

CITY OF LINDEN

Special Assessment District Procedures: Information for Repaving Streets



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SPECIAL ASSESSMENT DISTRICT (SAD) REPAVING PROCEDURES FOR STREETS

INTRODUCTION

The City of Linden is responsible for the operation and maintenance of approximately 17.42 miles of street. These streets have a life cycle, just like any other part of the City's infrastructure (the physical structures needed to operate the City such as roads, sewers, and utility systems). When a street reaches the end of its life cycle, it needs to be reconstructed to protect the health and safety of residents. The City of Linden's Road Improvement Plan lays out the process by which the City preserves, repairs, and even reconstructs streets, including street ratings, street improvement financing, and project priorities.

The Department of Public Works, in conjunction with City Engineers, assesses pavement conditions. This Pavement Surface Evaluation and Rating system (PASER) evaluates streets on a ten-point scale, with "10" being a new street and "1" being a street in need of complete rehabilitation. The City's Road Improvement Plan takes into consideration not only pavement conditions, but also maintenance treatments that have been funded and undertaken.

Street maintenance is provided by the City's Department of Public Works as part of the normal course of business. Under the City's Road Improvement Plan, maintenance practices such as patching or crack sealing are used when needed to maximize the life of the pavement in a cost-effective manner.

Reconstruction is necessary when pavement has reached the end of its useful life. City Council has determined that streets with an average PASER rating of 2 or lower need to be reconstructed. To keep these streets as safe as possible, the Department of Public Works will continue to provide temporary patching when needed. However, these streets in poor condition will become a priority in the City's Capital and Road Improvement Plans, and will be scheduled for reconstruction, with costs to be partially defrayed with a special assessment to the property owners who front that improvement.

An SAD is a special financing district set up to fund the capital costs of a public improvement that provides special benefits to property owners in a subdivision or a defined neighborhood. The legal theory behind SAD's is that the owners' share of the cost assessed against their property will be offset by a reasonably proportionate increase in the value of the property resulting from the improvement.

By law, municipalities have authority to establish SAD's. The City's role is to establish the SAD, provide the financing for the improvement (sometimes through the sale of bonds), contract for design and construction of the improvement, collect the SAD payments from the benefiting property owners and pay off the debt (if used).

Since the greatest benefits of street improvements accrue to the owners of property along those streets, the costs of these improvements are borne by the benefiting property owners in many municipalities. The City of Linden, like many other municipalities, has very limited resources for street improvements. What road funding the City does receive is utilized for general maintenance, snow plowing and salting, asphalt and patching, and minor repairs. The City does not receive an adequate level of funding through general property taxes, existing voted millage or the gas and weight taxes to bear the sole cost of repaving the streets. For this reasons, the City has adopted the special assessment district (SAD) approach to finance paving of streets.

Linden has recognized a benefit in reduced operation and maintenance costs and health and quality of life benefits of repaved roads. Thus, to encourage and assist residents on streets in need of reconstruction (with a PASER rating of 2 or lower) to repave their street, a procedure of cost sharing, with up to a 50% share paid by Property Owners, is in effect. Reconstruction comprehensively rebuilds streets to a new condition under current standards, and may include extensive base repairs. Repair (PASER rating 6 or 7) and rehabilitation (PASER rating 3 to 5) costs will be borne by the City at large, whether it's through ACT 51 Funds, a dedicated road millage, or by some other means.

The information contained in this overview is a summary of the process and provisions in the City of Linden Charter. It is intended only as a reference and should not be constructed as a complete description of all provisions and requirements of the Charter. There are additional provisions and requirements in the Charter that may be applicable to certain property owners or situations. If there are specific concerns or questions regarding the special assessment process or requirements, they should be referred to the City Manager at 810-735-7980.

SPECIAL ASSESSMENT DISTRICT PROGRAM PROCESS

1. Resident Inquiry

An interested party shall complete the “Expression of Interest for Road Improvements” form. This form is available on the City’s website and in the Clerk’s office. Completed forms should be returned to the City Clerk’s office.

2. Feasibility Review

Completed forms are reviewed by City staff for an initial evaluation of whether the improvement as proposed is feasible. Staff will prepare a map of the proposed district and a preliminary estimate of cost.

3. Informal Meeting

Within 30 days of receiving the resident inquiry, City staff will meet with the resident(s) who submitted the “Expression of Interest” form to provide an overview and discuss the petition process, petition language, potential cost implications, and a timeline.

4. Initiation of Proceedings - Formal Petition

Proceedings for making road improvements may be initiated by petition filed with the City Clerk’s office and signed by the owners of lands having at least 50% of the privately owned frontage bordering the proposed improvement. The petition must be addressed to the City Council, describe the requested improvement, and contain a brief description of the property owned by the respective signers. The genuineness of the signatures on each petition or part thereof must be verified by the affidavit of the circulation. Any such petition shall not be mandatory upon City Council, but shall be advisory only. In the event City Council does not accept the petitions, new signatures will be required for each subsequent request, until the signatures are accepted by City Council.

Petitions are available in the City Clerk’s office. Petition drafts must be approved by the City Clerk’s office before circulation.

Irrespective of whether a petition is filed, the City Council may determine to make any public improvement and to defray the whole or any part of the cost by special assessments against property especially benefited, by resolution.

5. Petition Reviewed for Sufficiency

Completed petitions are turned in to the City Clerk’s office. Owners of record are verified by the Assessing Department and signatures are verified by the Clerk’s office. If current ownership is questionable or cannot be obtained through verification against the current assessment roll and records located in the Genesee County Register of Deeds office, a title search may be deemed necessary. The additional cost of a title search would be added to the total projected cost estimate of the improvement. It is important to note that the statutes request the signature of the “record property owners” in the citizen petition process. Accordingly, administrators, guardians and powers of attorney would not be permitted to sign the petition, unless the power of attorney

document or a court order has specifically granted the power to sign a special assessment petition on behalf of the record owners.

6. Preliminary Proceedings

Before determining to make any improvements, any part of the cost of which is to be defrayed by special assessment, the City Council shall require the City Manager to prepare, or cause to be prepared, and submitted to the City Council a report, in conjunction with the City's Engineers, which will outline a preliminary engineering a map or drawing showing the route or location of such proposed special assessment district, the design for the project, the scope of work, a cost estimate, an estimate of the number of properties within the proposed SAD, an estimate of the City's share of the cost and an estimate of the average pro rata share of the cost for property owners. The costs of preparation of this report and engineering and design costs will also be included in the overall costs of the improvement. Once the City Manager has gathered the requisite information and prepared a report, it shall be submitted for review by the City Council.

7. City Council Resolution

If the City Council determines to proceed with the improvement, it will declare so in a resolution. The resolution will order the City Manager's report to be filed in the office of the City Clerk for public examination, will determine the necessity of said improvement, will state the estimated cost, including what portion will be paid by special assessment and what portion will be the general obligation of the City. The resolution will designate the district, lands, and premises on which the special assessment will be levied. The resolution will tentatively declare City Council's intention to proceed, to establish an SAD for the project, and to set forth the time and place for the public hearing. Irrespective of whether a petition is filed, the City Council may determine to make any improvement and to defray the whole or any part of the cost by special assessments against properties specially benefitted. Similarly, the City Council would then, by resolution, declare its intention to defray costs by SAD, stating the nature and the route or location of the proposed improvement and the land and premises proposed to be included in the special assessment district and assessed.

8. Public Hearing

Before finally determining to make the improvement and the special assessment, the City Council will notify property owners and hold a public hearing. The purpose of the hearing is to provide property owners with more detailed information about the project, including detailed design plans and cost estimates. This meeting will allow property owners to obtain the most current and complete information in advance of the second public hearing. Also, property owners will have an opportunity to ask general questions about the project or specific questions about their properties. The meeting will be conducted by City staff and consultants who have are involved with the development of the project.

At the hearing, the City Council will hear and consider any objections submitted by an aggrieved person with respect to the making of the improvement, assessing the designated district and the portion of the cost the improvement which Council has proposed that will be allocated to the District and the City.

9. Council Determination – Resolution

At the time of the hearing, Council will hear and consider any objections. The Council without further notice, may revise, correct, amend, or change the report, provided that no property is added to the district until notice is given or the owners agree in writing to the addition.

After hearing any objections, City Council may, by resolution, determine to make the improvements by special assessment. By such resolution, the City Council will approve the report, including the map or drawing, plans, specifications and cost estimate as originally presented or as revised, determine to make the improvement, designate the lands and premises constituting the special assessment district, state what proportion of such cost shall be benefitted and what portion, if any, shall be the general obligation of the City, and direct the City Assessor to prepare a proposed special assessment roll in accordance with the resolution.

10. Proceed to Bid Improvement Contracts

Once the proposed SAD project receives City Council approval for the assessment roll, the City Staff shall work with the Engineers to advertise the project and receive bids. City Council will be asked to award the construction contract and the construction engineering contract at a meeting to follow. Construction of the SAD project would be planned to commence during the upcoming construction year.

11. Preparation of Roll

When the City Assessor has completed the proposed assessment roll, she will report to the City Council, together with the certificate, that the assessment roll conforms to the direction of the City Council, and the provisions of the City Charter. The City Assessor will prepare and certify the special assessment roll, and will describe lands and premises to be assessed, the names of respective owners, and the amount to be assessed against each parcel of land or premises, using the best estimated costs. The roll will also state the amount which has been assumed by the City at large, if any.

12. Second Public Hearing

Before confirming any proposed assessment roll, the City Council shall appoint a time and place when it will meet, review the roll, and hear any objections. The City Council will direct the City Clerk to give notice of the hearing and the filing of the proposed special assessment roll not less than ten days prior to the date of said hearing. The City Council will meet at the appointed time and place and review the proposed special assessment roll, and hear and consider any objections.

13. Confirmation of Roll

After the hearing on the proposed special assessment roll, the City Council by resolution can confirm the roll, or may correct it as to any matter appearing at the hearing, and confirm it as corrected, or may refer it back to the City Assessor for revision; or may annul it and direct a new roll to be made. No original special assessment roll can be finally confirmed except by the affirmative vote of four members of the City Council if prior to the confirmation written objections to the proposed improvement have been filed by owners of property which will be required to bear

more than 50% of the amount of the special assessment. The City Clerk will endorse the date of confirmation for each special assessment roll. After confirmation, the special assessment roll and all assessments will be final and conclusive.

14. Proceed to Construct Improvement

After awarding the engineering and construction contracts and confirmation of the roll, the project will proceed to the construction phase.

15. Actual Cost

Upon completion of the improvement and the payment of the cost, the City Clerk shall certify to the City Manager the total cost of said improvement. The City Manager shall forward this report to City Council, who shall by resolution approve or disapprove. If approved, the City Council shall direct the City Assessor to spread the amount of the exact cost of said improvement among the special assessment roll.

GENERAL INFORMATION ABOUT SPECIAL ASSESSMENT DISTRICTS

Determination of Proration of Cost to Each Property:

As previously indicated, the legal foundation of SAD's is that the cost assessed to each property will result in a reasonably proportionate increase in property value. There are a number of formulas used to distribute costs among properties in an SAD that have been developed over many years of experience. The cost assessed to an individual property based on these formulas is called a unit benefit.

For street improvement SAD's, the City uses the "Declining Rate Benefit Ration" method to determine unit benefits. That method establishes the unit benefit by calculating the average width of each property where it is adjacent to the street. Properties having a width equal to or less than the average will be assessed on (1.00) based upon the declining rate curve, and up to a maximum of one and three tenths (1.30) unit benefit costs. Note: it is possible that a single parcel of land under one ownership may be assigned multiple (i.e. 2, 3, 4 etc. . .) unit benefits. This usually involves larger parcels of land, which could be divided into two or more building sites. In these cases each potential building site is assessed a unit benefit.

Term of Special Assessment Installment Payments and Interest Rate:

While a special assessment can be paid in full at the onset, most property owners choose to make installment payments. The term of special assessment installment payments will be based on a 15-year amortization schedule with the current SAD interest rate applied. Installment payments can be paid annually by May 1st or will be included on with the summer tax bill due annually in September. City Council shall set the rate of interest on the unpaid balance.

Special Assessment is a Lien Until Paid:

The special assessment shall become a lien upon the property until it is paid in full. The lien will be of the same character and effect as is created by the City Charter for City taxes. To protect the taxpayers of the City, the City will not subordinate the lien in the case of a sale of the property, refinancing, second mortgage, home equity loan, etc.... In these cases, the assessment will have to be paid in full to discharge the lien.

Monies Raised By Special Assessments:

Monies raised by special assessments for any public improvement shall be credited to a special assessment account and shall be used to pay for the costs of the improvement for which the assessment was levied.

STREET PROCEDURE AND FUNDING CRITERIA

- ❖ In general, roads shall consist of a minimum 27-foot wide asphalt road, 30-foot for major roads, with curb and gutter systems, and shall be in accordance with the latest City of Linden Design Standards and Construction Specifications.
- ❖ If recommended by City Staff and the City Engineers, and it is determined to be in the best interests of the residents and the City, the City Council may require the installation of water, sanitary, and/or storm sewer utilities prior to or in conjunction with the SAD paving project.
- ❖ The City Council encourages citizens' initiative pursuant to the Special Assessment District petition process as described in the City of Linden Charter, Chapter 3.04.
- ❖ Driveway approaches will match existing drive in material type (concrete or asphalt) and width, from edge of road to property line. Existing gravel approaches will be constructed as asphalt.
- ❖ Private property items such as fencing, lamps, irrigation systems, ornamental or monument mailboxes, landscaping, etc. . . , is in right-of-way, then the City will give notice to homeowner to remove the private property. If not removed by the owner, the City will remove the private property and not replace it.