



## Special Assessment Task Force

The Special Assessment Task Force is scheduled to meet Monday, April 25, 2022, at 3:30 PM in the Mayor's Conference Room on the 4th Floor of the City/County Building, 221 N 5th St, Bismarck, ND 58501.

1. Welcome And Introductions

The subcommittee of the Special Assessment Task Force is composed of Dustin Gawrylow, Kate Herzog, Mike Schmitz, Mark Splonskowski, and Kevin Strege.

2. Approval Of Minutes

Documents:

[Special Assessment Task Force Subcommittee 4.18.2022.pdf](#)

3. Review The Updated Draft Ballot Language Provided By Dustin Gawrylow.

Documents:

[Sub-Committee Proposed Home Rule Charter Amendment April 18, 2022.pdf](#)

4. Discuss The Impacts To Other Political Subdivisions Such As Bismarck Public Schools And Bismarck Parks And Recreation District.

Documents:

[Current and Proposed NDCC.pdf](#)

5. Review The Proposed Fee Schedule And Tier Structure.

Documents:

[Arterial Improvement Special Assessments.pdf](#)

6. Next Meeting Of The Subcommittee Is May 2, 2022.

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## Special Assessment Task Force

4/18/2022 - Minutes

### 1. Welcome And Introductions

The subcommittee of the Special Assessment Task Force is composed of Dustin Gawrylow, Kate Herzog, Mike Schmitz, Mark Splonskowski, and Kevin Strege. Committee members present included Dustin Gawrylow, Kate Herzog, Mike Schmitz, Mark Splonskowski, and Kevin Strege.

### 2. Approval Of Minutes

Commissioner Splonskowski made a motion to approve the minutes as presented, and Kate Herzog seconded. All members present voted aye,

M/C.

### 3. Review The Updated Draft Ballot Language.

The listed paragraphs below are referencing the Subcommittee Proposed Home Rule Charter Amendment (Draft as of April 18, 2022).

Paragraph A - With the incorporation of corrections to punctuation, the general consensus was that the language was acceptable and the substance is good.

Kevin Strege made a motion to approve paragraph a with the noted punctuation corrections, Commissioner Splonskowski seconded. All members present voted aye, M/C.

Paragraph B - The consensus of the group was to modify the language as follows: Upon implementation of the Street Maintenance Infrastructure fee the Bismarck City Commission shall remove existing street maintenance infrastructure fee special assessment balances from the accounts of property owners.

Kate Herzog made a motion to approve as discussed, Kevin Strege seconded. All members present voted aye, M/C.

Paragraph C - The general consensus was to retain the language as drafted in 17C with the removal of "as approved by the City Commission" at the end of the draft paragraph.

Kate Herzog made a motion to approve as discussed, Kevin Strege seconded. All members present voted aye, M/C.

Paragraph D - The general consensus of the group was to remove 17D and include portions of the language in the memo of recommendations to the City Commission.

Paragraph E - The consensus of the group was to modify the language as follows: Before implementation, the City Commission shall establish an ordinance defining minimum fund balance and maximum ending fund balance for the Bismarck Street Utility Infrastructure Fund.

Kevin Strege made a motion to approve as discussed, Kate Herzog seconded. All members

present voted aye, M/C. All members present voted aye, M/C.

Paragraph F - The consensus of the group was to modify the language as follows: Implementation will commence upon the earlier of North Dakota Century Code allowing exemption of the infrastructure fee from tax levy limitations, or receipt of letters of support from each of the Bismarck Public School District and the Bismarck Parks and Recreation District.

Kate Herzog made a motion to approve as discussed, Kevin Strege seconded. All members present voted aye, M/C.

<https://bismarcknd.gov/DocumentCenter/View/40286/Sub-Committee-Proposed-Home-Rule-Charter-Amendment-April-18-2022-PDF>

4. Review The Proposed Fee Schedule And Tier Structure.
5. Discuss The Impacts To Other Political Subdivisions Such As Bismarck Public Schools And Bismarck Parks And Recreation District.
6. Discuss The Next Meeting Date Of The Subcommittee.
  - Other Business - The subcommittee received feedback from members of the public and agreed to meet again on April 25, 2022.

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**Sub-Committee Proposed Home Rule Charter Amendment (Draft as of April 18<sup>th</sup>, 2022)**

17. To levy and collect an infrastructure fee for street maintenance purposes.

a. Definitions and Flexibility: For the purposes of this fee, “street maintenance” shall be defined as “needed street maintenance projects determined by the city engineering department using an adopted industry accepted pavement management system”. The city commission may temporarily expand this scope only with unanimous roll call vote during the annual budget process.

b. Existing Debt: Upon passage, the city commission shall develop a plan for the city to assume the annual debt maintenance of existing maintenance special assessments. Upon assumption of existing debt, the city commission the city shall remove applicable balances from the accounts of property owners.

c. During the annual budget process, the city engineer shall develop and submit for approval proposed street maintenance projects as defined by Subsection A. The city engineer shall also provide the city commission a preliminary draft outlining expected projects coming up in the next five (5) years as defined by the existing capital improvement plan (CIP) criteria.

d. The city commission shall direct the city engineer to facilitate inquiries by residents for re-evaluation of street conditions to determine whether an accelerated maintenance schedule is warranted based on existing engineering criteria. This provision shall not be misconstrued as an inherent right maintenance occurring outside of existing engineering criteria.

e. Minimum and Maximum Ending Fund Balances: The city commission shall establish a policy in ordinance addressing minimum fund balances and maximum ending fund balances.

f. Impact on Other Jurisdictions: Prior to implementation, the Bismarck City Commission shall work with the Bismarck School Board, the Bismarck Park Board, and the Burleigh County Commission to ensure that amended legislation or an alternative agreement will be made to address any undue financial burden on the above listed political subdivisions.

## **Memorandum of Understanding and Intent (DG Draft)**

From: Bismarck Special Assessment Task Force Sub-Committee  
To: Bismarck City Commissioners

Commissioners,

Attached you will find our suggested language for a Home Rule Charter Amendment enabling the City Commission to pursue a policy to replace use of special assessments for street maintenance with a monthly street maintenance utility fee. This proposal is now five years in the making, and the details of the actual ordinance must be worked out before we can expect 60% of Bismarck's electors to approve such a change.

The contents of the Home Rule Charter Amendment are designed to allow this and future commissions the flexibility to transition away from special assessments for street maintenance, and to provide guardrails to protect property owners, taxpayers, and all residents in general. It is our genuine hope that this can be the first step to proving that city infrastructure can be financed with a more stable and sustainable monthly fee rather than the long-time practice of special assessments. With that said, we do understand no system is perfect, and the need to modify or even reverse this transition may be desired if economic conditions fluctuate such that the fee would exceed what an average person would call reasonable.

In addition to the proposed language for the actual amendment which we have consensus agreement is a minimum level of detail and protection for both the city government and its citizens, we would like to make the following statements for the record as to the direction the city commission should go in this process:

1. A draft ordinance and policy outline should be developed prior to asking the voters to approve this Home Rule Charter Amendment. For your sake as commissioners, and for the due diligence of the voters, we should be able to provide prior to any vote a well defined model of what the voters can expect if they vote to approve this amendment.
2. Upon approval by the voters, the city commission must facilitate public communications and public input beyond the bare minimum required by law. We would encourage you to develop a calendar showing the public what they can expect if they vote to approve, and how much opportunity for input they will be granted if the amendment is approved. We request that you as a commission commit to holding several stand-alone meetings (in addition to the legally required public hearings) where the public gets to have their voices heard, and that serious and informed public input be incorporated into the revision process.
3. We encourage you to expedite your discussion and decision on ending the policy of using the city's debt capacity to act as a bank and facilitate the financing of new "greenfield development". It is our view that an approved plan to phase out "greenfield" special assessments will be seen by the public as an act of good faith on the city's intent to follow-thru with previous promises made. Some of us would like a hard end date for "greenfield" special assessments to be included in the Home Rule Charter Amendment language, and would encourage you as commissioners to add such language to the amendment if the commission cannot establish that policy change prior to the finalization of this ballot language.

4. The sub-committee was divided on how specific the policy regarding minimum and maximum ending fund balances should be. We had consensus on requiring that you as a commission must have some sort of policy in the ordinance, but we also had enough discussion to offer up a more detailed alternative for the Home Rule Charter Amendment as follows:

Alternative Subsection E. Minimum and Maximum Ending Fund Balances: To insure adequate funding and limit excess funding, the street utility fee shall be adjusted annually within the defined rate framework. A three year projection of income and outflow will be calculated, and fees adjusted so the projected balance at the end of year three does not exceed 100% of the projected average annual outflow.

5. We would like to encourage the city to re-evaluate the use of sales tax revenue to “buy-down” special assessments and make it clear in ordinance that there will not be even the appearance that special assessments for street maintenance will ever occur once the new street utility fee has been passed. There has been some ambiguity as to whether property owners could see special assessments for Arterial Roadways in addition to the Monthly Street Utility Fee. It is our strong intent that this not be the case, even if state law might allow it (which we do not think it does).



Current NDCC

**57-15-41. Political subdivision tax levies for payment of special assessments exempt from levy limitations.**

No tax levy limitations provided by any statute of this state apply to tax levies by any county, city, school district, park district, or township for the purpose of paying any special assessments or paying debt service on bonds issued to prepay special assessments made in accordance with the provisions of title 40, against property owned by such county, city, school district, park district, or township. Any surplus in the special assessment fund after all of the special assessments for which the fund was created have been paid shall be placed in the general fund of the political subdivision.

Proposed changes to NDCC

**57-15-41. Political subdivision tax levies for payment of special assessments and infrastructure fee exempt from levy limitations.**

No tax levy limitations provided by any statute of this state apply to tax levies by any county, city, school district, park district, or township for the purpose of paying any special assessments and paying the infrastructure fee as set by 11-09.1-05, 11-11-55.1, 40-05.1-06, and 40-23-21 of the North Dakota Century Code or paying debt service on bonds issued to prepay special assessments made in accordance with the provisions of title 40, against property owned by such county, city, school district, park district, or township. Any surplus in the special assessment fund after all of the special assessments for which the fund was created have been paid shall be placed in the general fund of the political subdivision.

## Arterial Improvement Special Assessments

Improvement District	Project	2022			2023			2024		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
SI398	Century Ave – Arizona to Hamilton	6,207.26	245.02	6,452.28	6,207.26	80.05	6,287.31			
SI432	Century Avenue/Centennial Road	80,183.02	6,622.36	86,805.38	75,132.12	5,457.49	80,589.61	74,500.76	4,316.62	78,817.38
SI438	Washington St – Divide to Boulevard	64,045.44	5,289.54	69,334.98	60,011.08	4,359.12	64,370.20	59,506.78	3,447.86	62,954.64
SI476	Divide Ave – 26th St to Commerce	84,505.90	23,230.56	107,736.46	94,221.97	19,355.57	113,577.54	94,221.97	17,027.76	111,249.73
SI504	N Washington St – Calgary to 57th	152,334.78	77,327.13	229,661.91	158,968.01	68,813.22	227,781.23	161,810.83	59,567.33	221,378.16
Total		387,276.40	112,714.61	499,991.01	394,540.44	98,065.45	492,605.89	390,040.34	84,359.57	474,399.91

	Balance Due on Special Assessments		
	Principal	Interest	Total
<b>Arterial Improvements</b>	3,559,097.54	558,810.25	4,117,907.79

## Arterial Improvement Special Assessments

Improvement District	Project	2025			2026			2027		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
SI398	Century Ave – Arizona to Hamilton									
SI432	Century Avenue/Centennial Road	72,606.67	3,140.24	75,746.91	72,606.67	1,924.08	74,530.75	72,606.67	653.46	73,260.13
SI438	Washington St – Divide to Boulevard	57,993.90	2,508.23	60,502.13	57,993.90	1,536.84	59,530.74	57,993.90	521.95	58,515.85
SI476	Divide Ave – 26th St to Commerce	88,190.25	14,538.53	102,728.78	91,983.76	12,061.18	104,044.94	91,983.76	9,531.63	101,515.39
SI504	N Washington St – Calgary to 57th	166,086.57	51,350.60	217,437.17	170,824.60	43,715.93	214,540.53	174,615.02	34,927.69	209,542.71
Total		384,877.39	71,537.60	456,414.99	393,408.93	59,238.03	452,646.96	397,199.35	45,634.73	442,834.08

	Balance Due on Special Assessments		
	Principal	Interest	Total
Arterial Improvements	3,559,097.54	558,810.25	4,117,907.79

## Arterial Improvement Special Assessments

Improvement District	Project	2028			2029			2030		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
SI398	Century Ave – Arizona to Hamilton									
SI432	Century Avenue/Centennial Road									
SI438	Washington St – Divide to Boulevard									
SI476	Divide Ave – 26th St to Commerce	90,777.41	6,790.21	97,567.62	90,475.83	4,071.41	94,547.24	90,475.83	1,357.15	91,832.98
SI504	N Washington St – Calgary to 57th	178,150.01	26,910.84	205,060.85	181,940.44	20,618.73	202,559.17	186,678.47	15,089.45	201,767.92
Total		268,927.42	33,701.05	302,628.47	272,416.27	24,690.14	297,106.41	277,154.30	16,446.60	293,600.90

	Balance Due on Special Assessments		
	Principal	Interest	Total
Arterial Improvements	3,559,097.54	558,810.25	4,117,907.79

## Arterial Improvement Special Assessments

Improvement District	Project	2031			2032			2033		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
SI398	Century Ave – Arizona to Hamilton									
SI432	Century Avenue/Centennial Road									
SI438	Washington St – Divide to Boulevard									
SI476	Divide Ave – 26th St to Commerce									
SI504	N Washington St – Calgary to 57th	192,364.11	9,283.56	201,647.67	200,892.59	3,138.91	204,031.50			
Total		192,364.11	9,283.56	201,647.67	200,892.59	3,138.91	204,031.50			

	Balance Due on Special Assessments		
	Principal	Interest	Total
Arterial Improvements	3,559,097.54	558,810.25	4,117,907.79

## Arterial Improvement Special Assessments

Improvement District	Project	2034			2035			2036		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
SI398	Century Ave – Arizona to Hamilton									12,739.59
SI432	Century Avenue/Centennial Road									469,750.16
SI438	Washington St – Divide to Boulevard									375,208.54
SI476	Divide Ave – 26th St to Commerce									924,800.68
SI504	N Washington St – Calgary to 57th									2,335,408.82
Total										

	Balance Due on Special Assessments		
	Principal	Interest	Total
Arterial Improvements	3,559,097.54	558,810.25	4,117,907.79