



Engineering Department

DATE: January 4, 2023
FROM: Gabe Schell, City Engineer
ITEM: Special Assessment Policy Revisions

REQUEST:

Hold a public hearing regarding the revisions to the Special Assessment Policy and consider approval of the Special Assessment Policy.

Please place this item on the January 10, 2023, City Commission meeting agenda.

BACKGROUND INFORMATION:

On an annual basis, the City of Bismarck Special Assessment Policy is reviewed to recommend revisions or changes to improve the Policy's assignment of benefits. A collaboration between Engineering, Finance, Public Works, and Administration Departments resulted in the recommended policy changes. The first primary change is the expansion of the "adjustments" section to consolidate existing adjustments given for multi-street, private drive, non-buildable area, and undersized/oversized parcels to a single section within the policy. All of these adjustments are made in recent applications of the policy, but the non-buildable area and undersized/oversized parcels were not explicitly stated in the policy previously. An additional tier of residential undersized lots and a maximum cap of oversized residential lots are also included that have not previously been utilized.

The second primary change is the creation of a new section titled "subdivision of parcels" to codify the existing practice of reassignment of existing special assessments when properties are combined or split based on parcel area and the allowance of water and sewer trunk line assessments to be credited as part of the Utility Capital Charge process.

A third primary change is the addition of an "assessment terms" section to codify the payback schedule benefitting properties can expect for various types of special assessments. The remaining proposed revisions to the policy are clerical in nature.

A “clean” version with changes accepted is attached and would become the current policy if accepted. A version with “track changes” is also attached, noting the changes. Staff requests this policy be effective for all districts not yet created and those districts that have been created, but no notification of costs has been sent to the benefitting property owners. Engineering recommends implementing this policy effective for all projects not yet bonded. Estimated special assessments will be within or lower than the range provided in the notification letter for projects substantially constructed in 2022 but not yet bonded.

RECOMMENDED CITY COMMISSION ACTION:

Hold a public hearing regarding revisions to the Special Assessment Policy and approve the Special Assessment Policy.

STAFF CONTACT INFORMATION:

Gabe Schell, PE | City Engineer | 701-355-1505 | gschell@bismarcknd.gov

BASIS OF SPECIAL ASSESSMENTS

Special Assessment is the method the City of Bismarck (the City) uses to pay for public improvements that affect benefiting properties. Improvements in the public right-of-way and dedicated public easements funded by a developer are considered public improvements if they meet the City's design standards. The costs of the improvement are allocated to the parcels/lots that benefit from these improvements.

Notification letters are sent to non-petitioning property owners included in a special assessment district. The letters identify the proposed improvement project and provide an estimated cost range of the property assessment. Letters for non-petitioned projects are sent before the project is approved by the City Commission. Letters for petitioned projects are sent to non-petitioning properties after the bids for the project are received.

The following policy is the basis for special assessments when the public improvement is petitioned by a developer or initiated by the City. This policy has been developed in accordance with North Dakota Century Code, Title 40, which relates to municipal government.

1. **Special Assessment Districts**

● **Storm Water**

- Cost allocation based on parcel/lot square footage.
- District boundaries are determined by watershed areas.
- Coulees, detention ponds, and other nondevelopable lots are not assessed for storm water.
- For regional storm water districts, the Public Works Utility Operations Department assumes the cost for unannexed property via assessment to a City-owned parcel. This cost is held in abeyance and assessed in a continuous district to previously unannexed land when the land is subsequently annexed. This only applies to remaining masterplanned projects in North Washington Street, Carufel's and Tyler Coulee watersheds (see Continuous Districts below).
 - Factor applied to unannexed property shall coincide with the Comprehensive Land Use Plan.

● **Street Lights**

- Cost allocation is based on a per parcel/lot for residential and square foot for commercial.
- Boundaries are drawn to include properties that benefit from the improvement.
- City may consider installing street lights when a transportation safety issues exist or if 50% of lots contain building structures or have building permits issued.
- Corner lots only pay a 1/2 street light assessment for each side of the lot.

- **Streets**

All properties will be assessed for a local street and a proportionate share of an arterial street unless the developer pays the cost of the local street and/or arterial streets under a three-way agreement with the City.

1. Local & Collector Streets

New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, seal coat, concrete pavement repair

- Cost allocation is based on a per parcel/lot for residential and square foot for commercial.
- Boundaries are drawn to include properties that benefit from the improvement.
- In non-commercial parcels/lots with reconstruction/resurfacing and streets wider than 37 feet, the City assumes the cost for the additional width of pavement wider than 37 feet and thicker than local roadway design. Commercial parcels/lots are assessed full width and depth costs. Commercial parcels/lots are assessed full width and depth costs.
- City subsidizes 25% for resurfacing projects.
- City subsidizes 70% for reconstruction projects.
- Balance of remaining cost is assessed unless other City resources are identified and approved.

2. Arterial Streets

a. *New Pavement/Right of Way Corridor Reconstruction*

- Typical project components include grading, surfacing, pedestrian facilities, drainage systems, lighting and traffic control.
- Cost allocation is based on a per parcel/lot for residential and square foot for commercial.
- District boundaries are drawn to include properties that benefit from the improvement (direct benefit) and properties in the area half-way to the next north-south or east-west assessed arterial street (secondary benefit).
- Direct benefit would be an assessment equivalent to new pavement assessment on a local street plus a share of secondary benefit as all parcels/lots pay for a local street plus a portion of the arterial streets.
- Secondary benefit would be a proportionate amount of the direct benefit.
- In non-commercial parcels/lots with streets wider than 37 feet, the City assumes the cost for the additional width of pavement wider than 37 feet and pavement depth greater than local roadway design. Commercial parcels/lots are assessed full width and depth costs.
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b. *Reconstruction/Resurfacing -*

- Typical project components include full depth pavement replacement, patch, level, mill & overlay, seal coat, concrete pavement repair
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- City subsidizes 70% for reconstruction projects.
- Balance of remaining cost is assessed unless other City resources are identified and approved.

3. ***Alleys (public alleys with asphalt or concrete pavement)***

- The full cost to pave, resurface, or reconstruct public alleys will be assessed proportionately, without subsidy, based on a per parcel/lot for residential property and square foot for commercial property, to properties that either abuts the alley or have access to their property via the public alley.

● **Concrete Curb & Gutter/Sidewalk/Driveways (New and Repairs)**

- New Pavement/Reconstruction/Resurfacing
 - Sidewalk and Driveways are assessed to individual parcels/lots.
 - Curb and Gutter and ADA Ramps are included as project costs.
- Owner-Elected Improvement
 - Total costs are assessed directly to individual parcels/lots.

● **Federal/State/Local Aid Projects**

- Parcels/lots included in Federal/State/Local Aid projects are assessed equivalent to the method used for a local roadway (Refer to Arterial Streets section above).

2. **Continuous Districts**

A. **Regional Trunk Infrastructure Fee (only applied to property annexed prior to Feb 1, 2019, if applicable)**

- Apply special assessments policy in effect at the time of annexation.

B. **Main Lines Built by City Prior to Annexation (Not over-sized mains) (only applied to property annexed prior to Feb 1, 2019, if applicable)**

- Apply special assessments policy in effect at the time of annexation.

C. **Storm Water - Regional projects that included unannexed property**

- Costs held in abeyance are assessed upon annexation of those parcels.
- Cost allocation is based on parcel/lot square footage of the previous project(s).

D. **Rural Road Usage Policy**

- The improvement cost for streets or street lights for property not annexed that benefit from the improvement will be held in abeyance until those properties are annexed to the City in accordance with the City Commission Rural Road Usage Policy and NDCC 40-23-19.

3. **Factors**

A. **The following factors are applied to all special assessment districts, except Continuous Districts:**

- Factors applied are:
 - Commercial - 2.0; Residential - 1.0
 - Agricultural - Factor applied shall coincide with Comprehensive Land Use Plan.
 - Public Park Property - if the property contains a revenue producing facility (i.e. pool), that area which supports the use is Commercial - 2.0; otherwise, same application as Residential - 1.0
 - Schools & Churches - Commercial - 2.0.
 - Stormwater Lots - 0.5
 - Stormwater lots are subject only to paving and street lighting assessments on a per parcel/lot residential basis.

4. Adjustments

- **Parcels with Access via Private Drives**
 - Private drives are named roadways that lead from a public street to more than one property and are owned and maintained by private individuals or organizations rather than the City.
 - Commercial properties that gain access to their property from a public street via a private drive are assessed for pavement and street lighting improvements to the public street based on 75% of their lot square footage or adjusted square footage, if applicable.
 - Residential properties that access their property from a public street via a private drive are assessed for pavement and street lighting improvements to non-arterial public streets based on 50% of their parcel/lot or adjusted parcel/lot, if applicable.
 - Actual costs of concrete repairs to driveway aprons or sidewalks on the private drive will be assessed proportionately to all parcels utilizing the private drive.
- **Multi-street properties within street assessment districts**
 - Multi-street properties are those with more than one street adjacent to the property. Multi-street properties are assessed based on the street(s) being improved.
 - For residential multi-street properties with two adjacent streets*, 1/2 of the assessment is allocated to each street.
 - For residential multi-street properties with more than two adjacent streets*, a proportion of the assessment is allocated to each street relative to the total number of streets improved.
 - For commercial multi-street properties, the portion of the adjacent street* footage within the district relative to the parcel's total adjacent street* footage is allocated.
 - *ND Dept. of Transportation Regional Highways are excluded from multi-street allocations (Effective for all assessment districts confirmed by the City Commission after December 31, 2020).
- **Areas encumbered by stormwater easements, slope protection easements, and other non-buildable areas are removed from the assessable area of a parcel.**
- **When cost allocation is by the residential parcel/lot, the median parcel area is calculated and undersized and oversized adjustments are applied according to the following schedule:**
 - 0 to less than 0.125X median parcel SF = 0.25 factor
 - 0.125X to less than 0.25X median parcel SF = 0.5 factor
 - 0.25X to less than 0.5X median parcel SF = 0.75 factor
 - 0.5X to less than 2X median parcel SF = 1.0 factor
 - 2X median parcel SF and larger = 1.0 factor plus 0.5 factor for every X median parcel size increase. (i.e. 2X to less than 3X median parcel SF = 1.5 factor, 3X to less than 4X median parcel SF = 2.0 factor, etc)
 - Residential classified property is capped at an area factor of 10 (20X median parcel)
- **Adjustments may be made if the literal application of the policies results in an inequitable assessment and to achieve a more equitable assessment.**

5. Subdivision of Parcels

- **Parcels that are replatted, split or combined would have their assessment prorated using the area of the resulting parcels. Consideration of applying the current assessment policy to create a more equitable reassignment of the assessment would be considered on a case-by-case basis. Any variation of a square footage reassignment would be communicated to the owner prior to the replatting, splitting, or combining action.**
- **Parcels triggering Utility Capital Charges with existing water and sewer trunk line special**

assessment balances could have the amount paid on the assessment considered when determining Utility Capital Charges and could have the trunk line special assessment removed from the property through payment of the applicable Utility Capital Charge.

6. Assessment Terms

- Assessments utilize the following payback terms, unless approved otherwise by the City Commission.
- Secondary work items follow the terms of the primary project (i.e. a driveway replaced as part of a pavement resurfacing project would follow the terms of the pavement resurfacing project)
 - 1 year – any assessment less than \$500
 - 3 year – pavement preservation (scrub seal, stand alone chip seal, patch, etc)
 - 7 year – pavement reconstruction and resurfacing
 - 10 year – concrete pavement repair, street lights, concrete sidewalk/driveway new and replacement
 - 15 year – new pavement, storm sewer

7. Errors or Omissions

- Corrections may be made to existing special assessments if errors or omissions of the applicable policy are determined at the time the error is identified.

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4. ~~Parcels with Access via Private Drives~~

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 - 15 year – new pavement, storm sewer



7. Errors or Omissions

- Corrections may be made to existing special assessments if errors or omissions of the applicable policy are determined at the time the error is identified.

From: Dustin Gawrylow <dgawrylow@gmail.com>
Sent: Thursday, December 22, 2022 9:46:51 PM
To: Dustin Gawrylow <dgawrylow@gmail.com>
Subject: Special Assessment Policy (January 10th, 2023)

CAUTION: *External Email - Use caution clicking links or opening attachments*****

Dear Mayor and Commissioners,

I wanted to send a note of support for the proposed consolidated and condensed Special Assessment Policy. This effort, I believe, will make future reforms easier to understand, as well as make the current policy more cohesive.

I also wanted to suggest and advocate that you discuss the potential of not only applying the existing 1.5x factor to mobile/manufactured home parks, but also apply the 0.75x adjustment allowance for their contribution to internal street maintenance that the city avoids paying to cover.

This leaves the Effective Rate Factor at 1.125x of single-family lots.

As Mayor Schmitz and Commissioner Splonskowski can attest, finding a fair treatment model for mobile/manufactured home parks has been one contentious piece of the Special Assessment Task Force discussion process.

Making this change will go a very long way towards creating a more fair setup for these developments that do cover more of their internal costs and save the city money in the long run. They would still pay more than single-family lots at a 12.5% premium, but I believe this would reduce a lot of the complaints.

Thank you for your consideration on this issue.

- Dustin Gawrylow
(701) 290-9331

----- Forwarded message -----

From: Dustin Gawrylow <dgawrylow@gmail.com>
Date: Thu, Dec 22, 2022, 4:48 PM
Subject: Re: Special Assessment Policy
To: Gabe Schell <gschell@bismarcknd.gov>

You might want to make the Effective Rate more clear. Beyond that, I will make suggestions to the commission to discuss.

Have a great weekend!

On Thu, Dec 22, 2022, 12:48 PM Gabe Schell <gschell@bismarcknd.gov> wrote:

Dustin, Thanks for reaching out. The proposed changes would not create any dead-end for future reforms. We annually evaluate the policy and propose changes if we feel there is something that needs to be modified or clarified.

Mobile and Manufactured Home parks are addressed through the private drive adjustment. They are considered commercial properties that receive a 0.75 multiplier when they have a named private drive that is combined by the 2.0 factor for commercial properties. It nets as a 1.5 effective multiplier for those parks with those characteristics. We classify the private drive as a named street to help

differentiate between the private access road that surrounds the north Walmart or a fire access route between two shop condos. Having it as a named roadway helps us remove subjectivity from the policy and apply it consistently to all properties.

Let me know if that answers your questions and if you need anything else.

Gabe Schell, PE

City Engineer

City of Bismarck Engineering Dept.

221 N 5th St.
PO Box 5503
Bismarck, ND 58501

Office: 701-355-1505

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Website: bismarcknd.gov

Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov | Instagram: bismarckndgov

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From: Dustin Gawrylow <dgawrylow@gmail.com>

Sent: Wednesday, December 21, 2022 5:17 PM

To: Gabe Schell <gschell@bismarcknd.gov>

Subject: Special Assessment Policy

CAUTION: *External Email - Use caution clicking links or opening attachments*****

Gabe, I'm reading the consolidated special assessment policy, and I very much support consolidating it into one document like this. -

https://bismarcknd.gov/AgendaCenter/ViewFile/Item/8239?fileID=20730&fbclid=IwAR1b2s4Kn_3r0mZNJNNu3PeMjFtg7HsuyeRk17m8_C0jI-uJ1KChB9-CDH0

I want to make sure:

1) this does not create a dead-end for future reforms (I don't think it does, just want to make sure). In fact, the way I read it, this makes it easier to usher in the changes we've discussed on the task force.

2) I don't see any mention of Mobile or Manufactured Home Parks
Section 3 "Factors" it does not list the 1.5 factor that I believe is current policy.

And in Section 4 "Adjustments" I think it would go a long ways to include Mobile/Manufactured Home Parks for "Private Drives"

If you could confirm my thoughts in #1 and address what may be omissions in #2, that would be great.
Thanks!