



MEMO

TO: Technical Review Team
FROM: Lori Mastrantonio-Meuser, Senior Planner
Karen Buehrig, Project Manager
DATE: July 20, 2006
RE: Sidewalk Funding Options

One of the main objectives of the Implementation Tools for the Essential Pedestrian Network (EPN) project is to develop financing options that will facilitate the construction of the Essential Pedestrian Network. This memo includes a review of the financing options used by other local jurisdictions and begins to assemble ideas for alternative sidewalk/pedestrian funding options.

The funding options discussed below are:

- Fee in Lieu of Improvements Program
- Ballot Measure Levy / Utility Tax
- Frontage Improvements Requirement for Single Family Residential (SFR) Permit
- Non-motorized SDC Fee
- General Fund Allocation
- Cost Sharing/ Local Improvement District (LID)

A summary of existing funding programs currently used in the County is included in Appendix A.

Potential New Funding Options

A. Fee in Lieu of Improvements

In a Fee In Lieu Of Improvements program, a fee is assessed to the property owner/developer for the cost or a portion of the cost of constructing and designing the sidewalk/pedestrian way or frontage improvement. Various cities and counties around the country use a Fee in Lieu of Improvements program. In order to establish a program, the properties that qualify for this option need to be identified, the fee rate must be established, and the places where the money could/would be applied needs to be determined. Jurisdictions typically include a description and the requirements for the fee in lieu of improvements program within the zoning or development code.

The advantage of this program is that when it is not feasible or appropriate to construct a sidewalk, the applicant can pay a fee for the cost of constructing and designing a sidewalk and can still develop the site. In addition, over time the fund will grow and eventually complete sidewalk links can be constructed.

Qualification for Fee-in-lieu of construction

There are several examples of how a property qualifies for the Fee-in-Lieu of Improvements program. Some jurisdiction are vague, only noting that if the Department Director has identified that a waiver to provide the sidewalks is appropriate, then a “fee-in-lieu” of contribution would need to be made (Lee County). Other jurisdictions allow for the applicant to request this option (City of Cookville). The City of Asheville, North Carolina specifies that the city engineer would need to determine if one of the following conditions exist:

- 1) In existing neighborhood without sidewalks, sidewalks would not be compatible with the existing landscaping, architecture and design and/or pedestrian and vehicular traffic patterns;
- 2) If sidewalks are scheduled to be installed as a part of a funded road project
- 3) Where the district engineer for the department of transportation recommends in writing no sidewalk should be constructed
- 4) Where a combination of conditions (such as but not limited to topography, low vehicular traffic, etc) existing making it impractical or not feasible to construct a sidewalk as determined by the city engineer.

Another city identified the specific conditions when an applicant could NOT request a fee in lieu. These included locations on the sidewalk plan, where the property was within 1,000 of an existing sidewalk; development that would generate significant pedestrian traffic, developments near transit stops and development within a set distance of schools.

It may be appropriate in the County to specify the conditions that would allow for a fee-in-lieu of improvements to be paid, such as areas that have physical constraints (i.e., steep topography), inadequate ROW, substandard street (i.e., no curbs, etc.), inadequate drainage improvements and/or no other sidewalks in the area. Requiring the improvements under these circumstances is challenging. In addition, it is difficult for a small one or two lot development to match the existing street grades if the street is substandard with no curbs and drainage improvements. The situation is exacerbated if there are physical constraints as well.

Establishing a Fee

The cost of constructing frontage improvements that typically include a sidewalk, curb, drainage and increased pavement width would be more in an area with inadequate right-of-way and steep slopes (resulting in the need for retaining walls). Designing a program that is equitable, considering the cost of a standard frontage improvement and one that is atypical due to physical constraints, is important.

Examples used by other jurisdictions include:

- 1) Adopting a fee calculation table such as the one below.

1997/98 – FY 1999/2000	Sidewalk (5' concrete) Average cost per linear foot
Start-up	\$4.11
Embankment	\$4.06
Drainage	\$11.11
Sidewalk and Grading	\$9.78
Bridge, gravity & hand rail	\$0.73
Finish Items	\$3.15
TOTAL	\$32.94

- 2) Included a more generalized statement in the development ordinance, such as:

“Fee submitted in lieu of required sidewalk installation shall be in an amount of the entire estimated cost of completing the installation, based on the current contract unit prices, as approved by the city engineer.”

- 3) Include a statement in the code about the fixed fee, which is adopted by resolution.

“The fee shall be calculated as a fixed amount per lineal foot. This amount shall be established by the City Commission by resolution upon the recommendation of the Public Works director and reviewed periodically.”

Tracking and Spending the “Fee in Lieu of Improvement” monies

Almost all of the fee-in-lieu of improvement programs that were reviewed specifically identified that the monies will be accounted for separately and used only for new sidewalk construction. Some set a specific time frame in which the money needed to be used, such as three years or six years. There were a variety of approaches to where the money could be spent.

- 1) For installation of sidewalks on the site, or in the street right-of-way abutting the site, for which the fee is collected.
- 2) Within the same planning community the project is located;
- 3) In the same area;
- 4) No specific direction to where the money should be spent.

One concern that has been expressed is that it could take a number of years to accumulate sufficient funds to begin constructing improvements. Using data about partitions activity over the past 5 years (from 2000 to 2005), a few rough estimates can be made. Using the following assumptions:

- Fee per lineal foot: \$37.50
- Average lineal feet per partition: 100 feet
- Collected from all partitions on LOCAL streets
- Collected within the Oak Lodge area

Between 2000 and 2005 there were 84 partitions in the Oak Lodge area on local streets (only 14 of these are on the EPN). Assuming a fee is collected from 74 of the 84, approximately \$277,500 would have been collected. If fees are only collected from partitions on the EPN, only \$52,500 would have been collected. Additional money could also be collected if new single family permits on existing lots of record were required to construct a sidewalk or pay a fee-in-lieu of improvements.

In conclusion, the important questions that need to be answered to establish a fee in lieu of construction program include:

- 1) Which projects qualify?
 - a. What type of development activity (such as partitions)?
 - b. What street classification (such as only on local roads)?
 - c. Does it need to be on the EPN?
- 2) What is the fee and how will it be updated?
- 3) Where will the monies be spent?
 - a. Only within the general area where the money is collected
 - b. Only on projects on local streets or only on CIP projects?
 - c. Does it need to be spent within a certain timeframe?

Local Example: City of Milwaukie

The city has a Funds In Lieu of Improvement program and has been collecting fees for several years. The fee is based on a standard street cross section and charged for all development including an SFR permit valued over \$101,000. The city hasn't used any of the money yet. They plan to develop a project list to spend the money on pedestrian improvements. The funds will be spent in the neighborhood in which they were collected. They must be spent within six years of collection. There is currently about \$250,000 in the fund.

The city's Engineering Division provides a cost estimate for a standard street cross section and utilizes bid tabulations from CIP projects for updated costs.

B. Ballot Measure Levy / Utility Tax or Fee

According to Oregon Revised Statute Chapter 758.010, it appears that counties do not have the authority to impose a tax on electricity lines, gas lines and natural gas lines within a public right-

of way. In 2002, the County researched and brought to the voters a proposed Transportation Maintenance Utility Fee. This fee was not approved by the voters. A transportation utility fee is not required to go to the voters.

Local Example - Olympia, Washington and Lake Oswego

A ballot measure was recently approved (2004) by voters who supported a higher utility tax (from 6-9%) with funds earmarked specifically for parks and the provision of sidewalks. This measure is generating about \$2.5 million a year, with a little over two-thirds dedicated to parks and the rest to sidewalks (about \$750,000/year).

The city created a prioritized list of projects of parks, sidewalks and pathways. The initial sidewalk projects are focusing on missing links that are part of school walking routes and considered a priority.

Lake Oswego has had a Pathway Program since 1988 when a \$12 million levy was passed. \$3 million was spent on sidewalks and pathways (10-12 miles) and \$9 million was spent on parks and open space. The money was spent by 1997. Since that time the city receives \$100,000 per year from the general fund and about \$100,000-\$150,000/year from the 1% gas tax for sidewalks and pathways. Through this program the city works with the neighborhood to determine the type of path, materials and size. Some of the improvements may include asphalt, concrete and/or a meandering planting strip and/or sidewalk/path and even narrower streets, i.e., 10.5' wide lanes. The Transportation Advisory Board prioritizes projects. The priority projects are routes to schools, connecting pathways and connecting commercial area to main walkways and arterials.

C. Require Improvements with SFR Permit

Some jurisdictions require frontage improvements including sidewalks/pedestrian ways when applying for a single family building permit. The city of Kirkland, Washington, and the cities of Milwaukie and Portland require this improvement. In some instances the requirement is based on the value of the improvements. This is the case for the cities of Milwaukie and Kirkland. For instance, if the permit is valued over \$200,000, then the applicant is required to construct frontage improvements including sidewalks in the city of Kirkland. For the City of Milwaukie, permits over \$101,000 require sidewalks. If improvements can't be required because of the physical constraints of the site, then the developer is required to pay a fee in lieu of the improvements. The City of Portland requires a sidewalk for a Single Family permit unless there are extreme topographical site conditions.

This requirement could be another way of securing the construction of significant sidewalk improvements or securing funds for these improvements in the urban area of the County.

D. Non-motorized (Sidewalk/Pedestrian Way) SDC

The defining aspect of (System Development Charge) SDC fees is that they may only be spent on capacity increasing capital improvements related to the need to increased capacity to provide service to future users. This is required as per ORS 223.307. Therefore, these fees can only be spent on development impacting collector and arterial streets and not connector or local streets.

Local Examples – Portland and Lake Oswego

The city of Portland has a combined SDC that includes motorized trips, non-motorized trips and transit. Including non-motorized trips is a more comprehensive way of determining SDC rates and another way to potentially increase revenue for the construction of an alternative mode of transportation such as sidewalks, paths and other pedestrian ways. All new development is charged the applicable SDC rate. Clackamas County's SDC is based on motorized and transit trips and not on non-motorized trips.

Portland completed a Pedestrian Master Plan in 1998. The Plan includes various capital projects such as Pedestrian Corridors, Pedestrian Access to Transit, Crossing Improvements, Greenstreets and Pedestrian Connections. A list of projects in the Plan is the result of a detailed planning process that involved significant input from the community. The plan is intended to be a living document, and over its life the projects on the list will need to be reevaluated and in some cases, new projects may be added in order to meet the community's needs.

The city of Lake Oswego has a separate SDC for sidewalks and pedestrian ways. This program combined with General Fund money provides a dedicated amount of funding for these types of improvements so that the city can plan ahead and complete projects. SDC fees are charged to all new development.

E. Increase General Fund allocation

The County Board of Commissioners created the Pedway Program in 1993, which committed a portion of the County road fund to pay for bike and pedestrian improvements. The focus of the Pedway Program was to improve pedestrian and bicycle access and safety, primarily around schools. Each year, potential projects were submitted by school districts, Citizens Planning Organizations, and citizens. Projects were evaluated and ranked by the Citizens Advisory Committee and approved by the Board of County Commissioners.

The primary source of funding was the State gas tax allocation to the County. The County Commissioners had also contributed additional money above the one percent minimum required by the state to support the Pedway Program. In 1995, 1996 and 1997 there was over \$1,000,000 each year allocated to pedestrian and bikeway projects. In 1997 there was a dramatic decrease in the amount of funding allocated to stand-alone sidewalk projects. Only \$140,000 a year has been allocated since 1997, which is the minimum required by the 1% set aside rule.

Local example - Bellevue, Washington

The city receives \$1.2 million from the general fund budget for sidewalk and pathway improvements. The Neighborhood Enhancement Program (NEP) has been a significant component of the city's overall outreach effort since 1988. Bellevue residents identify projects that will improve the quality of life in their neighborhoods, collectively prioritize those projects and work with city staff to implement the improvements. Communities vote for the various projects and the top project is funded.

NEP is on a three-year cycle, meaning each neighborhood receives funds once every three years. Neighborhood allocations vary based on the number of households in the area, and the average allocation is approximately \$250,000 per area.

In some cases the community requests a sidewalk but because of physical constraints the city may propose some type of path or trail. The Planning and Engineering staff then design the project based on site conditions and input from the neighborhood. In such cases a meandering path and planting strip is ultimately constructed.

F. Cost Sharing Programs / Local Improvement Districts

Another way of funding sidewalk/pedestrian way improvements is through Local Improvement Districts (LID) and a Cost Sharing program. With Cost Sharing a jurisdiction matches 50% of the cost of the improvements with the community that supports and/or requests the improvements.

An LID program allows property owners in the County to get together to improve the roadway in front of their homes, sharing the cost of the improvement with other benefiting neighbors and taking advantage of the County's ability to provide long term financing for paying their assessments. The County has an existing LID process. Property owners petition to have the work done and the County organizes the entire process and provides the appropriate forms. The County designs the roadway, hires the contractor, and inspects the work to see that the road is built well. The County offers financing to pay off the road in semiannual payments over 10 years. A 60% majority is needed to form an LID, that is, 60% of the property owners owning 60% of the land area.

If an LID program is used in conjunction with a Cost Sharing program, then County CIP funds can be stretched farther resulting in more improvements.

**Summary of Financing Options
As used by Local Jurisdictions**

Report / Document	Fee In Lieu of Imprmt Program	Ballot Measure/Utility Tax	Require Improvements w/SFR Permit	Non-motorized (Sidewalk/Ped Way) SDC	General Fund	LID
Clackamas County Development Code	No	No	No	No	No	Yes
Milwaukie Development Code	Yes	No	Yes	No	No	Yes
Olympia, WA	No	Yes	No	No	No	Yes
Kirkland, WA	No	No	Yes, if permit valued over \$200,000	No	No	Yes
Bellevue, WA	No	No	No	No	Yes	Yes
Portland	No	No	Yes	Yes, it's Combined w/Transp SDC	No	Yes
Lake Oswego	No	No	No	Yes	Yes	Yes

APPENDIX A

Existing funding Methods in Clackamas County

Lack of funding to construct infill/retrofit sidewalk projects is one of the significant challenges to completing a networked system of pedestrian facilities along existing roads in Clackamas County. In the late 1990's, the County ended its "pedway program" which had provided additional funds for pedestrian projects. Infill / retrofitting projects on local roads face additional hurdles because the majority of them are not included in the CIP. Finally, partitions are the primary development activity that requires sidewalks on local streets. In some instances however, these improvements are deferred to a later date and may not be built.

The county currently has four techniques for financing pedestrian ways:

- * Capital Improvement Plan
- * Developers
- * Grant Funding

Capital Improvement Plan

The *Pedestrian Master Plan* includes the list of high priority pedestrian projects that is incorporated in the overall Transportation Capital Improvement Plan and Program (CIP). The 20-year plan of the CIP prioritizes the transportation projects that will be needed over a twenty-year horizon to meet the safety needs and accommodate the transportation needs of the forecasted population and employment growth. In 2003, under the guidance of the Pedestrian and Bikeway Advisory Committee, the priority pedestrian project lists were reviewed and updated.

Included within the *Pedestrian Master Plan* is a description of the project prioritization process. Essentially, all of the streets on the EPN that were missing sidewalk segments were used as the initial selection set for the prioritization process. The Plan describes the evaluation criteria for the selection of priority projects.

Over two hundred and fifty (250) street segments were considered when developing the pedestrian priority project lists. The 44 segments that received 50 points (out of a potential of 100) were included on the high priority project list. Only four of the high priority projects are local roads. For the remaining 127 local streets on the EPN, 146 segments were not included on the high priority list or within the CIP. Constructing sidewalks on these streets relies almost exclusively on development activities, such as partitions.

Developer Financed Sidewalks

The Zoning Development Ordinance (ZDO) requires that sidewalks, accessways, and walkways shall be developed within all urban subdivisions, partitions located on the EPN, and structural additions to existing commercial or industrial buildings exceeding 10 percent of the assessed value of the existing structure, or for additions of 1,000 square feet or more within the Urban Growth Boundary. The Mt. Hood Urban area is excluded from this requirement.

Sidewalks are required to be built on both sides of a new street within a subdivision, or any new or reconstructed street. They are also required on the street frontage(s) adjacent to a development or subdivision. Sidewalk requirements may be reduced by staff to one side of a street if a topographic or natural area requires a reduction in road standards or where new cul-de-sacs are 350 feet or less in length and cannot be extended.

Partitions are the one development activity where the Essential Pedestrian Network is used to identify which streets require sidewalks as a condition of approval. All other development actions, such as development review or subdivisions, require sidewalks regardless of whether or not a street is on the Essential Pedestrian Network. Partitions (land divisions of 2 or 3 parcels) are generally not required to provide sidewalks unless they are located on the Essential Pedestrian Network.

Deferral Process for partitions located on the EPN

It should be noted that there is a deferral (not a waiver) process in place for construction of sidewalks in partitions located on EPN streets. In some instances, the requirement for construction of sidewalks is deferred to a later point in time.

A deferral is considered in situations when there are no sidewalks in the vicinity, there is a storm drainage issue, narrow frontage, and/or the ultimate road alignment is likely to change. An agreement will be developed between the developer and the County Engineering Division laying out the conditions of the deferral. Please see Appendix D for more information.

Grant Funding

The final source of funding for sidewalk projects is through grant programs. The Clackamas County Capital Improvement Plan (January 26, 2006) includes information about various funding sources for transportation projects. Most often, a project needs to be on the Capital Improvement Program or identified as a need in a planning document to be eligible for grant funding. The programs used most often for pedestrian related specific projects include: Transportation Enhancement, Community Development Block Grants and the State Bicycle and Pedestrian Program.

Transportation Enhancement (TE)

These funds are generally available for a wide range of projects that enhance or preserve the transportation system, but are not usually funded by other sources. States are required to set aside 10% of their STP funds for enhancement projects that may include ferry improvements, renovation of historic transportation facilities, and construction of multi-modal pathways. The Oregon Department of Transportation (ODOT) controls this fund and allocates funds to local jurisdictions through a competitive selection process.

Community Development Block Grants (CDBG)

These funds can be used to construct a wide range of projects that enhance low and moderate-income communities. They can be used for transportation projects in an area

where at least 51% of the residents have low or moderate income. Funds are available in 3-year cycles; the next cycle starts in 2006. Because the funds are to help local residents, transportation projects funded from this source are usually sidewalks or reconstruction of local streets. Project selection takes place at the Department of Housing and Urban Development (HUD).

State Bicycle and Pedestrian Program

The State administers the Pedestrian and Bicycle Facility Improvement Grant Program. Bi-annually, the Oregon Department of Transportation, ODOT, works with local jurisdictions to identify sections of urban highways, local city streets and county roads where improvements are needed for pedestrians and/or bicyclists. Special consideration is given to construction projects that consider the needs of school children, the elderly, the disabled, transit users and others unable to use a car.