



CITY OF HAGERSTOWN, MARYLAND

Department of Engineering & Code Administration
Rodney Tissue, City Engineer

January 28, 2010

TO: Bruce Zimmerman, City Administrator
FROM: Rodney Tissue, City Engineer *ROD*
RE: Sidewalk Task Force Report

1. Background

In June 2009, the City Council approved the creation of a Sidewalk Task Force. Although the Task Force discussed many issues and ideas related to the maintenance and replacement of curbs and sidewalks throughout the City, the Council specifically directed the Task Force to consider if the City should take over the responsibility of replacing curbs and sidewalks, and possible financing of such a program. Attached you will find the recommendations from the Task Force for your review.

2. Mayor & Council Action Requested

The Task Force wishes to present their findings after studying the curb and sidewalk replacement issue in great detail. The specific recommendations are attached and the Task Force and staff would request that Council consider them and authorize staff to implement the recommendations.

3. Task Force Membership

The Task Force consisted of the following members:

Joe Marschner, Chairman
Michael Stanford
Joe Caha
Scott Frazier
Larry Wisherd
Mary McPherson (Washington County Health Department)

The Task Force met nine times, minutes are available from the meetings.

Staff looks forward to reviewing this matter with the Mayor & Council at their next workshop.

Attachment: Recommendations from the Task Force

RAT:jj

c: Task Force members
Mark Boyer
Jim Bender

Final Recommendations to Hagerstown City Council

1. The Task Force recommends that the City of Hagerstown should not resolve to take responsibility for the repair or maintenance of sidewalks in the City. The Task Force feels that sidewalk repair and maintenance should remain the responsibility of the adjoining property owner.
 - Having the City assume the repair of curbs and sidewalks is cost prohibitive in the present tax structure. However, the task force feels that curbs and sidewalks are each separate and unique systems, and should be considered separately. Therefore, the Task Force recommends the following:
 - Sidewalk Responsibility
 - a. Assumption of total sidewalk responsibility by the City would be cost prohibitive and open myriad problems and conditions which are better controlled by property owners responsible for sidewalks.
 - Curb Responsibility
 - a. The consensus of the Task Force is that curb replacement, where required, should be considered an integral part of the storm water management collection systems.
 - b. The costs of curb replacement are estimated at approximately 40% of the total costs of “sidewalk plus curb” replacement assuming a standard 5 foot sidewalk.
2. Based upon research by the City Attorney, it is likely that any “Curb and Sidewalk Fee” created by the City would be ruled to be a tax, and therefore unconstitutional. The City would have to seek enabling legislation from the State to impose such a fee. However, if the City moved to take over responsibility of curb systems as a part of the stormwater management system, a stormwater fee could be charged without seeking enabling legislation because the State has already authorized municipalities to charge this fee.
3. The Task force recommends that the City should consider taking responsibility for construction, repair and maintenance associated with curbs in the City, as, in the opinion of the Task Force, curbs should be considered a critical part of the drainage system and an essential part of the City's storm water management system.
 - If curbs were to be considered an essential part of the storm water management system, Maryland law would enable the City to assess a fee to property owners which would pay for the maintenance of the system. (Storm water funding is addressed in Recommendation 5.) Also, if the City took responsibility for curb construction, a greater system consistency could be achieved throughout the City.

4. The Task Force recommends that before any resolution to take over the responsibility for curb construction, repair and maintenance is considered by the Mayor and City Council, a cost estimate be prepared by the City Finance Director. The cost estimate should examine costs associated both with current replacement and repair trends and what it would cost to institute a life-cycle replacement program. The result of this study should be an estimate of a potential fee to property owners to cover the cost of the program. Cost estimates should be calculated not only by current and previous year's operational costs; but also, by a calculation of system wide overall life cycle replacement costs.
 - EXAMPLE: Yearly total costs for a City-wide program equals number of miles of road times two (for both sides of street with curb and sidewalk) times 80% (removal of non-sidewalk areas and road intersections) divided by the estimated life cycle of 40 (years). This estimate could then be used to calculate program costs on a per property basis.
 - The Task force recommends that a periodic cost analysis be done to establish whether the fee covers all costs.
5. The Task Force recommends that the fee mentioned in Item 3 above should be considered as a "Storm Water" fee, and be assessed to all property owners to cover the cost of the program. Enabling legislation exists to allow the establishment of a "storm water utility fee"; however, the Task Force is not aware of any other communities in Maryland using this fee to fund curb replacement. Therefore, seeking an Attorney General's opinion on this proposal would be recommended as a "next step." The fee would fund an enterprise fund. From this fund, all curb replacements and stormwater-related projects and operations would be financed. Therefore, current general fund expenditures for storm water management would be decreased, with these costs being covered by the fee system of the storm water management fund. If approved by the Council, this would "free up" general fund tax dollars for other uses.
 - Property owners would be relieved of significant curb replacement costs and instead pay a relatively small fee over time. This fee could appear on the quarterly water bill.
 - A storm water fee for curbing would effectively create an enterprise fund or account taking storm water from the general fund and creating a separate operating entity.
 - The storm water fee could be based upon a water runoff factor for the property rather than linear footage of curb. Properties currently excluded from taxes (non-profits, churches, schools, etc.) would be subject to the storm water management fee. This concept would actually balance and reduce the costs to the average residential property owner over current tax structure costs; but, would impose a fee on some properties which currently pay no taxes.

- The Task Force recommends that no action to take responsibility for curb repair be pursued by the City if such a fee is not assessed.
6. The Task Force recommends that curb and sidewalk replacements that are part of larger street reconstruction projects continue to be the responsibility of the City. When the City determines that the entire street pavement, curb and sidewalks need to be replaced to complete this type of reconstruction, the City will continue to fund the cost of associated curb and sidewalk replacement.
 7. The Task Force recommends that the City undertake an educational campaign, designed to inform the public of the need for sidewalks and curbs in any municipality, and to inform them of their legal responsibilities in maintaining sidewalks according to City ordinances. The Task Force further recommends that a flyer with this information go out to property owners with the yearly tax bill at the end of June.
 - An enormous amount of time is spent by City workers explaining why property owners are required to maintain and repair sidewalks. A yearly reminder to property owners will help alleviate the need for lengthy explanation. The City must make a concerted effort to keep its citizens informed in a way that is easy to understand and easy to access.
 - Many of the issues concerning sidewalk and curb repair can be eliminated if the public has adequate prior knowledge of the policies that apply. Better utilization of Channel 6 and the City Web site can aid in this education. A suggestion is an area on both Channel 6 and the Web site which addresses common citizen questions (FAQ) concerning subjects such as sidewalks, parks rental, water bills, common zoning questions (sheds, fences, etc.).
 8. The Task Force recommends that pilot programs should be set up in the City to study alternative sidewalk construction materials, (such as rubber sidewalk panels near street trees), where appropriate.
 - Property owners should be given the opportunity to have a say in alternative forms of construction materials for sidewalks that need to be replaced adjacent to their property.
 - The City should be able to administratively expand the list of acceptable sidewalk materials to include new concepts.
 - The City should consider new concepts (rubber pavement, interlock pavers, etc.) for areas such as trees and on specific application test areas as a long range feasibility study.

9. The Task force recommends that City staff continue to seek grants through programs such as “Safe Routes to School” and other programs (such as those that support alternative pavement materials), to further enhance the City’s sidewalk system.

Respectfully submitted by the Sidewalk Task Force:

Joseph Marschner, Chairman
Joe Caha
Scott Frazier
Ashley Haywood, City Councilmember
Mary McPherson
Michael Stanford
Larry Wisherd