



Special Assessment Task Force

The Special Assessment Task Force is scheduled to meet Monday, April 11, 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
2. Approval Of Minutes

Documents:

[Special Assessment Task Force Subcommittee Meeting 4.4.2022.pdf](#)

3. Review The Updated Draft Ballot Language Provided By Dustin Gawrylow And Other Subcommittee Members.

Documents:

[Draft Home Rule Charter Language_Gawrylow Edits.pdf](#)
[Draft Home Rule Charter Language_Herzog Edits.pdf](#)
[Draft Home Rule Charter Language_Strege Edits.pdf](#)

4. Review The Proposed Fee Schedule And Tier Structure.

Documents:

[Arterial Improvement Special Assessments.pdf](#)

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

Documents:

[Current and Proposed NDCC.pdf](#)

6. Next Meeting Of The Subcommittee Is April 18, 2022.

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Special Assessment Task Force

4/4/2022 - Minutes

1. Welcome And Introductions

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

Commissioner Splonskowski joined the meeting at 3:50 PM.

2. Approval Of Minutes

Mike Schmitz made a motion to approve the minutes as presented, Kate Herzog seconded. All members present voted aye,

M/C.

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

Dustin Gawrylow provided draft language for the Home Rule Charter. The draft language included nine separate paragraphs addressing the levy and collection of an infrastructure fee for street maintenance purposes. The subcommittee went through each paragraph with suggested edits.

Paragraph A: The general consensus would be that specific language belongs in the ordinance and combining paragraphs A and C from Gawrylow's handout seems appropriate. Ms. Herzog will compile the draft language prior to the next meeting.

Paragraph B: The subcommittee discussed the need to address existing special assessment balances and that upon adoption of the Home Rule Charter amendment, existing street maintenance special assessments would be assumed by the street maintenance fund. Mr. Gawrylow will provide revised language for the next meeting.

Paragraph C: Combined with paragraph A.

Paragraph D: Subcommittee agreed no changes were necessary.

Paragraph E: The group discussed requesting City staff work with the City Attorney to develop accurate language to address the transition away from special assessments to a new infrastructure fee 120 days before implementation. The group also discussed the desire to include no less than two public input meetings before the commission's final approval of an ordinance. Keith Hunke, City Administrator, added that if approved at the November 2022 election, the earliest the street maintenance fee could be implemented would be January 2024. The general consensus is to review the draft language prepared by the City Attorney at the next meeting.

Paragraph F: The group agreed to task City staff with developing a web-based estimator to allow property owners to view an estimate of the monthly street maintenance fee by parcel. The subcommittee would like to have the estimator available before the vote in November 2022.

Paragraph G: The group discussed the need for 100% of the funds necessary for street maintenance to be held by January 1st of each construction year. A cap of 110% would help to prevent an accumulation of extra funds. The group discussed slight annual increases to help create a smoothing effect to avoid large jumps to the street maintenance fee. The consensus was for the Commission to establish a policy to address the minimum amounts held in the street utility fee fund to help ensure its solvency.

Paragraph H: The group agreed that new language would need to be developed through the legislative process to accommodate the needs of Bismarck Public School and Bismarck Parks and Recreation District. The general consensus was that before full implementation, one of the following must occur: 1) Legislature revises the language in North Dakota Century Code 2) Political Subdivisions provide a letter of support for the Street Maintenance fee.

Paragraph I: The general consensus is that the language is appropriate as worded. Mr. Hunke noted that there are current special assessments resulting from new development that support new parks, public open space, and stormwater facilities. Mr. Hunke stated that a better definition of the word green-field would need to be developed to preserve special assessments for public parks, public open spaces, and stormwater development projects in the future. Ms. Herzon and Mr. Gawrylow will work on revised language and provide it to the committee at the next meeting.

<https://bismarcknd.gov/DocumentCenter/View/40224/Draft-Home-Rule-Charter-Language-Version-2>

4. Review The Proposed Fee Schedule And Tier Structure.

Time did not allow for discussion of item 4.

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

Time did not allow for discussion of item 5.

6. Next Meeting Of The Subcommittee Is April 11, 2022.

The meeting adjourned at 5:10 PM.

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Post April 4th Meeting Additions and Corrections to the Mike Schmitz and Kate Herzog Combined Edits of --- D.G. Draft Home Rule Charter Language

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

a. For the purposes of this fee, "street maintenance" shall be defined as any maintenance activity not financed by the city's general fund prior to enactment of this amendment or prior to January 1st, 2022. The city commission shall enact ordinance defining and itemizing this scope and procedures and may expand this scope only with unanimous roll call vote, renewed annually, during the budget process.

b. Upon passage, the city commission may develop a plan for the city to assume the annual debt maintenance of existing maintenance special assessments. If the city commission does assume the debt maintenance costs as part of the new infrastructure fee, the city shall remove such balances from the accounts of property owners.

c. During the annual budget process, the city commission shall task staff to develop and submit needed street maintenance projects defined by city engineering using the basis of a pavement management system and maintenance schedules for maintenance expectations for the next three (3) years. Any changes made to said plan should be explained. Any changes made to current year project priorities must be justified by a process defined by the city commission.

d. The city commission shall develop and enact into ordinance a process to allow for residents to request an evaluation of their street if they believe the street should be included in the three-year maintenance schedule

e. After an affirmative vote of the residents of the City of Bismarck on this amendment, and no less than one-hundred-and-twenty (120) days prior to the introduction of any ordinance related to a street maintenance fee, the city commission shall develop a comprehensive policy detailing how the new infrastructure fee will work. The city shall hold no fewer than two (2) public input meetings subsequent to drafting and prior to final approval of by the full commission.

f Option 1: To protect the taxpaying citizens of Bismarck, the commission shall establish a policy in ordinance addressing minimum fund balances and maximum ending fund balances.

f. Option 2: 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.

g. Prior to full implementation, the Bismarck City Commission shall work with the Bismarck School Board, the Bismarck Park Board, and the Burleigh County Commission to ensure that legislation has been passed that will prevent this infrastructure fee from creating an undue burden on said political subdivisions and their taxpayers.

h. Optional Based on City Commission Action Prior to Public Vote If at the time of implementation of the new infrastructure fee the city commission has not yet ended the practice of financing greenfield specials, the practice of city financing for greenfield development shall be prohibited in calendar years years beginning after December 31st, 2025.

Unaddressed:

Arterial specials – is this fee going to cover those, and are those existing balances to be assumed?

Fee Ranges or Tier Structures – in Home Rule or Ordinance?

D.G. Draft Home Rule Charter Language V.3

Red: Needs work or clarification

Yellow: Suggested changes

Mike Schmitz and Kate Herzog Combined Edits of --- D.G. Draft Home Rule Charter Language

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

- a. For the purposes of this fee. "street maintenance" shall be any maintenance activity not financed by the city's general fund prior to enactment of this amendment or prior to January 15 \ 2022. needed street maintenance projects defined by city engineering using the basis of a pavement management system The city commission shall enact ordinance defining and itemizing this scope. and may only expand this scope definition only with unanimous roll call vote. renewed annually. during the annual budget process.
- b. The city commission shall also enact ordinance specifying how the assumption of existing maintenance special assessment balances will occur.
- c. During the annual budget process, the city commission shall task staff to develop and submit needed street maintenance projects defined by city engineering using the basis of a pavement management system and maintenance schedules for maintenance expectations for the next three (3) years. Any changes made to said plan should be explained. Any changes made to current year project priorities must be justified by a process defined by the city commission.
- d. The city commission shall develop and enact into ordinance a process to allow for residents to request an evaluation of their street if they believe the street should be included in the three-year maintenance schedule
- e. After an affirmative vote and no less than one-hundred-and-twenty (120) days prior to the transition away from street maintenance special assessments and to a new infrastructure fee, the city commission shall develop a comprehensive policy detailing how the new infrastructure fee will be administered. The city shall hold no fewer than two (2) public input meetings subsequent to drafting and prior to final approval by the full commission.
- f. The city commission shall direct city staff to develop a user-friendly internet based interface for residents to estimate the financial impact of the infrastructure fee.
- g. To protect the Citizens of Bismarck, the infrastructure fee fund balance shall not exceed 110% of the annual average of the prior three years expenditures, as a result the annual fee assessed to account holders will be calculated based upon these cap to the fund balance.
- h. Prior to full 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 a settled upon infrastructure fee will address not create any undue financial burden on said political subdivisions and their taxpayers.

- i. If at the time of implementation of the new infrastructure fee the city commission has not yet ended the practice of financing greenfield specials, the practice of city financing for greenfield development shall be prohibited in calendar years years beginning after December 31 st , 2025.

My paragraph to be placed on the agenda for review and discussion. I added an intro phrase that we did not discuss but I think captures the intent.

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.



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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
Arterial Improvements	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

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.