

**2023 HOUSE POLITICAL SUBDIVISIONS**

**HB 1237**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1237  
1/19/2023

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|--|
| Relating to the exemption of infrastructure fees from levy limitations |
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Chairman Longmuir opened the hearing on HB 1237 at 10:04 AM. Members present Chairman Longmuir, : Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Davis, Rep. Hager. Absent: Rep. Warrey

### Discussion Topics:

- Infrastructure
- Maintain streets in Bismarck
- Double dipping fee
- Other state interest

Rep. Dockter: Introduced the bill. No written testimony

Keith Hunke, City Administrator, Bismarck, ND: In support. Testimony # 13906

Dustin Gavriolo, In support. No written testimony.

Brian Ritter, President & CEO of Bismarck Mandan Chamber EDC: In support. Testimony #13795

Bill Wolken, ND League of Cities: No written testimony.

### Additional written testimony:

Kate Herzog, Chief Operating Officer, Downtown Business Association of Bismarck: In support. Testimony #14469

Hearing closed at 10:46 AM.

Delores Shimek, Committee Clerk

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1237  
1/19/2023

Relating to the exemption of infrastructure fees from levy limitations.

Chairman Longmuir opened the meeting on HB 1237 at 2:35 PM. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, Rep. Hager

### Discussion Topics:

- Spread out liability over twelve months
- Committee action.

Rep. Klemin moved a Do Pass;  
Seconded by Rep. Motschenbacher

| Representatives                    | Vote |
|------------------------------------|------|
| Representative Donald W. Longmuir  | Y    |
| Representative Clayton Fegley      | Y    |
| Representative Jayme Davis         | N    |
| Representative LaurieBeth Hager    | A    |
| Representative Patrick Hatlestad   | Y    |
| Representative Matt Heilman        | Y    |
| Representative Dawson Holle        | Y    |
| Representative Jim Jonas           | Y    |
| Representative Lawrence R. Klemin  | Y    |
| Representative Mike Motschenbacher | Y    |
| Representative Mitch Ostlie        | Y    |
| Representative Nico Rios           | Y    |
| Representative Nathan Toman        | Y    |
| Representative Jonathan Warrey     | Y    |

Roll Call Vote: 12 Yes 1 No 1 Absent Carrier: Rep. Ostlie

Meeting closed at 2:45 PM.

Delores Shimek, Committee Clerk

**REPORT OF STANDING COMMITTEE**

**HB 1237: Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1237 was placed on the Eleventh order on the calendar.

**2023 SENATE FINANCE AND TAXATION**

**HB 1237**

# 2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1237  
3/1/2023

Relating to the exemption of infrastructure fees from levy limitations.

**3:00 PM Chairman Kannianen** opens hearing.

Senator Present: **Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.**

**Discussion Topics:**

- Fee effect
- Neighborhood development
- Voter preference
- Levy limit
- State comparison

**3:00 PM Representative Dockter** introduced bill.

**3:09 PM Keith Hunke, Bismarck City administrator,** testified in favor. #21353

**3:21 PM Brian Ritter, President, and CEO for Bismarck Chamber EDC,** testified in favor.  
#21340

**3:26 PM Bill Wocken, ND League of Cities,** verbally testified in favor.

**3:27 PM Steve Vogelwohl, Bismarck resident and taxpayer,** testified in opposition.  
#21622

**3:45 PM Charles Dendy, ND legal counsel for Tax Department,** answered questions verbally.

**3:46 PM Chairman Kannianen** adjourns hearing.

**3:50 PM Keith Hunke, Bismarck City administrator,** answered questions verbally.

**Additional written testimony:**

Dustin Gawrylow # 21540

**3:54 PM Chairman Kannianen** adjourns meeting.

*Nathan Liesen, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1237  
3/8/2023

Relating to the exemption of infrastructure fees from levy limitations.

**11:54 AM Chairman Kannianen** opened the meeting.

Senator Present: **Kannianen, Weber, Patten, Rummel, Magrum, Piepkorn.**

### Discussion Topics:

- Committee Action

**12:05 PM Senator Rummel** moved Do Pass.

**12:06 PM Senator Patten** seconded.

Roll call vote.

| Senators                  | Vote |
|---------------------------|------|
| Senator Jordan Kannianen  | Y    |
| Senator Mark F. Weber     | N    |
| Senator Jeffery J. Magrum | N    |
| Senator Dale Patten       | Y    |
| Senator Merrill Piepkorn  | N    |
| Senator Dean Rummel       | Y    |

Failed 3-3-0

**12:06 PM Senator Magrum** moved Do Not Pass.

**12:06 PM Senator Piepkorn** seconded.

Roll call vote.

| Senators                  | Vote |
|---------------------------|------|
| Senator Jordan Kannianen  | N    |
| Senator Mark F. Weber     | Y    |
| Senator Jeffery J. Magrum | Y    |
| Senator Dale Patten       | N    |
| Senator Merrill Piepkorn  | Y    |
| Senator Dean Rummel       | N    |

Failed 3-3-0

**12:07 PM Senator Magrum** moved HB 1237 to the floor without committee recommendation.

**12:08 PM Senator Patten** seconded.

Roll call vote.

| <b>Senators</b>           | <b>Vote</b> |
|---------------------------|-------------|
| Senator Jordan Kannianen  | Y           |
| Senator Mark F. Weber     | Y           |
| Senator Jeffery J. Magrum | Y           |
| Senator Dale Patten       | Y           |
| Senator Merrill Piepkorn  | Y           |
| Senator Dean Rummel       | Y           |

Passed 6-0-0

**Chairman Kannianen** will carry the bill.

**12:11 PM Chairman Kannianen** closed the meeting.

*Nathan Liesen, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1237: Finance and Taxation Committee (Sen. Kannianen, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1237 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1237**



**House Political Subdivisions Committee – HB 1237**

**Representative Donald W. Longmuir, Chair**

**January 19, 2023**

Chairman Longmuir, Members of the Committee:

My name is Brian Ritter and I am the President & CEO of the Bismarck Mandan Chamber EDC. Please accept the following testimony on behalf of our organization's more than 1,200 members in support of HB 1237

During the 2019 and 2021 Legislative Sessions, our organization was a strong supporter of legislation that would enable communities like Bismarck and Mandan to ask for voter approval of a street utility fee. Also known as an infrastructure fee, this monthly charge on a community's utility bill is envisioned as an alternative to special assessments that would provide more certainty for both property owners and political subdivisions.

Political subdivisions such as park and school districts also pay special assessments and if the voters of a community elected to enact an infrastructure fee, would pay those as well. HB 1237 simply ensures that those affected political subdivisions could pay an infrastructure fee in the same manner, and with the same funds, as they would a special assessment.

As such, I would respectfully ask that the Committee give a DO PASS recommendation to HB 1237.

House Political Subdivisions Committee  
Representative Donald Longmuir, Chairman  
Representative Clayton Fegley, Vice-Chairman  
January 19, 2023

Chairman Longmuir, Members of the House Political Subdivisions Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony in support of House Bill 1237.

Over the course of the last several years, the City of Bismarck has been evaluating various funding options for city infrastructure including the replacement of special assessments which are currently used to pay for street maintenance projects.

In November of 2016, the Infrastructure Task Force was created and had a goal of developing sustainable, long term financial plans for street, water and sewer projects to meet the needs of our community.

In April of 2017, the Special Assessment Task Force was created and took a deep dive into the special assessment process used to fund street, water and sewer projects.

In October of 2017, the Infrastructure and Special Assessment Task Forces were combined. Task force members included representatives from the business community, apartment owners, builders, realtors, manufactured home parks, homeowners and renters.

In 2018, the combined Bismarck Infrastructure Task Force and Special Assessment Task Force presented a recommendation to pursue the development of a street utility fee. Unfortunately, it came to light that the North Dakota Century Code did not provide the City the authority to levy and collect a street utility fee for payment of street maintenance projects.

In January of 2019, House Bill 1474, which was sponsored by several of our local legislators, was introduced in the state legislature. This bill would have provided the City of Bismarck the authority to levy and collect a fee for payment of street maintenance projects. The result of this legislation was the creation of a study that was assigned to the 2019-2020 Interim Taxation committee.

Starting in July of 2019, the Interim Taxation Committee initiated its review of House Bill 1474 for study purposes and solicited comments from city representatives on the language in the bill over the course of several months. It was determined that the committee's preference was for individual legislators to introduce legislation on this topic in the future. The committee concluded its study of special assessment revenue replacement options at its January 29, 2020 meeting.

In April of 2020, the City of Bismarck issued a request for proposals for Street Utility Fee Consultant Services. Our selected consultant AE2S Nexus has worked with city staff members from Engineering, Finance, Community Development, Public Works and Administration over the course of several months developing a framework and strategies to replace the street maintenance special assessment revenue received from residential and commercial properties with an alternative funding source such as a street utility fee.

Enabling legislation was approved by the North Dakota Legislature during the 2021 Legislative Session with the passage of HB 1419, which provided the City of Bismarck the authority to levy and collect an infrastructure fee for payment of street maintenance projects. The City of Bismarck Special Assessment Task Force continued its work throughout the remainder of 2021 and into 2022. During that time, it was discovered that current law does not provide the opportunity to pay for the infrastructure fee (proposed Bismarck Street Utility Fee) with the existing levy for special assessments currently utilized by Bismarck Parks and Recreation and Bismarck Public Schools.

House Bill 1237 provides the exemption of infrastructure fees from levy limitations which addresses the issue discovered by the work of the Bismarck Special Assessment Task Force.

I urge you to give HB 1237 a DO PASS recommendation.

Thank you for the opportunity to provide testimony in support of House Bill 1237. I am happy to stand for any questions the Committee may have.

Keith J. Hunke, City Administrator  
City of Bismarck  
701-355-1300  
khunke@bismarcknd.gov



House Political Subdivisions  
Chairperson and Committee Members

HB 1237 Support

The Downtown Business Association of Bismarck represents over 200 members with 9,000 employees in North Dakota’s second largest employment district.

We encourage your support of HB 1237 to allow political subdivisions to use their taxing authority to pay ‘street utility fees’ in the same manner as special assessments. This would allow cities that switch from special assessments to ‘street maintenance fees’ the opportunity to treat all political subdivisions equally to communities that continue to use the special assessment system for street maintenance. Therefore removing any undue hardship on school and park districts from assessing and paying for street maintenance.

Our organization has been concerned about infrastructure fees, but working as a part of the special assessment and infrastructure task force in Bismarck, this change in state law would continue to allow us to work through the details of changing our special assessments for maintenance to a more manageable fee, if implemented thoughtfully.

We encourage your DO PASS vote on HB 1237  
Sincerely,

A handwritten signature in black ink, appearing to read "Kate Herzog".

Kate Herzog, COO  
Chief Operating Officer  
Downtown Business Association of Bismarck

President  
Downtown Bismarck Community Foundation



**Senate Finance & Taxation Committee – HB 1237**

**Senator Jordan L. Kannianen, Chair**

**March 1, 2023**

Chairman Kannianen, Members of the Committee:

My name is Brian Ritter and I am the President & CEO of the Bismarck Mandan Chamber EDC. Please accept the following testimony on behalf of our organization's more than 1,200 members in support of HB 1237

During the 2019 and 2021 Legislative Sessions, our organization was a strong supporter of legislation that would enable communities like Bismarck and Mandan to ask for voter approval of a street utility fee. Also known as an infrastructure fee, this monthly charge on a community's utility bill is envisioned as an alternative to special assessments that would provide more certainty for both property owners and political subdivisions.

Political subdivisions such as park and school districts also pay special assessments and if the voters of a community elected to enact an infrastructure fee, would pay those as well. HB 1237 simply ensures that those affected political subdivisions could pay an infrastructure fee in the same manner, and with the same funds, as they would a special assessment.

As such, I would respectfully ask that the Committee give a DO PASS recommendation to HB 1237.

Senate Finance and Taxation Committee

Senator Jordan Kannianen, Chairman

Senator Mark Weber, Vice-Chairman

March 1, 2023

Chairman Kannianen, Members of the Senate Finance and Taxation Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony in support of House Bill 1237.

Over the course of the last several years, the City of Bismarck has been evaluating various funding options for city infrastructure including the replacement of special assessments which are currently used to pay for street maintenance projects.

In November of 2016, the Infrastructure Task Force was created and had a goal of developing sustainable, long term financial plans for street, water and sewer projects to meet the needs of our community.

In April of 2017, the Special Assessment Task Force was created and took a deep dive into the special assessment process used to fund street, water and sewer projects.

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In 2018, the combined Bismarck Infrastructure Task Force and Special Assessment Task Force presented a recommendation to pursue the development of a street utility fee. Unfortunately, it came to light that the North Dakota Century Code did not provide the City the authority to levy and collect a street utility fee for payment of street maintenance projects.

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Enabling legislation was approved by the North Dakota Legislature during the 2021 Legislative Session with the passage of HB 1419, which provided the City of Bismarck the authority to levy and collect an infrastructure fee for payment of street maintenance projects. The City of Bismarck Special Assessment Task Force continued its work throughout the remainder of 2021 and into 2022. During that time, it was discovered that current law does not provide the opportunity to pay for the infrastructure fee (proposed Bismarck Street Utility Fee) with the existing levy for special assessments currently utilized by Bismarck Parks and Recreation and Bismarck Public Schools.

House Bill 1237 provides the exemption of infrastructure fees from levy limitations which addresses the issue discovered by the work of the Bismarck Special Assessment Task Force.

I urge you to give HB 1237 a DO PASS recommendation.

Thank you for the opportunity to provide testimony in support of House Bill 1237. I am happy to stand for any questions the Committee may have.

Keith J. Hunke, City Administrator  
City of Bismarck  
701-355-1300  
khunke@bismarcknd.gov

**HB 1237 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network**

Mr. Chairman and Members of the Committee,

In my personal capacity I have been a member of the Bismarck Special Assessment Task Force for 5 years.

I whole heartedly support passage of HB 1237 as it is removing the latest stumbling block in the way of our work toward the goal of reforming special assessments at the local level.

I urge the committee to also look at any other language that may be problematic, just in case.

Thank you!

**Testimony of Steve Vogelpohl  
Bismarck Property Owner and Taxpayer  
To Senate Finance and Taxation Committee  
In Opposition to HB 1237  
Wednesday, March 1, 2023**

Mr. Chairman and members of the Committee, my name is Steve Vogelpohl. I am a Bismarck resident, property owner and taxpayer.

I have attended the meetings of Bismarck's Special Assessment Task Force and its Subcommittee since July, 2021. HB 1237 relates to the Subcommittee's Memorandum commentary and recommendations (attached) regarding the City of Bismarck's infrastructure "fee" proposal.

The present North Dakota Century Code Section 57-15-41 empowers governing bodies of 5 specified political subdivisions to levy property tax to pay special assessments made in accordance with Title 40 against property owned by the political subdivision. As you are aware, the prerequisite to a special assessment is a determination that the property specially assessed is specially benefitted by the improvement (the special assessment not to exceed the amount of special benefit to the particular parcel).

Under the City of Bismarck's infrastructure "fee" proposal, special assessments for future street improvements (maintenance) are to be discontinued. Instead, the owners of property within the City, including political subdivisions, will be billed a monthly "fee" to establish and maintain a fund to pay for these improvements. The funded improvements will be made for streets **anywhere** (*i.e.*, all City streets) within the City corporate limits, with no end date to the "fee."

By reason of the special benefit prerequisite, a special assessment effectively ties an improvement to specific property. Not willing to pay for *non-arterial* street improvements not specific to (*i.e.*, not determined through statutory process as specially benefitting) my property, I will vote against the "fee" proposal if the City Commission persists in its pursuit.

If the "fee" proposal passes and is implemented and HB 1237 has become law, I of course will also have to pay the property taxes levied by the governing bodies of the political subdivisions to pay the "fee" billed them.

Perhaps the *present* governing bodies of the County, School District and Park District have given due consideration to the consequences of the City's "fee" proposal and believe that their financial responsibilities should be expanded to include improvement of **all** streets in the City. I believe, however, that funding improvements of all streets in the City, unnecessarily grows the roles of these political subdivisions beyond their present primary functions.

I ask that this Committee consider the financial obligation of a special assessment versus that of the City of Bismarck's proposed "fee" (no end date).

A special assessment is a *limited* obligation - an amount of principal and interest is paid in full at the conclusion of the period of years over which the City has certified the annual installments for payment.

The City of Bismarck's proposed "fee" is an *unlimited* obligation - the property owner will receive monthly billings for an amount set and changeable by the City and the monthly billings are continuous with no ending date.

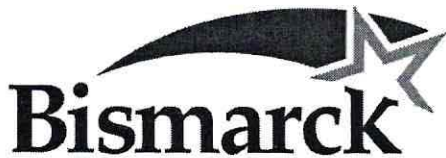
The present Section 57-15-41 allows the levy of property tax in the amount sufficient to pay the limited obligation.

HB 1237 will *also* allow the levy of property tax in the amount sufficient to pay the unlimited obligation. As such, HB 1237 effectively authorizes a **new** property tax, one *both* of unlimited duration and of amounts set and changeable in reaction to the City's "fee" and its adjustments.

I prefer a limited obligation and avoiding the growth and duplication of roles across governmental units that HB 1237 empowers.

I ask your Do Not Pass for this Bill.

Thank you.



## City Administration

**DATE:** June 21, 2022  
**FROM:** Keith Hunke, City Administrator  
**ITEM:** Special Assessment Task Force Update

**REQUEST:**

Receive an update from the Special Assessment Task Force.

Please place this item on the June 28, 2022, City Commission meeting agenda.

**BACKGROUND INFORMATION:**

The City Commission directed the Special Assessment Task Force (SATF) to reconvene in July of 2021. Membership of the SATF reflected stakeholder groups and residents of the city. City Commissioner Mark Splonskowski and former City Commissioner Nancy Guy were appointed co-chairs of the SATF. The City Commission approved the request of the SATF to create a working group subcommittee of five members of the SATF, which included Commissioner Mark Splonskowski, Kevin Strege, Mike Schmitz, Kate Herzog, and Dustin Gawrylow. The SATF working group subcommittee has completed its work and the SATF received and approved recommendations of the subcommittee on June 15, 2022. Recommendations of the SATF are attached.

**RECOMMENDED CITY COMMISSION ACTION:**

Receive update from the Special Assessment Task Force.

**STAFF CONTACT INFORMATION:**

Keith Hunke | City Administrator | 701-355-1300 | [khunke@bismarcknd.gov](mailto:khunke@bismarcknd.gov)

## 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 should be developed before asking voters to approve this Home Rule Charter Amendment. The city should be able to provide a well-defined model of what the voters can expect if they vote to approve this amendment.
2. There has been some ambiguity as to whether property owners could see special assessments for Arterial/Collector Roadways in addition to the Monthly Street Utility Infrastructure Fee. It is our strong preference that city policies be modified to eliminate the need for any future special assessments for street projects that would be considered "maintenance". Special consideration to widening or other work that may create a different designation. 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/Collector Roads. If this is not possible, the city must develop a way to explain why this is ahead of time to avoid "bait and switch" complaints.
3. 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 the city to develop a calendar showing the public what they can expect as far as the timeline for development, discussion, debate, and implementation. 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.

4. Expedite the discussion and decision on ending the policy of using the city's debt capacity for facilitating the financing of new "greenfield development." We believe that an approved plan, prior to a public vote on the home rule charter amendment, to phase out "greenfield" special assessments will be seen by the public as an act of good faith on the city's part.
5. The sub-committee was divided on how specific the policy regarding minimum and maximum ending fund balances should be addressed. We had a consensus on requiring that the city commission have some sort of policy in the ordinance. One discussed approach was as follows:

Alternative Subsection D.

Minimum and Maximum Ending Fund Balances: 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 calculated, and fees adjusted so the projected balance at the end of year three does not exceed 100% of the projected average annual outflow.

6. 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.
7. When determining how to assume the annual payments of existing specials, we recommend earmarking the ~\$8 million in sales tax revenue currently used to reduce special assessments generally. This way, the new street maintenance utility fee is not used to pay down existing balances. (No one's new fee should pay for other people's existing balances, having those dollars come from existing sales tax dollars is more tolerable.) As existing debt is retired and sales tax revenue is freed up, those unrestricted dollars should be used to offset increases commiserate with the minimum/maximum ending fund balance policy.

**Sub-Committee Proposed Home Rule Charter Amendment (As Approved on May 23, 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 and arterial road reconstruction 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 the minimum ending fund balance and maximum ending fund balance.
- e. Implementation will commence upon the earlier of:
  - a) North Dakota Century Code allows 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 assume the existing street maintenance special assessment balances. 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 recommend the city will advocate amending 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 indicated impact can be absorbed by the general fund.

- Expenditure Assumptions (Revenue Requirements) – Annually
  - \$20,000,000 street improvements
    - Includes one year of catch up bonding for previous year's projects that would not be special assessed
  - \$7,000,000 street maintenance existing special assessment debt repayment
    - Includes \$500,000 in debt repayment for previous arterial road assessments. No fee revenue increase. Anticipated to be absorbed without rate increase.
  - \$27,000,000 total
- Revenue Assumptions – Annually
  - \$20,000,000 street utility fee
  - \$7,000,000 sales tax
- Classes
  - Residential Class
    - 1 unit, 2 unit, 3 unit and residential condo building
  - Multi Family Class
    - Apartments, 4+ unit buildings
    - Manufactured Home Parks
  - Non-Residential (commercial) Class
    - Everything else
      - Exceptions - Bismarck Parks and Rec parcels without buildings (121 parcels, 40,774,359 SF)
- Revenue Split
  - 40% Residential/Multi-Family (\$8,000,000) & 60% Non-Residential (commercial) (\$12,000,000)
- Parcel Basis
  - All parcels would have a utility account created, even vacant parcels and those developed parcels without water/sewer.
    - Exceptions
      - New vacant residential single family and twin home parcels exempted initially
      - Graveyards (3 parcels)
      - Federal (11 parcels)
    - Condo properties were apportioned their estimated equivalent parcel SF of the larger common interest parcel. (ie 100,000 SF parcel with 10 equal owners were each assigned 10,000 SF parcel area)
  - Residential and Non-Residential (commercial) class use parcel square foot (SF) as basis
    - Tiered System
      - 0.5X to 2X median parcel SF pays base fee.
      - Adjustments to smaller and larger parcels based on ratio to median parcel square foot similar to current special assessment policy.
      - Option to group non-residential (commercial) tiers
      - Caps on tiers
        - 3X median residential parcel SF (2X fee)
        - 6X median non-residential (commercial) parcel SF for exempt property (3X fee)
        - 20X median non-residential commercial parcel SF for non-exempt property (10X fee)
    - Calculated SF
      - \$/SF calculated and applied to each parcel. Caps on SF similar to tiered system.
  - Multi-family class based on \$/dwelling unit (proposed \$7.00 dwelling unit)

| PARCEL_ID    | PROPERTY_ADDRESS      | PROPERTY_OWNER                 | Approx Adjust Lot SF | % of Median | Capped Factor | Capped Monthly Revenue | Uncapped SF Monthly Revenue | no Min/6x median exempt max/20x median non-exempt max Calculated SF monthly revenue | .25x min/6x median exempt max/20x median non-exempt max Calculated SF monthly revenue | SQRT SF Adjusted Monthly Revenue |
|--------------|-----------------------|--------------------------------|----------------------|-------------|---------------|------------------------|-----------------------------|---|---|----------------------------------|
| 0001-052-015 | 110 N 3RD ST          | KETTERLING, DARIN & JULIE      | 1,875                | 0.068       | 0.25          | 51                     | 4                           | 9   | 17  | 57                               |
| 0001-112-053 | 309 N MANDAN ST 1     | BLUE CHAMPAGNE ENTERPRISES INC | 3,125                | 0.113       | 0.25          | 51                     | 7                           | 15  | 17  | 73                               |
| 2020-001-151 | 3401 HAMILTON ST A    | DAHL, MARK                     | 2,671                | 0.097       | 0.25          | 51                     | 6                           | 13  | 17  | 68                               |
| 0001-040-025 | 802 E MAIN AVE        | VUE COMMUNITY CREDIT UNION     | 3,750                | 0.136       | 0.50          | 102                    | 9                           | 19  | 19  | 80                               |
| 1125-001-005 | 3200 ROCK ISLAND PL 1 | BJH OIL INC                    | 4,536                | 0.164       | 0.50          | 102                    | 10                          | 22  | 22  | 88                               |
| 0001-046-025 | 101 N 5TH ST          | MORRIS, SUSAN MAE LIVING TRUST | 9,750                | 0.353       | 0.75          | 153                    | 22                          | 48  | 48  | 129                              |
| 0001-064-045 | 301 E THAYER AVE      | DUEMELANDS OFFICE LLLP         | 10,520               | 0.381       | 0.75          | 153                    | 24                          | 52  | 52  | 134                              |
| 0001-045-001 | 200 S 5TH ST          | DAKOTA EYE INSTITUTE           | 26,250               | 0.952       | 1.00          | 204                    | 60                          | 130   | 130   | 212                              |
| 0001-048-025 | 420 E MAIN AVE        | PATTERSON PLACE LIMITED PARTN  | 15,800               | 0.573       | 1.00          | 204                    | 36                          | 78  | 78  | 164                              |
| 0001-108-015 | 214 E THAYER AVE      | FIRST PRES CH OF BISMARCK      | 52,500               | 1.903       | 1.00          | 204                    | 119                         | 259   | 259   | 300                              |
| 0025-091-001 | 1030 N 6TH ST         | MC CABE METHODIST CHURCH       | 80,750               | 2.928       | 1.50          | 306                    | 183                         | 399   | 399   | 371                              |
| 0115-003-700 | 2422 E BOWEN AVE      | CONLIN'S FURNITURE INC         | 56,317               | 2.042       | 1.50          | 306                    | 128                         | 278   | 278   | 310                              |
| 0600-006-015 | 505 S 7TH ST          | UNIVERSITY OF MARY             | 60,082               | 2.178       | 1.50          | 306                    | 136                         | 297   | 297   | 320                              |
| 0926-003-200 | 1640 BURNT BOAT DR    | BIS-MAN CHAMBER OF COMMERCE    | 86,489               | 3.136       | 2.00          | 408                    | 196                         | 427   | 427   | 384                              |
| 2135-005-001 | 4100 SARATOGA AVE     | CENTURY AMOCO LLC              | 83,422               | 3.024       | 2.00          | 408                    | 189                         | 412   | 412   | 378                              |
| 0600-004-005 | 410 S 5TH ST          | BISMARCK, CITY OF CIVIC CENTER | 131,961              | 4.784       | 2.50          | 511                    | 300                         | 652   | 651   | 475                              |
| 0600-006-060 | 805 S 7TH ST          | REAL HARDWARE LLC              | 117,098              | 4.245       | 2.50          | 511                    | 266                         | 579   | 578   | 447                              |
| 2195-001-150 | 201 TRANSPORT LN      | MME INC                        | 137,743              | 4.994       | 2.50          | 511                    | 313                         | 681   | 680   | 485                              |
| 0906-001-100 | 3420 MIRIAM AVE       | JEROME PROPERTIES LLP          | 174,253              | 6.317       | 3.50          | 715                    | 396                         | 861   | 860   | 546                              |
| 1989-001-001 | 1608 N WASHINGTON ST  | MISSOURI VALLEY YMCA INC       | 254,534              | 9.228       | 3.00          | 613                    | 578                         | 818   | 817   | 660                              |
| 0601-001-001 | 600 S 7TH ST          | TARGET CORPORATION             | 472,245              | 17.121      | 9.00          | 1,838                  | 1,072                       | 2,333   | 2,331   | 898                              |
| 2302-005-001 | 4401 IVORY LN         | BISMARCK PUBLIC SCHOOL DISTRI  | 535,946              | 19.430      | 3.00          | 613                    | 1,217                       | 818   | 817   | 957                              |
| 0756-001-001 | 1401 W CENTURY AVE    | LOWE'S HOME CENTERS, INC       | 609,110              | 22.083      | 10.00         | 2,042                  | 1,383                       | 2,726   | 2,723   | 1,020                            |
| 1180-001-401 | 3225 N 14TH ST        | EVANGEL ASSEMBLY OF GOD        | 943,225              | 34.196      | 3.00          | 613                    | 2,142                       | 818   | 817   | 1,270                            |
| 0625-001-040 | 2700 STATE ST         | GATEWAY FASHION MALL LLC       | 1,114,736            | 40.414      | 10.00         | 2,042                  | 2,531                       | 2,726   | 2,723   | 1,380                            |
| 2001-001-100 | 500 ASH COULEE DR     | BISMARCK PUBLIC SCHOOL DIST #  | 1,958,244            | 70.995      | 3.00          | 613                    | 4,447                       | 818   | 817   | 1,829                            |
| 0600-004-061 | 600 S 5TH ST          | KIRKWOOD MALL ACQUISITION LLC  | 2,103,654            | 76.266      | 10.00         | 2,042                  | 4,777                       | 2,726   | 2,723   | 1,896                            |
| 1224-001-002 | 2000 SHILOH DR        | BISMARCK PARK DISTRICT         | 4,293,245            | 155.648     | 3.00          | 613                    | 9,749                       | 818   | 817   | 2,709                            |
| 1570-002-100 | 2111 NE 52ND ST       | BISMARCK, CITY OF LANDFILL     | 20,124,544           | 729.600     | 3.00          | 613                    | 45,697                      | 818   | 817   | 5,865                            |

| Exempt Property Annual Revenue |            |            |            |            |            |
|--------------------------------|------------|------------|------------|------------|------------|
| No                             | 9,371,860  | 4,711,626  | 9,232,715  | 9,228,679  | 8,103,491  |
| Yes                            | 2,628,140  | 7,288,374  | 2,767,285  | 2,771,321  | 3,896,509  |
| Sum                            | 12,000,000 | 12,000,000 | 12,000,000 | 12,000,000 | 12,000,000 |

Annual \$/SF Cost      \$      0.027      \$      0.059      \$      0.059      \$      15.688

Recommended by Special Assessment Task Force for Commission consideration

Examples

6/9/2022

Residential/Condo/BPRD No Buildings

| PARCEL_ID    | PROPERTY_ADDRESS        | PROPERTY_TYPE_DESC             | Adjusted Parcel SF | % of Median | Capped Factor | 6 Tiers Monthly Revenue | 4 Tiers Monthly Revenue | Uncapped SF Calculated Monthly Revenue | 4K SF min/36K SF max Calculated Monthly Revenue | SQRT SF Monthly Revenue |
|--------------|-------------------------|--------------------------------|--------------------|-------------|---------------|-------------------------|-------------------------|--|---|-------------------------|
| 0923-009-031 | 1526 CIMARRON DR        | Townhouse                      | 874                | 0.10        | 0.25          | 7.00                    | 13.99                   | 2.11                                   | 6.50  | 8.52                    |
| 0330-001-019 | 1120 N 12TH ST 8        | Condominium                    | 823                | 0.09        | 0.25          | 7.00                    | 13.99                   | 1.99                                   | 6.50  | 8.27                    |
| 0785-005-010 | 3129 WINNIPEG DR        | Townhouse                      | 1,536              | 0.17        | 0.50          | 13.99                   | 13.99                   | 3.72                                   | 6.50  | 11.30                   |
| 0604-015-026 | 107 BOISE AVE           | Condominium                    | 2,560              | 0.28        | 0.75          | 20.99                   | 20.99                   | 6.19                                   | 7.39  | 14.59                   |
| 2020-001-007 | 3415 HAMILTON ST 6      | Condominium                    | 3,435              | 0.38        | 0.75          | 20.99                   | 20.99                   | 8.31                                   | 9.92  | 16.90                   |
| 1585-002-074 | 829 CANADA AVE 12       | Condominium                    | 2,488              | 0.28        | 0.75          | 20.99                   | 20.99                   | 6.02                                   | 7.19  | 14.38                   |
| 1245-011-017 | 908 LAMBTON AVE 2       | Condominium                    | 3,803              | 0.42        | 0.75          | 20.99                   | 20.99                   | 9.20                                   | 10.98   | 17.78                   |
| 0497-022-013 | 310 W RENO AVE          | Condominium                    | 4,381              | 0.49        | 0.75          | 20.99                   | 20.99                   | 10.60                                  | 12.65   | 19.08                   |
| 1035-007-050 | 3800 RENEE DR           | Single-Family / Owner Occupied | 9,000              | 1.00        | 1.00          | 27.99                   | 27.99                   | 21.77                                  | 25.99   | 27.35                   |
| 0981-001-050 | 3225 EASTSIDE PL        | Single-Family / Owner Occupied | 13,488             | 1.50        | 1.00          | 27.99                   | 27.99                   | 32.62                                  | 38.95   | 33.48                   |
| 1319-010-001 | 3609 VALLEY DR          | Single-Family / Owner Occupied | 17,920             | 1.99        | 1.00          | 27.99                   | 27.99                   | 43.34                                  | 51.74   | 38.59                   |
| 1510-010-001 | 5100 BOULDER RIDGE RD   | Single-Family / Owner Occupied | 17,923             | 1.99        | 1.00          | 27.99                   | 27.99                   | 43.35                                  | 51.75   | 38.59                   |
| 1436-001-015 | 5300 CORNICE DR         | Single-Family / Owner Occupied | 25,557             | 2.84        | 1.50          | 41.98                   | 46.00                   | 61.82                                  | 73.80   | 46.08                   |
| 0588-008-005 | 1610 N 26TH ST          | Single-Family / Owner Occupied | 34,122             | 3.79        | 2.00          | 55.97                   | 46.00                   | 82.53                                  | 98.53   | 53.25                   |
| 1600-004-001 | 3559 AUGUSTA PL         | Single-Family / Owner Occupied | 37,750             | 4.19        | 2.00          | 55.97                   | 46.00                   | 91.31                                  | 103.95  | 56.01                   |
| 1410-001-100 | 416 FRAINE BARRACKS RD  | Single-Family / Owner Occupied | 44,799             | 4.98        | 2.00          | 55.97                   | 46.00                   | 108.36                                 | 103.95  | 61.01                   |
| 0985-002-100 | 620 N 35TH ST           | Public Use                     | 47,532             | 5.28        | 2.00          | 55.97                   | 46.00                   | 114.97                                 | 103.95  | 62.85                   |
| 0930-003-090 | 1857 SANTA GERTRUDIS DR | Single-Family / Owner Occupied | 58,700             | 6.52        | 2.00          | 55.97                   | 46.00                   | 141.98                                 | 103.95  | 69.84                   |
| 0045-016-001 | 320 E CUSTER PARK ST    | Public Use                     | 69,963             | 7.77        | 2.00          | 55.97                   | 46.00                   | 169.23                                 | 103.95  | 76.25                   |
| 1169-001-001 | 2800 S 12TH ST          | Public Use                     | 7,042,074          | 782.453     | 2.00          | 55.97                   | 46.00                   | 17,033.37                              | 103.95  | 764.98                  |

Bis Parks No Buildings Annual Revenue

64,564      1,122,496      112,881      163,600

Annual \$/SF Cost

\$ 0.029      \$ 0.035      \$ 3.4592

Recommended by Special Assessment Task Force for Commission consideration