



Special Assessment Task Force Subcommittee

The Special Assessment Task Force Subcommittee is scheduled to meet Monday, May 2, 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 4.25.2022.pdf](#)

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

Documents:

[Sub-Committee Proposed Home Rule Charter Amendment - As Approved on April 25, 2022.pdf](#)
[Home Rule Charter Language Footnotes of Intent.pdf](#)

4. Review Memorandum Of Understanding And Intent.

Documents:

[Memorandum of Recommended Direction to the Bismarck City Commission.pdf](#)

5. Public Comment.

6. Next Meeting Of The Subcommittee Is May 10, 2022.

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Special Assessment Task Force

4/25/2022 - Minutes

1. Welcome And Introductions

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

Committee member Kate Herzog was absent.

2. Approval Of Minutes

Commissioner Splonskowski made a motion to approve the minutes as presented, and Kevin Strege seconded. All members present voted aye, M/C.

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

The committee discussed the most recently revised home rule charter draft language.

Kevin Strege made a motion to approve the draft Home Rule Charter language with agreed-upon corrections, Commissioner Splonskowski seconded. All members present voted aye, M/C.

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

City Administrator Hunke reported that he has been working with representatives of the Bismarck Public School District and the Bismarck Parks and Recreation District to address desired changes to the State law. Mr. Hunke closed by saying that all three political subdivisions have agreed to work together to address new/revised language that would modify the law to support the position and ability of Schools and Parks to participate in a street maintenance monthly fee program.

5. Review The Proposed Fee Schedule And Tier Structure.

Mr. Strege requested an update from City staff at the May 2, 2022 meeting. The information will relate to the fee schedule and tier structure. The general consensus of the committee members present will be to receive public input pertaining to the memorandum of understanding at the May 2, 2022, meeting. The group briefly reviewed the draft Memorandum of Understanding (MOU) and Intent. Mr. Gawrylow stated that he would modify the draft language prior to the next meeting. Mr. Strege would modify the draft language of paragraph four beginning with Alternative Subsection E.

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

The general consensus of committee members present is that the draft MOU language is acceptable at this time, with the understanding that the language may need to be improvised once the topic of the rates and

tier structure has been determined.

The group will develop a document that describes the intent of each of the components of the Home Rule Charter and the MOU.

The subcommittee received comments from the general public in attendance.

There being no further business to address the committee adjourned at 4:52 PM.

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DRAFT

Sub-Committee Proposed Home Rule Charter Amendment (As Approved on April 25, 2022)

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 "needed street maintenance projects" determined by the city commission and adopted "industry-accepted pavement management system." The city commission may temporarily expand this scope only with a unanimous roll call vote during the annual budget process.
- b. Upon implementation, the city commission shall remove street maintenance special assessment balances from the accounts of property owners.
- c. The city commission shall annually approve a non-binding preliminary draft outlining expected street projects for the next five (5) years as defined by the city commission's capital improvement plan criteria.
- d. Before full implementation, the city commission shall approve an ordinance defining minimum fund balance and maximum ending fund balance.
- e. Implementation will commence upon the earlier of:
 - a) North Dakota Century Code allowing the exemption of the infrastructure fee from tax-levy limitations for political subdivisions, or
 - b) Receipt of letters of support from both the Bismarck Public School District and Bismarck Parks and Recreation District.

Home Rule Charter Language "Footnotes of Intent"

The following is a brief line-by-line description of intent for the sub-committee approved Home Rule Charter language.

17. Enables the city to utilize statutory powers granted to Home Rule Charter cities.
 - a. After in-depth discussions, it was agreed to minimally define in the Home Rule Charter what would be covered by the new "street maintenance fee." The subcommittee intends that the ordinance list very specifically defines what the new fee would cover and requires annual unanimous approval of the city commission to go beyond that. The sub-committee will not oppose placing detail lists in the Home Rule Charter if the commission wishes to go that route.
 - b. This line assumes the city commission wishes to pay off the existing street maintenance specials. This line can be redacted if the commission decides not to go down that road. The subcommittee would not oppose such action but would like to make it clear that it would require even more transitional planning. There are no easy or right solutions to this particular piece of the equation.
 - c. The sub-committee placed this requirement in the Home Rule Language to ensure the public has a general idea of what to expect from the city on street maintenance in the near and mid-term.
 - d. The sub-committee agreed that there should be a requirement for policies limiting both minimum ending fund balance and maximum ending fund balance. We did not agree on approach or language but gave further suggestions in the attached "Memo."
 - e. To address concerns by the park district and school district, we want to make it clear that the city will take the lead on fixing state law that affects them on implementing this new fee, OR that the city will negotiate with the schools and parks to find a solution. Burleigh County was not included in this list as it is not subject to the types of mill levy limitations the schools and parks are.

Memorandum of Recommended Direction to the Bismarck City Commission

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 the 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 Home Rule Charter Amendment contents are designed to allow this and future commissions the flexibility to transition away from special assessments for street maintenance and provide guardrails to protect property owners, taxpayers, and all residents in general. Our genuine hope is 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 of the city commission should go in this process:

1. A draft ordinance and policy outline (developed by the task force, sub-committee, or other entity) should be developed before asking voters to approve this Home Rule Charter Amendment. For your sake, as commissioners and the due diligence of the voters, we should be able to provide a well-defined model of what the voters can expect if they vote to approve this amendment.
 - a. There has been some ambiguity as to whether property owners could see special assessments for Arterial Roadways in addition to the Monthly Street Utility Infrastructure Fee. Our strong intention is that this not be the case, even if state law might allow it (which we do not think it does) is to encourage the city to re-evaluate the use of sales tax revenue to "buy down" special assessments and make it clear in the 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. If Greenfield Specials are eliminated, and Street Maintenance Specials are replaced, it makes no sense to leave the possibility for specials for "Area Wide" Arterial Roads.
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 what 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. Expedite the 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." We believe 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 through 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 before 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 a consensus on requiring that you as a commission must have some sort of policy in the ordinance. However, still, we have had enough discussion to offer up a more detailed alternative for the Home Rule Charter Amendment as follows:

Alternative Subsection D.

Minimum and maximum ending fund balances, set as a policy in the ordinance, are recommended to provide voter assurance that the rate adjustments will not be extreme due to shortfalls and the fund will not exceed a reasonable reserve. Our sample language recommendation is as follows:

To ensure 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 prepared, and fees adjusted so the projected balance at the end of year three is no less than 25%, and no more than 100% of the three-year average projected outflow.

5. Work with city staff to facilitate a Citizen Inquiry process for residents to request a re-evaluation of street conditions in their neighborhood. The general consensus among subcommittee members was that this was a good idea, while staff indicated they essentially already do this. Legal counsel indicated there were dangers in placing such a process in the home rule charter as it created a new "right." A process greater than the current but less than a new "right" is desirable.