

**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).

