

ORDER from A2

responsibility and fix this.' It just happened so fast."

Miller said she was disappointed more conversation didn't take place before any decision was made.

Other residents impacted by the order seem to

be in consensus that the sidewalk order is an undue financial burden and the process neglected to allow for a properly seeking other solutions.

Miller said she was worried for families who were still financially struggling through the economic impacts of the pandemic,

especially those residents who are retired and on fixed incomes. Other residents expressed similar worries that their current financial situations are too precarious to take on the extra cost of construction.

At last week's city council meeting, city staff had received some quotes on construction cost.

With each of the 11 lots at 60 feet in length, and at \$10.50 per square foot, it would cost the property owners \$3,150 each for removal and replacement of a five-foot sidewalk. Resident driveways, however, vary in width and construction costs were quoted at \$18.50 per square foot.

Though more quotes are being sought, some residents felt that the sidewalk order itself felt threatening.

In the event a property owner cannot pay, they may opt for a lien to be placed on their property after the city completes work, but this is not necessarily an attractive option for many. When a home lien is placed on a property, it can be more difficult to sell the home, obtain a mortgage or refinance the property.

The speed of the process was also a common criticism. All residents interviewed by *The Sentinel* said they received their notices of the possible sidewalk order on the Friday before the Monday night city council meeting, giving only days to generate a response. Miller said she was away that weekend, causing her time to be even more limited.

Others disagreed with the municipal code outright.

One Taylor Avenue res-

ident who asked not to be named said he did not think the rule made sense.

"We pay taxes. We shouldn't have to pay for this, too," he said.

During the city council meeting, resident Gerren Castle said he didn't think old sidewalks should have been grandfathered into the 1996 city code as not all residents would be responsible for equally-aged sidewalks. If, prior to 1996, the city was responsible for sidewalks, the new ordinance would have caused an unequal distribution of responsibility.

Not all of the stretch of sidewalk under the order is in the same condition, either. The western half closer to 10th Street is relatively well-maintained and residents on this side don't see the urgency to do repairs.

"I don't think it's fair," said resident Maudie McGrady, who lives on the western half. "I know eventually I need to get it done, but I don't think we should be forced to do ours when there's no issues right now."

Another point of criticism has been the city code's 30-day window to come into compliance with sidewalk orders. McGrady said that she contacted a contractor immediately after receiving her notification in the mail about the possible order.

"They said 30 days is not long enough," she said. "He said he would even go to the city council and tell them that they needed to extend it more than 30 days."

Why Sidewalk Orders?

One of the troubles residents are having in making sense of the issue is the seeming arbitrary nature of the sidewalk order.

Sidewalk orders are very rarely issued and there are no clearly established criteria for staff or councilors to turn to before making a decision.

Though city staff can recommend a sidewalk order, ultimately the decision rests with the city council. Once issued, the city engineer is responsible for delivering the notice to the property owners.

Bradsby explained that while the city council can choose to issue sidewalk orders as it sees fit, there is no hard and fast rule regarding which sidewalks to prioritize. Instead, he said, a common criterion for city staff is safety.

Public Works and Development Director Faye Stewart confirmed that the safety concern was a prime motivator in recommending last week's order.

"There's at least one injury caused from the disrepair of the sidewalk and the [citizen] request was to get the sidewalk repaired, so that triggered the order option," he said.

At the Oct. 11 city council meeting, councilors were sympathetic to the situation, but still unanimously voted to issue the order.

Councilor Fleck told *The Sentinel* that a two people falling on the sidewalk in a short window of time was the main driver in his decision to vote for the order and he felt the six-month extension was a more reasonable window for residents.

However, he added that he's willing to revisit the topic and weigh options such as extending the window again to the summer.

At the council meeting, some councilors and staff

expressed concern that extending the order to six months would also extend the amount of time residents would be liable for any injuries on their abutting sidewalks.

However, city code does not stipulate that a sidewalk order must be issued for a resident to be liable. In fact, all Cottage Grove residents are liable at all times for their sidewalks, regardless of notices.

This point in itself has come as a shock to many residents, but holding property owners responsible for their abutting sidewalks has been established in Oregon case law for more than a century.

Two points, though related, are often addressed separately in Oregon Supreme Court rulings: responsibility for maintenance and liability for injuries.

Many cases have specifically revolved around liability for injuries sustained as a result of poorly maintained sidewalks rather than property owner responsibility for that maintenance.

In 1917, the Supreme Court of Oregon ruled in favor of the City of Vale over a citizen complaint in which a sidewalk had fallen into disrepair. The plaintiff was seeking to recover damages for an injury sustained while stepping into a hole of a defective sidewalk.

The court ruled that "by virtue of its city charter, the city was exempt from liability."

Case history has further established that in order to exempt a municipal corporation, an "equivalent remedy" must be provided. In many cities, the primary duty of constructing and repairing sidewalks has been placed upon the owner of abutting property and municipal codes expressly declare the owner liable for failure to perform that duty.

In Cottage Grove's case, both responsibility and liability have been allocated to property owners, thus meeting the standards for the city to exempt itself.

See ORDER A10

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www.6thandgibbs.com
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Pastor: Riley Hendricks
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Worship: 11:00am
The Journey: Sunday 5:00pm
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420 Monroe St • 541-942-8565
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541-942-4771
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AWANA age 3-8th Grade,
Wednesdays Sept-May, 6:30pm
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Worship: 10:00am
Sunday School: 10:00am
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334 Washington 541-942-3033
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