

CITY of NOVI CITY COUNCIL

**Agenda Item N
March 23, 2009**

SUBJECT: Approval of Petition Objecting to Sanitary Sewer Improvements (SAD 174) from the majority property owner and approval to cease and stop the special assessment process in connection with SAD 174—Wixom Road Sanitary Sewer Extension in accordance with Section 30-14 of the Novi Code of Ordinances.

SUBMITTING DEPARTMENT: Department of Public Services/Engineering Division *RH BTC*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The enclosed Petition Objecting to Sanitary Sewer Improvements has been received from Lakeside Oakland Development, LLC, signed by the owner of 78% of the land area in special assessment district 174. The petition states that the property owners objects to the proposed sanitary sewer SAD 174 and asks the City to cease and stop the special assessment process in connection with SAD 174 (petition dated February 7, 2009, enclosed).

The petition was prepared for the property owner's signature by the City Attorney's office upon receipt of the enclosed letters from Lakeside Oakland Development, LLC dated December 5, 2008 and Edward C Levy Co. dated December 4, 2008. The petition was drafted in order to meet the requirements in Section 30-14 of the Novi Code of Ordinances (excerpt attach), which states that "a petition signed by property owners representing fifty one (51) percent or more of the total area of the district proposed to be benefited by the improvement shall be required" to terminate the petition.

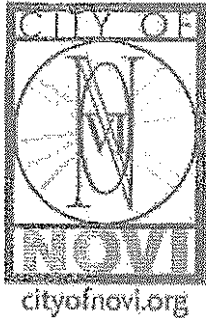
The City has expended \$14,652 on engineering services with OHM that will no longer be recouped from the SAD and would be paid from the Water & Sewer Fund. The City Council has discretion to override the petition by a super majority vote under Section 30-14, which states: "In the event of the submission of a valid petition under this section, the improvement shall not be made by proceedings delineated by this chapter without a five-sevenths vote of the members of the council."

The attached memo from Brian Coburn dated March 5, 2009 provides additional background on this special assessment district.

RECOMMENDED ACTION: Approval of Petition Objecting to Sanitary Sewer Improvements (SAD 174) from the majority property owner and approval to cease and stop the special assessment process in connection with SAD 174—Wixom Road Sanitary Sewer Extension in accordance with Section 30-14 of the Novi Code of Ordinances.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				



To: Mayor + CC
- Please note this will be scheduled for discussion on upcoming agenda
AA

TO: ROB HAYES, P.E.; CITY ENGINEER
FROM: BRIAN COBURN, P.E.; CIVIL ENGINEER BCL
SUBJECT: SAD 174—WIXOM RD SANITARY SEWER
DATE: MARCH 5, 2009

* Mr. Pellerito was the petitioner who initiated SAD 174 AND the objection - FYE.

We are in receipt of the enclosed "Petition Objecting to Sanitary Sewer Improvements (SAD 174)" signed by Frank Pellerito who owns 78% of the land area in special assessment district 174. Under Section 30-14 of the Novi Code of Ordinances (attached), "a petition signed by property owners representing fifty one (51) percent or more of the total area of the district proposed to be benefited by the improvement shall be required" to terminate the petition.

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As you recall, Special Assessment District (SAD) 174 was initiated by the property owners to provide sanitary sewer service to properties along the west side of Wixom Road south of Grand River. The petition was submitted to the Clerk's office following two public information meetings and several discussions dating back to 2004. The City Council approved Resolution #1 on September 8, 2008. A request for proposals was prepared for design engineering services following approval of the first resolution. The engineering design was awarded to Orchard Hiltz & McCliment (OHM) on November 10, 2008.

A public information meeting was held with the participants of the district on December 3, 2008. In addition to presenting the preliminary design, we made a presentation on project costs and potential scenarios for cost allocation, which was a more refined version of what was presented to the group in October 2007 (\$450,000 then versus \$471,000 now). After reviewing the costs and potential allocation scenarios, the property owners discussed terminating the SAD. Shortly following the meeting, we received the attached letters from Mr. Pellerito and another property owner that explains the rationale for their decision.

The City has expended \$14,652 on engineering services with OHM that will no longer be recouped from the SAD and would be paid from the Water & Sewer Fund. The City Council has discretion to override the petition by a super majority vote under Section 30-14, which states: "In the event of the submission of a valid petition under this section, the improvement shall not be made by proceedings delineated by this chapter without a five-sevenths vote of the members of the council."

← *
*
} see Attached
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The consideration of the petition to terminate the SAD will be prepared as an item for a future City Council agenda.

- cc: Clay Pearson, City Manager
Pam Antil, Assistant City Manager
Kathy Smith-Roy, Finance Director
Tom Schultz, City Attorney

Sec. 30-14. Objection to public improvement.

If at or prior to the final confirmation of any special assessments, the owners of privately owned real property to be assessed may submit a written petition objecting to the public improvement proposed to be made. For a proposed improvement involving a street, bicycle path, sidewalk or other public way, a petition signed by property owners representing fifty one (51) percent or more of the frontage on such proposed improvement shall be required. For all other proposed improvements, a petition signed by property owners representing fifty one (51) percent or more of the total area of the district proposed to be benefited by the improvement shall be required. The petition shall reflect the date of each signature, and shall identify an address corresponding to each signature. The circulator of the petition shall certify on the petition that, to the best of his or her knowledge, each signature was signed in his/her presence, each signature is genuine, and the person signing owned the designated property at the time of signing. A signature shall not be valid if it is dated more than six (6) months prior to the submission of the petition. For purposes of determining ownership of property, the city shall be entitled to rely upon the records on the rolls of the city assessor; provided, such determination may be contested on the basis of more current and reliable information. In the event of the submission of a valid petition under this section, the improvement shall not be made by proceedings delineated by this chapter without a five-sevenths vote of the members of the council.

(Ord. No. 03-1.03, Pt. I, 10-6-03)



LAKESIDE OAKLAND DEVELOPMENT LLC
30295 Embassy
Beverly Hills, MI 48025

December 5, 2008

Mr. Brian Coburn PE
Civil Engineer
City of Novi
45175 Ten Mile Road
Novi, Michigan 48375

RE: Proposed SAD # 174
Tax ID 22-18-200-002
Tax ID 22-18-200-020

Dear Mr. Coburn,

We appreciate your providing us with the information on estimated costs for the proposed Sanitary Sewer Special Assessment District Number 174 during the meeting at the Novi City Hall on December 3, 2008.

It has been almost two years since we agreed with our neighbor to the south to pursue evaluation of installation of sanitary sewer through a Special Assessment District to service these properties and others further to the south.

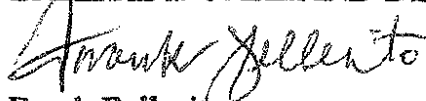
After reviewing the costs again at the meeting and in light of the obvious more recent economic conditions than when the pursuit of the sanitary sewer was initiated, it is also now obvious that it does not make good sense for proceeding with the installation of such a utility until the economic climate improves. We are therefore requesting that you discontinue pursuit of the Special Assessment District # 174.

We regret having to request this action, however, we are not the only ones that were caught off guard with the unexpected drastic fall in the several economic factors of which we are now all aware.

December 5, 2008
Mr. Brian Coburn PE
Civil Engineer
City of Novi
Page Two

Thank you for your past cooperation and certainly we all hope and anticipate that there will be a major improvement in economic conditions here in our State of Michigan.

Sincerely,
LAKESIDE OAKLAND DEVELOPMENT LLC



Frank Pellerito
Member

VIA EMAIL AND U.S. MAIL

December 4, 2008

Mr. Brian Coburn, P.E.
Civil Engineer
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Dear Brian,

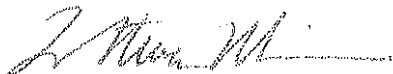
Thank you for presenting the preliminary engineering and conceptual cost estimates for the Proposed Special Assessment District #174 last evening. I appreciate your effort to evaluate this sanitary sewer extension on Wixom Road in Section 18 of Novi. As the owner of Parcel #2218-2000-3 (the "Cadillac Asphalt Property"), we agreed with our neighboring property owners to initiate investigation of the sewer extension almost 2 years ago. At that time, there was a healthy level of development activity in Novi and we believed that we could justify the expense of a sewer extension because there would be demand for our real estate.

Unfortunately, the sub-prime mortgage mess has ignited a powerful credit crisis which has devastated our state's economy. New development has ceased and national retailers and developers have abandoned Michigan. As such, although your projected cost estimates seem reasonable and your initial design efforts make sense, I must request that you immediately terminate any further work on this proposed SAD. Economic conditions are dire and actually seem to be worsening. It would be totally irrational to proceed at this point.

I'm sorry to make this request, but based upon our conversations, I know you appreciate our circumstances. Thank you for your cooperation in promptly addressing this matter. Please contact me directly if you need further information or correspondence regarding our request.

Sincerely,

EDW. C. LEVY CO.



L. Steven Weiner
Vice President

lsw/ib

Proposed Special Assessment District 174

Wixom Road (Section 18) Sanitary Sewer Extension



Legend

- Existing Sanitary Sewer
- SAD 174 Direct Benefit

CITY OF NOVI
 ENGINEERING DIVISION
 45175 W. TEN MILE ROAD
 NOVI, MI 48375-3024
 (248) 347-0454
 MAP AUTHOR: Brian Coburn, PE



MAP INTERPRETATION NOTICE
 Map information depicted is not intended to replace or substitute for any official or primary source. This map was prepared to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

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