

## 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.