan Evans
 Paul Foster
 Gordon Jones
 Jennifer Yeamans

Staff Present Debbie Bell – Management Analyst
 Darren Greenwood – Public Works Director
 Cheri Sheets – City Engineer
 Kim Cilley – Assistant City Attorney
 Carlo Sendaydiego – Senior Transportation Engineer
 Janet Hamilton – Risk Manager
 Jeff Shafer – Maintenance and Golf Operations
 Manager
 Joe Prime – Public Works Supervisor
 Kathy Hughes – Administrative Assistant

3. PUBLIC COMMENT

Nothing to report.

4. **APPROVAL OF MINUTES**

ON A MOTION BY MEMBER BONANNO, SECONDED BY MEMBER YEAMANS, CARRIED ON A 8-0 VOTE, THE JANUARY MINUTES WERE APPROVED AS SUBMITTED.

5. **NEW BUSINESS**

- 5.01 **Asset Management – Sidewalks and Street Trees** – Debbie Bell explained how the meeting would progress. She would start with a presentation to the CAMP Committee. This would be followed up with CAMP questions and answers to Staff. Next would be Public Comments. Debbie asked that anyone who wished to speak to the committee please fill out a speaker card. After Public Comments, the CAMP Committee would discuss the issue and take action. Staff would then summarize the next steps for Asset Management.

Staff Presentation

Debbie Bell gave a presentation on Sidewalks and Street Trees. She explained that the City has over \$3 billion in assets and would need to spend \$40 million a year to fully fund the rehabilitation and replacement of all assets. She explained that if the City continues to spend \$10 million per year for maintenance as it is currently doing, in 30 years there will be a \$600 million backlog and that approximately 25% of the City's assets will have failed. She explained how the Asset Management Program was created to help address these issues.

Debbie then briefly went over the City Council's past actions and direction. She said that Council eliminated the sidewalk subsidy program in June of 2018, and directed staff to simplify the process to remove street trees causing sidewalk defects and clarify liability for sidewalk defects. In November 2018, Council directed staff to clarify details of the proposed ordinances and conduct additional public outreach.

Debbie explained that the City of Livermore has always required the adjacent property owner maintain the sidewalks (per California Streets and Highways Code). She explained that the proposed ordinance would state that the adjacent property owner is responsible for sidewalk maintenance and liability adjacent to their front and side yards, and that the City would maintain sidewalks adjacent to City property and at backing lots and pedestrian access ramps.

Debbie then gave a brief overview of the criteria of when a sidewalk would need to be repaired, and the multiple methods of repairs allowed.

Debbie then spoke about the current policies and practices regarding street trees, saying that the Livermore Municipal Code requires adjacent property owners to maintain adjacent street trees. She also mentioned that the current code does not allow for removal of street trees causing sidewalk defects. She explained that the proposed ordinance will continue to require adjacent property owners to maintain street trees in their front and side yards. The proposed changes include:

- The definition of a street tree
- Adds the ability to remove street trees that are causing sidewalk damage (unless pruning or other control measures can help)
- Allows the City to maintain a street tree that is causing a hazard and charge the property owner if they refuse to complete the work.
- Adds replanting requirements.
- Adds fines for non-compliance.
- Requires new or 50% valuation improved lots to irrigate existing adjacent landscape areas.

Debbie then went over the proposed Street Tree replanting policy. They include:

- Plant a 15-gallon replacement and pay \$100 to the Urban Forestry Fund per tree removed.
- If there is no suitable location to replant, the City will recommend another visible location. If no other location on the property is acceptable, a payment of \$200 to the Urban Forestry Fund will be required for each tree removed.
- Replacement trees will be recommended by the City Arborist and will be required to be replanted within 120 days of removal.
- If four or more street trees are requested to be removed per property, it will be referred to the Community Development Department.

Camp Q/A to Staff

Bob Dashner asked staff what other towns and cities in the surrounding area require property owners to maintain the sidewalks. Debbie listed several cities, including San Jose, Vacaville, Fremont, Antioch, Dublin, Concord, and Santa Rosa that require the property owner maintain and replace the sidewalks.

Jennifer Estridge asked what percentage of the sidewalk were homeowners responsible to maintain prior to the subsidy being approved in 1988. Debbie said that prior to the subsidy, homeowners were responsible for 100% of the maintenance and replacement.

Regina Bonanno asked if there could be a program to give out replacement trees free of charge to residents. Debbie said that staff will include that suggestion in its recommendations when the item goes back to Council. Regina also asked what other cities have this detailed of an Asset Management program in place. Debbie said San Francisco and Palo Alto were working on programs, and Chula Vista passed a bond

measure.

Bob Dashner said that he looked at his own insurance policy to see if it would cover the liability, and he didn't see any specific information to the contrary.

Public Comment

Residents who filled out speaker cards were given three minutes each to speak on the issue.

Randy Kirchner – Older people will have a problem paying for sidewalk replacement, and said the City should keep the responsibility of repairs. Because of “past practice,” the City owns the sidewalks and it should remain the City's responsibility. He also suggested having a special tax on the next ballot, and sending a letter to every homeowner informing them of the proposed changes.

Tom Jefferson – He heard about the meeting by being invited via email. He previously spoke at Council and said that the municipal code defines “street tree” as any plant, flower or shrub. That would mean residents would need permission to remove flowers or shrubs in the right of way. He said it's hard to trust the people writing the ordinance if they don't read it. He also said there is nothing in the ordinance that requires you to replant.

Arthur Palmer – He agree with last two speakers. Asked what the City was doing for him, where the money is being budgeted and where it is actually being used.

Ken Bradley – Without the ordinance the City would be devoid of trees. He thinks a trip and fall lawsuit could bankrupt a homeowner. He said the subsidy was taken away but property taxes weren't lowered. He said he's against the proposed changes.

Brent Siler – The City is spending millions downtown but can't afford to repair sidewalks. He said that staff stated they are following the Streets and Highways Code, but case law says that if there is damage that homeowner did not create, then they are not liable for the repairs. He said the City cannot create a law that gets them out of tort action. He said that if the homeowner did not create or cause the damage, they don't have a duty to repair it.

John Allen – He is a lifelong resident that loves trees but is against the proposed changes. He said it is unaffordable for the entire community and that it is unfair to pick a subset of the population and make them pay for the repairs.

Madeline – She agrees with the need to maintain infrastructure. If a lien is put on a homeowner's property for non-compliance, it will be put on their credit report and can stay on it for up to five years. The issue is fairness and the burden should be equally distributed to everyone. She said her insurance policy does not cover sidewalk liability. She said she planted a tree from a list given to her by a City Arborist, and the tree has

already outgrown the planting site. She said arborists should take more care in what they recommend. She asked if there was a list of Cities that have not transferred liability to property owners.

Barbara J. Hill – She called the City in May of 2018 to report a lifted sidewalk in front of her home and has had no response. She said she's scared her insurance does not cover liability.

Ruthann Kirchner – The City has found a way to not have to maintain the sidewalks by passing the cost on to the homeowners. She tripped and called the City who said it is the property owner's responsibility to maintain. She has seen the sidewalks deteriorate over the last 30 years and cannot afford the liability, and might have to move.

Henry Reinstein – He is a 20 year resident. He called his insurance company regarding liability and they could not give him an answer. He said it needs to be addressed in the ordinance. He also asked if you can insure something that you don't own.

Hans Telm – He moved here from Pleasanton, and said that Pleasanton has a massive program to pay for sidewalks. He pays \$700 for the LMD on his property taxes and is on a fixed income. He has reported an uplifted sidewalk in front of his home from tree roots, and nothing has been done about it.

Jay Irish – He is a 26 year resident. He doesn't think it is right to require business owners who are making a 50% improvement to add irrigation on the lot next door just because there is a shortfall of money. He said that years ago the city told people what they need and now the City wants to change everything. He thinks this is extortion and disagrees with the proposed changes. He promised to vote out any Council member that votes to approve them. He suggested creating new revenue by allowing more marijuana sales.

Pam Irish – She asked how the Council could take away a subsidy that was voted in by the residents. She said residents were told that the outlet malls and the downtown theater would generate money to pay for these things. She said her responsibility ends where her property lines ends, and said it's unfair to people who have corner lots because their sidewalk is three times that of their closest neighbors. The City needs to find another way to earn the money for repairs, and said the residents will be watching the Council closely.

Jeanette A. – Resident's questions are not being answered. She asked who would be responsible for repairs to the utility boxes in the sidewalks, and the ADA ramps. She asked how much this would save the City. She said she believes there is inequality in the proposal because she lives on a corner lot near a school. She said replacement trees are inexpensive and that she is against the proposed changes.

George Pavel – In Paraguay, homeowners are responsible for sidewalks, and the results are not good. He is a 30 year resident and he does not want the proposed

changes passed.

Tim – He said it is absurd that the homeowners will be responsible for repairs. He asked if the City holds businesses liable for the sidewalks that front them. He wants to know how long the City has been saving money, where it went, and how long has the City known sidewalks are a big problem? He asked what does the \$40 million include and what is the 8%? He asked how the City defines liability. He is not in favor of the changes and asked where it will all stop.

Don J. – He is a 20 year resident. He said if the ordinance passes, Livermore will look like San Francisco because of all the small replacement trees. He said he's tired of paying for things and not getting anything for it. He said he has two 50-year elms that are lifting the sidewalk but he'll fix it because he loves trees. He said he lives in the downtown district but hasn't seen much maintenance. The City has spent a lot of money on the downtown, and putting the liability on the homeowners is ridiculous.

Rebecca Ferris – She lives in a 92 year old home, and did not plant the trees. She called the City and was given a list of trees to plant as replacements. She took the list to Alden Lane as was told every tree on the list is invasive. She has seen many dead trees throughout the City and they will eventually fall because the City isn't doing anything about them. She said that because it's now an issue, the City wants to dump the responsibility onto the homeowners. She will fight if she has to. She said she has heard the Asset Management message but believes things wouldn't be in as bad shape as they are now if something was done about it long ago. She also thinks that the money being requested for the removal of trees should be put into a fund to help those that can't afford the costs.

Tristan Pico – She said there used to be a program where the City would give away up to five trees per lot, and asked if it could be brought back. She objected to taking away the subsidy over the citizen's will. She doesn't think it's fair to put liability on the residents. She believes the City needs to address deferred maintenance.

Anna Cerri – She is a 10 year resident and thinks putting the liability on the homeowner will bring frivolous lawsuits to individuals. Using liens and fines sets an adversarial tone between residents and the City and makes it feel like a punishment.

Ed – Moved here in 1985, and says that if he's responsible for the sidewalk, then it belongs to him. He maintains what he owns, not what the City owns. The City planted the trees that are causing the problem. If the City transfers the sidewalks to the homeowner, they should be in pristine condition first.

CAMP Discussion/Action

Darren Greenwood explained that in 1988, Livermore voters approved a measure that permitted the City to assist private property owners in their sidewalk repair obligations by expending "surplus funds" on a 50% subsidy for sidewalk repairs (along with other

projects). These funds were depleted in the early 1990's, at which time the City chose to redirect General Fund dollars to continue the subsidy. In 2007, the City Council approved a reduction in this subsidy to 25% and in 2018, the City Council eliminated the subsidy. He explained that by cutting the program, the City is saving \$300,000 per year, but should be putting away \$1.7 million a year for sidewalk repairs.

Susan Frost asked where would the City be if the ordinance is not amended, how is it handled in the downtown area, and what happened to people on the sidewalk repair waiting list. Debbie Bell said that under the current ordinance, homeowners are not allowed to remove street trees that are causing sidewalk damage. She said that the Downtown LMD funds portions of the downtown sidewalk repairs, and portions are the City's responsibility. She said the people on the sidewalk repair waiting list were given a set amount of time to have their repairs done in order to be eligible for the 25% reimbursement.

Kim Cilley said the Streets and Highways code sets the tone for the ordinance, and that Livermore gives more time to comply than the code does. She said the goal is to achieve voluntary compliance, and make the sidewalks safe. She said that if someone else damages the sidewalk (PG&E, Livermore Sanitation), they would be responsible for the repairs. She said the ordinance provides a portion of liability between the City and the homeowners, and that the process is already in place.

Jennifer Yeamans said that Livermore has 90,000 residents and she wished that there could be a perfect solution for everyone. She suggested it would be helpful if the issue of liability had its own discussion.

Janet Hamilton said that the reason insurance companies state they won't pay is because they first ask if there is an ordinance in place. If there is, they will pay.

Regina Bonanno agreed with Jennifer Yeamans and said the issue of liability needs to be articulated better. She said the City has had public outreach on Asset Management at Farmer's Markets and on Facebook and the City website. She said the CAMP Committee has been meeting for three years and has never had a member of the public attend a meeting. She mentioned there is good information on the website regarding Asset Management. She said that the Committee has had three years to go over all the data and see each section as part of the bigger picture. She said that there are good resources available online for residents to see where the money goes.

Jennifer Estridge agreed with the liability issue questions and would like more information.

Gordon Jones asked how much revenue is brought in from the outlet malls. He also suggested getting endorsements for the types of tree replacements from Alden Lane Nursery.

Jan Evans thanked the residents for attending.

No motions were made and there will be further discussion on liability and other issues. The Committee members can contact staff for any other items they feel need clarification.

5.02 **Next Steps for Asset Management** – Due to time constraints, this item was postponed to a future CAMP meeting.

6. **ADJOURNMENT**

THE MEETING WAS ADJOURNED AT 8:01 PM TO A REGULAR CAMP MEETING ON MONDAY, APRIL 15, 2019 at 6:00 p.m.