City of Blaine
City Council Workshop

November 13, 2023 | 5:30 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

AGENDA

NOTICE OF WORKSHOP MEETING
In accordance with the provisions of Section 3.01 of the Blaine City Charter, a Council Workshop meeting is scheduled for the following purpose:

1. Call to Order

2. New Business

2.1. 2023-558 Utilities Enterprise Funds 2024 Rates
Sponsors: Jason Zimmerman, Finance Director

2.2. 2023-560 2024 Capital Equipment Fund
Sponsors: Jason Zimmerman, Finance Director, Brian Podany, Safety Services Manager/Police Chief, Nick Fleischhacker, Public Works Director

2.3. 2023-550 Assessment Review Outline, Part 3
Sponsors: Daniel Schluender, Director of Engineering

2.4. 2023-554 Northtown Area Zoning Discussion
Sponsors: Sheila Sellman, City Planner

2.5. 2023-561 105th Avenue Redevelopment Project Updates
Sponsors: Erik Thorvig, Community Development Director

3. Other Business

4. Adjournment

City of Blaine
Staff Report

File Number: 2023-558

Agenda Date	Status
November 13, 2023	
In Control	**File Type**
City Council	Workshop Item

New Business - Jenna Trittin, Finance Analyst

Agenda Item # 2.1

Utilities Enterprise Funds 2024 Rates

Background

The utility rate study was presented to City Council at the August 14, 2023, workshop and the 2024 budgets were presented by staff at the October 9, 2023, workshop. At the October 9 workshop, Council directed staff to increase the higher tiers of the water rates and to review each utility to address the minimum cash requirements and the funds with a negative change in net position. The rates presented at the October 9 workshop and an alternative option for rates are included below for each utility.

Water Utility Fund

At the October 9 workshop, staff presented a 9 percent increase to water rates. Staff prepared a new option that includes increasing all the tiers while applying higher increases to tiers 2, 3, and 4. If the base fee and tier 1 rates are left at a 9 percent increase, the revenues generated would be about 50 percent lower than the option presented below. An alternative option to increase the rates by type is included below and was created with the following goals:

- Increase rates for higher users
- Improve the 5-year plan to a better financial position
- Increase the separation between tier levels (primarily tier 3)

The rate increases proposed for each fee type are:

- Base fee - 15 percent
- Tier 1 - 15 percent
- Tier 2 - 20 percent
- Tier 3 - 40 percent
- Tier 4 - 25 percent

The increases would generate approximately $680,000 in additional revenue and result in a 2024 change in net position of $1,340,475 versus the October 9 change in net position of $658,271. The amount over (under) minimum cash would change to $(877,573) versus the October 9 amount of $(1,559,776). The increases would bring the utility closer to meeting the defined minimum cash requirements. The 2025-2026 projections show a positive cash amount over the minimum requirement if a 9 percent increase is adopted by the City Council for 2025 and 2026.

Date Presented to Council			**October 9**	**November 13**
Rate Type	**2022**	**2023**	**2024**	**2024**
Flat Fee	5.50	7.70	8.39	8.86
0-24,000	1.61	2.25	2.45	2.59
24,001-75,000	2.03	2.84	3.10	3.41
75,001-150,000	2.08	2.91	3.17	4.07
150,000+	2.80	3.92	4.27	4.90
State Test Fee	2.43	2.43	2.43	2.43

Sanitary Sewer Utility Fund

At the October 9 workshop, staff presented a 9 percent increase to sewer rates. An alternative option to increase the rates by 15 percent is included below. The 15 percent increase would generate approximately $500,000 in additional revenue and result in a 2024 change in net position of $(7,249) versus the October 9 change in net position of $(507,588). The amount over (under) minimum cash would change to $2,627,267 versus the October 9 amount of $2,126,929. The amount of cash over the minimum would allow the utility the option to cash fund a portion of the 2024 capital costs or save for future capital improvements, which would reduce the debt burden of the utility.

Date Presented to Council			**October 9**	**November 13**
Rate Type	**2022**	**2023**	**2024**	**2024**
Residential	63.00	70.00	76.30	80.50

Stormwater Utility Fund

At the October 9 workshop, staff presented a 7.5 percent increase to sewer rates. An alternative option to increase the rates by 20 percent is included below. The 20 percent increase would generate approximately $284,000 in additional revenue and result in a 2024 change in net position of $(197,530) versus the October 9 change in net position of $(481,095). The amount over (under) minimum cash would change to $2,028,696 versus the October 9 amount of $1,745,131. The amount of cash over the minimum would allow the utility the option to cash fund a portion of the 2024 capital costs or save for future capital improvements, which would reduce the debt burden of the utility. Additionally, this increased funding could be used to fund operating costs related to the pond maintenance program.

Date Presented to Council			**October 9**	**November 13**
Rate Type	**2022**	**2023**	**2024**	**2024**

Residential	10.50	11.55	12.42	13.86

Staff Recommendation

Staff recommend that Council consider higher rates to increase the health of the utilities.

Questions for Council

Does Council support the revised recommended rates for water, sanitary sewer, and stormwater?

Attachment List

1. Water Utility 2024 Budget Summary
2. Sewer Utility 2024 Budget Summary
3. Stormwater Utility 2024 Budget Summary
4. Presentation - 2024 Utilities Enterprise Funds Rates

CITY OF BLAINE, MINNESOTA

WATER UTILITY FUND - 601

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 6,214,430	$ 7,964,196	$ 8,522,393	$ 9,765,144	$ 10,758,356
Operating Expenditures	4,558,892	5,556,932	6,421,500	6,949,110	7,401,242
Operating Income	**$ 1,655,539**	**$ 2,407,264**	**$ 2,100,893**	**$ 2,816,034**	**$ 3,357,113**
Non-Operating Revenues (Expenditures)	(430,350)	(146,000)	(319,212)	(494,484)	(692,818)
Transfers, Capital Contributions, and Sale of Assets	2,874,138	(1,008,650)	(1,123,410)	(1,157,112)	(1,191,826)
Change in Net Position	**$ 4,099,327**	**$ 1,252,614**	**$ 658,271**	**$ 1,164,438**	**$ 1,472,469**
Net Change in Cash					
Beginning Cash	$ 3,776,019	$ 761,436	$ 2,574,050	$ 3,549,246	$ 4,756,322
Changes in Cash	(3,014,583)	1,812,614	975,196	1,207,076	1,152,993
Ending Cash	**$ 761,436**	**$ 2,574,050**	**$ 3,549,246**	**$ 4,756,322**	**$ 5,909,315**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 1,367,667	$ 1,667,079	$ 1,926,450	$ 2,084,733	$ 2,220,373
For Debt Service	2,381,000	2,681,604	3,182,572	3,744,765	4,167,240
Capital Reserve	-	-	-	-	250,000
Minimum Cash	**$ 3,748,667**	**$ 4,348,683**	**$ 5,109,022**	**$ 5,829,499**	**$ 6,637,613**
Amount Over (Under) Minimum	**(2,987,231)**	**(1,774,633)**	**(1,559,776)**	**(1,073,177)**	**(728,298)**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

CITY OF BLAINE, MINNESOTA

WATER UTILITY FUND - 601

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 6,214,430	$ 7,964,196	$ 9,204,597	$ 10,142,657	$ 11,175,183
Operating Expenditures	4,558,892	5,556,932	6,421,500	6,949,110	7,401,242
Operating Income	**$ 1,655,539**	**$ 2,407,264**	**$ 2,783,097**	**$ 3,193,547**	**$ 3,773,941**
Non-Operating Revenues (Expenditures)	(430,350)	(146,000)	(319,212)	(480,840)	(671,351)
Transfers, Capital Contributions, and Sale of Assets	2,874,138	(1,008,650)	(1,123,410)	(1,157,112)	(1,191,826)
Change in Net Position	**$ 4,099,327**	**$ 1,252,614**	**$ 1,340,475**	**$ 1,555,595**	**$ 1,910,764**
Net Change in Cash					
Beginning Cash	$ 3,776,019	$ 761,436	$ 2,574,050	$ 4,231,450	$ 5,829,682
Changes in Cash	(3,014,583)	1,812,614	1,657,400	1,598,232	1,591,287
Ending Cash	**$ 761,436**	**$ 2,574,050**	**$ 4,231,450**	**$ 5,829,682**	**$ 7,420,969**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 1,367,667	$ 1,667,079	$ 1,926,450	$ 2,084,733	$ 2,220,373
For Debt Service	2,381,000	2,681,604	3,182,573	3,744,765	4,167,240
Capital Reserve	-	-	-	-	250,000
Minimum Cash	**$ 3,748,667**	**$ 4,348,683**	**$ 5,109,023**	**$ 5,829,498**	**$ 6,637,613**
Amount Over (Under) Minimum	**(2,987,231)**	**(1,774,633)**	**(877,573)**	**184**	**783,356**

** The 2024 proposed budget revenues are shown using the November 13 rates*

CITY OF BLAINE, MINNESOTA

SEWER UTILITY FUND - 602

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 7,527,176	$ 8,229,364	$ 9,089,484	$ 10,037,768	$ 11,083,118
Operating Expenditures	6,748,767	7,461,670	8,459,819	9,120,149	9,896,338
Operating Income	**$ 778,409**	**$ 767,694**	**$ 629,665**	**$ 917,619**	**$ 1,186,780**
Non-Operating Revenues (Expenditures)	(8,486)	158,224	(99,943)	(250,950)	(852,223)
Transfers, Capital Contributions, and Sale of Assets	1,943,513	(935,840)	(1,037,310)	(1,068,429)	(1,100,482)
Change in Net Position	**$ 2,713,436**	**$ (9,922)**	**$ (507,588)**	**$ (401,760)**	**$ (765,925)**
Net Change in Cash					
Beginning Cash	$ 3,167,778	$ 3,696,141	$ 5,096,219	$ 5,546,521	$ 5,743,209
Changes in Cash	528,363	1,400,078	450,302	196,688	(1,087,167)
Ending Cash	**$ 3,696,141**	**$ 5,096,219**	**$ 5,546,521**	**$ 5,743,209**	**$ 4,656,042**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 2,024,630	$ 2,238,501	$ 2,537,946	$ 2,736,045	$ 2,968,901
For Debt Service	46,276	552,635	881,647	2,031,317	2,430,721
Capital Reserve	-	-	-	250,000	500,000
Minimum Cash	**$ 2,070,906**	**$ 2,791,136**	**$ 3,419,593**	**$ 5,017,362**	**$ 5,899,622**
Amount Over (Under) Minimum	**1,625,235**	**2,305,083**	**2,126,928**	**725,847**	**(1,243,580)**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

CITY OF BLAINE, MINNESOTA

SEWER UTILITY FUND - 602

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 7,527,176	$ 8,229,364	$ 9,589,823	$ 11,173,258	$ 12,676,406
Operating Expenditures	6,748,767	7,461,670	8,459,819	9,120,149	9,896,338
Operating Income	**$ 778,409**	**$ 767,694**	**$ 1,130,004**	**$ 2,053,109**	**$ 2,780,068**
Non-Operating Revenues (Expenditures)	(8,486)	158,224	(99,943)	(240,943)	(819,307)
Transfers, Capital Contributions, and Sale of Assets	1,943,513	(935,840)	(1,037,310)	(1,068,429)	(1,100,482)
Change in Net Position	**$ 2,713,436**	**$ (9,922)**	**$ (7,249)**	**$ 743,737**	**$ 860,279**
Net Change in Cash					
Beginning Cash	$ 3,167,778	$ 3,696,141	$ 5,096,219	$ 6,046,860	$ 7,389,045
Changes in Cash	528,363	1,400,078	950,641	1,342,185	539,038
Ending Cash	**$ 3,696,141**	**$ 5,096,219**	**$ 6,046,860**	**$ 7,389,045**	**$ 7,928,083**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 2,024,630	$ 2,238,501	$ 2,537,946	$ 2,736,045	$ 2,968,901
For Debt Service	46,276	552,635	881,647	2,031,317	2,430,721
Capital Reserve	-	-	-	250,000	500,000
Minimum Cash	**$ 2,070,906**	**$ 2,791,136**	**$ 3,419,593**	**$ 5,017,362**	**$ 5,899,622**
Amount Over (Under) Minimum	**1,625,235**	**2,305,083**	**2,627,267**	**2,371,683**	**2,028,461**

** The 2024 proposed budget revenues are shown using the November 13 rates*

CITY OF BLAINE, MINNESOTA

STORMWATER UTILITY FUND - 604

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 2,019,482	$ 2,238,700	$ 2,438,658	$ 2,656,016	$ 2,879,972
Operating Expenditures	1,528,082	1,833,770	2,293,604	2,254,736	2,448,219
Operating Income	**$ 491,400**	**$ 404,930**	**$ 145,054**	**$ 401,280**	**$ 431,753**
Non-Operating Revenues (Expenditures)	(79,938)	(26,947)	(122,318)	(157,556)	(187,306)
Transfers, Capital Contributions, and Sale of Assets	1,885,172	(433,330)	(503,830)	(518,945)	(534,513)
Change in Net Position	**$ 2,296,634**	**$ (55,347)**	**$ (481,095)**	**$ (275,221)**	**$ (290,066)**
Net Change in Cash					
Beginning Cash	$ 2,020,791	$ 2,794,287	$ 3,358,940	$ 2,780,067	$ 2,188,630
Changes in Cash	773,496	564,653	(578,874)	(591,436)	(415,131)
Ending Cash	**$ 2,794,287**	**$ 3,358,940**	**$ 2,780,066**	**$ 2,188,631**	**$ 1,773,499**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 458,425	$ 550,131	$ 688,081	$ 676,421	$ 734,466
For Debt Service	47,247	263,579	346,854	418,132	540,667
Capital Reserve	-	-	-	-	-
Minimum Cash	**$ 505,672**	**$ 813,710**	**$ 1,034,935**	**$ 1,094,553**	**$ 1,275,132**
Amount Over (Under) Minimum	**2,288,616**	**2,545,230**	**1,745,131**	**1,094,078**	**498,367**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

CITY OF BLAINE, MINNESOTA

STORMWATER UTILITY FUND - 604

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 2,019,482	$ 2,238,700	$ 2,722,223	$ 3,033,805	$ 3,304,823
Operating Expenditures	1,528,082	1,833,770	2,293,604	2,254,736	2,448,219
Operating Income	**$ 491,400**	**$ 404,930**	**$ 428,619**	**$ 779,069**	**$ 856,604**
Non-Operating Revenues (Expenditures)	(79,938)	(26,947)	(122,318)	(157,556)	(187,306)
Transfers, Capital Contributions, and Sale of Assets	1,885,172	(433,330)	(503,830)	(518,945)	(534,513)
Change in Net Position	**$ 2,296,634**	**$ (55,347)**	**$ (197,530)**	**$ 102,568**	**$ 134,785**
Net Change in Cash					
Beginning Cash	$ 2,020,791	$ 2,794,287	$ 3,358,940	$ 3,063,631	$ 2,849,984
Changes in Cash	773,496	564,653	(295,309)	(213,647)	9,721
Ending Cash	**$ 2,794,287**	**$ 3,358,940**	**$ 3,063,631**	**$ 2,849,984**	**$ 2,859,705**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 458,425	$ 550,131	$ 688,081	$ 676,421	$ 734,466
For Debt Service	47,247	263,579	346,854	418,132	540,667
Capital Reserve	-	-	-	-	-
Minimum Cash	**$ 505,672**	**$ 813,710**	**$ 1,034,935**	**$ 1,094,553**	**$ 1,275,132**
Amount Over (Under) Minimum	**2,288,616**	**2,545,230**	**2,028,696**	**1,755,432**	**1,584,573**

** The 2024 proposed budget revenues are shown using the November 13 rates*

2024 Utilities Enterprise Funds Rates

Council Workshop| Finance

11/13/2023

Printed 11/13/2023

Agenda

- Senior Utility Discounts
- Utility Rates
  - Water
  - Sanitary Sewer
  - Stormwater
  - Comparable Cities
- Next Steps

Utility Rates

Section 1 of 2

Senior Utility Discounts

Utility/Program	Current Enrollment	Application Link
Sewer	1,352	https://blainemn.gov/DocumentCenter/View/58/Senior-Garbage-Discount-Application-PDF?bidId=
Refuse	160	https://blainemn.gov/DocumentCenter/View/58

Water

Printed 11/13/2023

Slide 5

Water - 2024 Recommended Rates

Water									
			As of Oct 9	As of Nov 13		As of Oct 9		As of Nov 13	
Quarterly	**2022**	**2023**	**2024**	**2024**	**Unit**	**$ Change**	**Percent**	**$ Change**	**Percent**
Flat Fee	5.50	7.70	8.39	8.86	Flat	0.69	9.0%	1.16	15.1%
0-24,000	1.61	2.25	2.45	2.59	/1,000 gal	0.20	8.9%	0.34	15.1%
24,001-75,000	2.03	2.84	3.10	3.41	/1,000 gal	0.26	9.2%	0.57	20.1%
75,001-150,000	2.08	2.91	3.17	4.07	/1,000 gal	0.26	8.9%	1.16	39.9%
150,000+	2.80	3.92	4.27	4.90	/1,000 gal	0.35	8.9%	0.98	25.0%
Mobile Home Parks	1.61	2.25	2.45	2.59	/1,000 gal	0.20	8.9%	0.34	15.1%
Water Test Fee	2.43	2.43	2.43	2.43	Flat	-	0.0%	-	0.0%

Goals considered:
- Increase rates for higher users
- Improve the 5-year plan to a better financial position
- Increase the separation between tier levels (primarily tier 3)

Water Fund as of October 9

CITY OF BLAINE, MINNESOTA

WATER UTILITY FUND - 601

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 6,214,430	$ 7,964,196	$ 8,522,393	$ 9,765,144	$ 10,758,356
Operating Expenditures	4,558,892	5,556,932	6,421,500	6,949,110	7,401,242
Operating Income	**$ 1,655,539**	**$ 2,407,264**	**$ 2,100,893**	**$ 2,816,034**	**$ 3,357,113**
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Beginning Cash	$ 3,776,019	$ 761,436	$ 2,574,050	$ 3,549,246	$ 4,756,322
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Ending Cash	**$ 761,436**	**$ 2,574,050**	**$ 3,549,246**	**$ 4,756,322**	**$ 5,909,315**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 1,367,667	$ 1,667,079	$ 1,926,450	$ 2,084,733	$ 2,220,373
For Debt Service	2,381,000	2,681,604	3,182,572	3,744,765	4,167,240
Capital Reserve	-	-	-	-	250,000
Minimum Cash	**$ 3,748,667**	**$ 4,348,683**	**$ 5,109,022**	**$ 5,829,499**	**$ 6,637,613**
Amount Over (Under) Minimum	**(2,987,231)**	**(1,774,633)**	**(1,559,776)**	**(1,073,177)**	**(728,298)**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

Considerations:

- 2024 was showing $1.6 million under the minimum cash requirements

Water Fund as of November 13

CITY OF BLAINE, MINNESOTA

WATER UTILITY FUND - 601

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 6,214,430	$ 7,964,196	$ 9,204,597	$ 10,142,657	$ 11,175,183
Operating Expenditures	4,558,892	5,556,932	6,421,500	6,949,110	7,401,242
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Ending Cash	**$ 761,436**	**$ 2,574,050**	**$ 4,231,450**	**$ 5,829,682**	**$ 7,420,969**
Minimum Cash Requirements					
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For Debt Service	2,381,000	2,681,604	3,182,573	3,744,765	4,167,240
Capital Reserve	-	-	-	-	250,000
Minimum Cash	**$ 3,748,667**	**$ 4,348,683**	**$ 5,109,023**	**$ 5,829,498**	**$ 6,637,613**
Amount Over (Under) Minimum	**(2,987,231)**	**(1,774,633)**	**(877,573)**	**184**	**783,356**

** The 2024 proposed budget revenues are shown using the November 13 rates*

Changes:

- 2024 showing approx. $0.9 million under the min. cash requirements
- Meeting requirements in 2025-2026 with assumed 9% increase in rates

Printed 11/13/2023

Sanitary Sewer

Sewer - 2024 Recommended Rates

Sewer									
			As of Oct 9	As of Nov 13		As of Oct 9		As of Nov 13	
Quarterly	**2022**	**2023**	**2024**	**2024**	**Unit**	**$ Change**	**Percent**	**$ Change**	**Percent**
Residential	63.00	70.00	76.30	80.50	Flat	6.30	9.0%	10.50	15.0%
Senior Rate	31.50	35.00	38.15	40.25	Flat	3.15	9.0%	5.25	15.0%
Apartments Mon. (per Unit	15.75	17.50	19.08	20.13	Flat	1.58	9.0%	2.63	15.0%
Apartments Qtr. (per Unit)	47.25	52.50	57.23	60.38	Flat	4.72	9.0%	7.88	15.0%
Commercial Monthly									
0-5,833	21.00	23.33	25.43	26.83	Flat	2.33	10.0%	3.50	15.0%
5,833+	3.60	4.00	4.36	4.60	/1,000 gal	0.40	10.0%	0.60	15.0%
Commercial Quarterly									
0-17,499	63.00	70.00	76.30	80.50	Flat	7.00	10.0%	10.50	15.0%
17,500+	3.60	4.00	4.36	4.60	/1,000 gal	0.40	10.0%	0.60	15.0%

Goals considered:
- Improve the 5-year plan to a better financial position

Printed 11/13/2023

Sanitary Sewer Fund as of October 9

CITY OF BLAINE, MINNESOTA

SEWER UTILITY FUND - 602

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 7,527,176	$ 8,229,364	$ 9,089,484	$ 10,037,768	$ 11,083,118
Operating Expenditures	6,748,767	7,461,670	8,459,819	9,120,149	9,896,338
Operating Income	**$ 778,409**	**$ 767,694**	**$ 629,665**	**$ 917,619**	**$ 1,186,780**
Non-Operating Revenues (Expenditures)	(8,486)	158,224	(99,943)	(250,950)	(852,223)
Transfers, Capital Contributions, and Sale of Assets	1,943,513	(935,840)	(1,037,310)	(1,068,429)	(1,100,482)
Change in Net Position	**$ 2,713,436**	**$ (9,922)**	**$ (507,588)**	**$ (401,760)**	**$ (765,925)**
Net Change in Cash					
Beginning Cash	$ 3,167,778	$ 3,696,141	$ 5,096,219	$ 5,546,521	$ 5,743,209
Changes in Cash	528,363	1,400,078	450,302	196,688	(1,087,167)
Ending Cash	**$ 3,696,141**	**$ 5,096,219**	**$ 5,546,521**	**$ 5,743,209**	**$ 4,656,042**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 2,024,630	$ 2,238,501	$ 2,537,946	$ 2,736,045	$ 2,968,901
For Debt Service	46,276	552,635	881,647	2,031,317	2,430,721
Capital Reserve	-	-	-	250,000	500,000
Minimum Cash	**$ 2,070,906**	**$ 2,791,136**	**$ 3,419,593**	**$ 5,017,362**	**$ 5,899,622**
Amount Over (Under) Minimum	**1,625,235**	**2,305,083**	**2,126,928**	**725,847**	**(1,243,580)**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

Considerations:

- Negative change in net position
- Declining amount of cash in excess of minimum requirements

Sanitary Sewer as of November 13

Changes:

- Improved change in net position
- Increased amount of cash over minimum requirements

CITY OF BLAINE, MINNESOTA

SEWER UTILITY FUND - 602

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 7,527,176	$ 8,229,364	$ 9,589,823	$ 11,173,258	$ 12,676,406
Operating Expenditures	6,748,767	7,461,670	8,459,819	9,120,149	9,896,338
Operating Income	**$ 778,409**	**$ 767,694**	**$ 1,130,004**	**$ 2,053,109**	**$ 2,780,068**
Non-Operating Revenues (Expenditures)	(8,486)	158,224	(99,943)	(240,943)	(819,307)
Transfers, Capital Contributions, and Sale of Assets	1,943,513	(935,840)	(1,037,310)	(1,068,429)	(1,100,482)
Change in Net Position	**$ 2,713,436**	**$ (9,922)**	**$ (7,249)**	**$ 743,737**	**$ 860,279**
Net Change in Cash					
Beginning Cash	$ 3,167,778	$ 3,696,141	$ 5,096,219	$ 6,046,860	$ 7,389,045
Changes in Cash	528,363	1,400,078	950,641	1,342,185	539,038
Ending Cash	**$ 3,696,141**	**$ 5,096,219**	**$ 6,046,860**	**$ 7,389,045**	**$ 7,928,083**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 2,024,630	$ 2,238,501	$ 2,537,946	$ 2,736,045	$ 2,968,901
For Debt Service	46,276	552,635	881,647	2,031,317	2,430,721
Capital Reserve	-	-	-	250,000	500,000
Minimum Cash	**$ 2,070,906**	**$ 2,791,136**	**$ 3,419,593**	**$ 5,017,362**	**$ 5,899,622**
Amount Over (Under) Minimum	**1,625,235**	**2,305,083**	**2,627,267**	**2,371,683**	**2,028,461**

** The 2024 proposed budget revenues are shown using the November 13 rates*

Printed 11/13/2023

Stormwater

Stormwater - 2024 Recommended Rates

Stormwater									
			As of Oct 9	As of Nov 13		As of Oct 9		As of Nov 13	
Quarterly	2022	2023	2024	2024	Unit	$ Change	Percent	$ Change	Percent
Residential	10.50	11.55	12.42	13.86	Flat	0.87	7.5%	2.31	20.0%
Commercial Monthly	3.50	3.85	4.14	4.62	Flat	0.29	7.5%	0.77	20.0%
Commercial Quarterly	10.50	11.55	12.42	13.86	Flat	0.87	7.5%	2.31	20.0%

Goals considered:
- Improve the 5-year plan to a better financial position

Stormwater Fund as of October 9

CITY OF BLAINE, MINNESOTA

STORMWATER UTILITY FUND - 604

2024 Budget as of October 9

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 2,019,482	$ 2,238,700	$ 2,438,658	$ 2,656,016	$ 2,879,972
Operating Expenditures	1,528,082	1,833,770	2,293,604	2,254,736	2,448,219
Operating Income	**$ 491,400**	**$ 404,930**	**$ 145,054**	**$ 401,280**	**$ 431,753**
Non-Operating Revenues (Expenditures)	(79,938)	(26,947)	(122,318)	(157,556)	(187,306)
Transfers, Capital Contributions, and Sale of Assets	1,885,172	(433,330)	(503,830)	(518,945)	(534,513)
Change in Net Position	**$ 2,296,634**	**$ (55,347)**	**$ (481,095)**	**$ (275,221)**	**$ (290,066)**
Net Change in Cash					
Beginning Cash	$ 2,020,791	$ 2,794,287	$ 3,358,940	$ 2,780,067	$ 2,188,630
Changes in Cash	773,496	564,653	(578,874)	(591,436)	(415,131)
Ending Cash	**$ 2,794,287**	**$ 3,358,940**	**$ 2,780,066**	**$ 2,188,631**	**$ 1,773,499**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 458,425	$ 550,131	$ 688,081	$ 676,421	$ 734,466
For Debt Service	47,247	263,579	346,854	418,132	540,667
Capital Reserve	-	-	-	-	-
Minimum Cash	**$ 505,672**	**$ 813,710**	**$ 1,034,935**	**$ 1,094,553**	**$ 1,275,132**
Amount Over (Under) Minimum	**2,288,616**	**2,545,230**	**1,745,131**	**1,094,078**	**498,367**

** The 2024 proposed budget revenues are shown using the recommendations from the rate study*

Considerations:

- Negative change in net position
- Declining amount of cash in excess of minimum requirements

Stormwater as of November 13

Changes:

- Improved change in net position
- Increased amount of cash over minimum requirements

CITY OF BLAINE, MINNESOTA

STORMWATER UTILITY FUND - 604

2024 Budget as of November 13

	2022 Actual	2023 Adopted	2024 Proposed*	2025 Estimate	2026 Estimate
Operating Revenues	$ 2,019,482	$ 2,238,700	$ 2,722,223	$ 3,033,805	$ 3,304,823
Operating Expenditures	1,528,082	1,833,770	2,293,604	2,254,736	2,448,219
Operating Income	**$ 491,400**	**$ 404,930**	**$ 428,619**	**$ 779,069**	**$ 856,604**
Non-Operating Revenues (Expenditures)	(79,938)	(26,947)	(122,318)	(157,556)	(187,306)
Transfers, Capital Contributions, and Sale of Assets	1,885,172	(433,330)	(503,830)	(518,945)	(534,513)
Change in Net Position	**$ 2,296,634**	**$ (55,347)**	**$ (197,530)**	**$ 102,568**	**$ 134,785**
Net Change in Cash					
Beginning Cash	$ 2,020,791	$ 2,794,287	$ 3,358,940	$ 3,063,631	$ 2,849,984
Changes in Cash	773,496	564,653	(295,309)	(213,647)	9,721
Ending Cash	**$ 2,794,287**	**$ 3,358,940**	**$ 3,063,631**	**$ 2,849,984**	**$ 2,859,705**
Minimum Cash Requirements					
For Operations (3.6 months)	$ 458,425	$ 550,131	$ 688,081	$ 676,421	$ 734,466
For Debt Service	47,247	263,579	346,854	418,132	540,667
Capital Reserve	-	-	-	-	-
Minimum Cash	**$ 505,672**	**$ 813,710**	**$ 1,034,935**	**$ 1,094,553**	**$ 1,275,132**
Amount Over (Under) Minimum	**2,288,616**	**2,545,230**	**2,028,696**	**1,755,432**	**1,584,573**

** The 2024 proposed budget revenues are shown using the November 13 rates*

Printed 11/13/2023

Comparable Cities

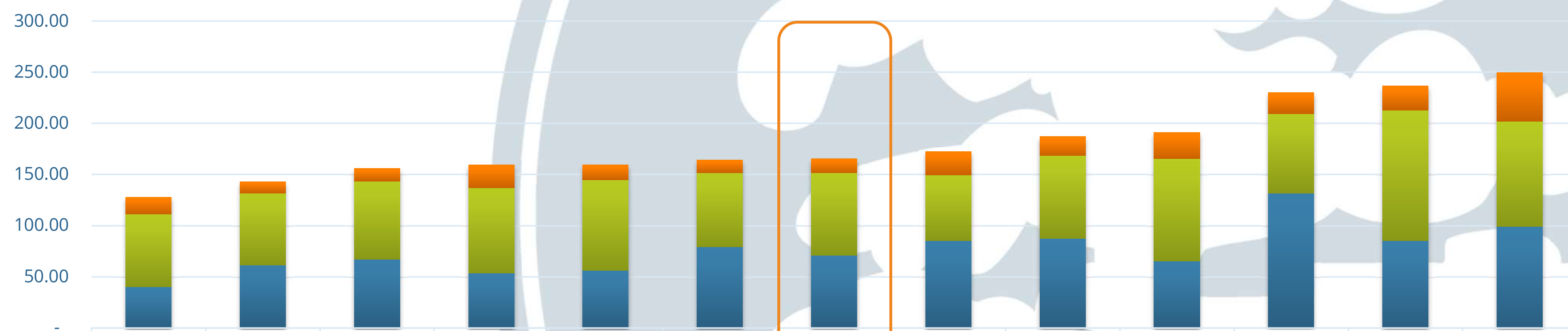
Printed 11/13/2023

Rate Analysis – Comparable Cities

Adopted 2023 Rates and Blaine 2024

Proposed rates as of November 13 move Blaine closer to the middle of the comparison (based on 2023 rates for other cities)

Quarterly Utility Rate Comparison for Similar Population Cities



	Maple Grove	Blaine	Blaine 2024 as of Oct 9	Woodbury	Lakeville	Coon Rapids	Blaine 2024 as of Nov 13	Burnsville	Eden Prairie	Plymouth	St. Cloud	Minnetonka	Edina
Stormwater	16.50	$11.55	$12.42	22.55	14.79	12.60	$13.86	22.80	18.67	25.98	20.40	23.91	47.36
Sewer	70.91	$70.00	$76.30	83.25	88.60	72.75	$80.50	64.05	80.54	99.93	78.00	127.65	102.90
Water	40.36	$61.70	$67.19	53.60	56.05	78.99	$71.02	85.59	87.81	65.38	131.63	85.20	99.16

Water Sewer Stormwater

2023 rates shown for all cities compared with proposed Blaine 2024

Printed 11/13/2023

Next Steps

Section 2 of 2

Questions and Notes for Council

- Does Council support the revised recommended rates?
  - Water
  - Sewer
  - Stormwater

Next steps:

- First reading of fee schedule on December 4
- Adoption scheduled for December 18

City of Blaine
Staff Report

File Number: 2023-560

Agenda Date	Status
November 13, 2023	
In Control	**File Type**
City Council	Workshop Item

New Business - Jenna Trittin, Finance Analyst

Agenda Item # 2.2

2024 Capital Equipment Fund

Background

The capital equipment requested for 2024 was presented at the September 25 council workshop (Item 3.3). At the workshop, councilmembers requested further information on the fleet rightsizing study and for staff to quantify why the items are needed. Additional information on capital equipment was presented to Council at the October 30 council workshop where Council requested to see a proposal that included reducing the equipment requested in the Capital Equipment Fund to $3 million.

Public Works has evaluated their requested equipment and prepared a list with the impacts of deferring purchases. The Police Department has also reviewed their requested equipment and has identified three items that could be deferred as well as items that could be paid for using public safety aid. A summary sheet is attached, outlining an option that reduces the Capital Equipment request from $3.8 to $2.98 million.

If the council wishes to adopt a capital plan that is levy/debt funded at approximately $3 million, the attached revised plan achieves that goal.

Staff Recommendation

Questions for Council

Provide guidance on a capital plan funding level.
Options:

- 3.8 million
- 2.98 million

- Other

Attachment List

1. 2024 Capital Equipment List with Adjustments
2. Presentation - 2024 Capital Equipment

2024 Capital Equipment Summary

Department, Division, and Item	Department	Type	New or Replacement	Initial 2024 as of Oct 30	Adjustments: Cost Adjustments	Adjustments: Moved to Operating	Adjustments: Deferred to 2025	Adjustments: Deferral Risks/Notes	Funding: Alternate Funding	Funding: Levy/Debt Funded	Total 2024 as of Nov 13
30 - Finance and Technology											
330 - Information Technology											
GEN23EQ32 - 2023 Enterprise Asset Management System (EAMS) Upgrade	30 - Finance and Technology	Software	Replacement	32,000	-	-	-		-	32,000	32,000
GEN24EQ02 - Run Fiber Optic Cable to Lexington Athletic Complex	30 - Finance and Technology	Other Equipment	Replacement	68,000	-	-	-		-	68,000	68,000
GEN24EQ03 - Backup Server Upgrade	30 - Finance and Technology	Computers and Related Equipment	Replacement	15,000	-	-	-		-	15,000	15,000
GEN24EQ04 - Memory Upgrade for VMware Hosts	30 - Finance and Technology	Computers and Related Equipment	Replacement	24,100	-	-	-		-	24,100	24,100
GEN24EQ05 - Network Switch Upgrade	30 - Finance and Technology	Computers and Related Equipment	Replacement	82,000	-	-	-		-	82,000	82,000
GEN24EQ07 - Public Safety Copier	30 - Finance and Technology	Computers and Related Equipment	Replacement	10,000	-	-	-		-	10,000	10,000
GEN24EQ08 - Command Staff and Detectives Tech Upgrade	30 - Finance and Technology	Computers and Related Equipment	Replacement	35,000	-	-	-		-	35,000	35,000
GEN99EQ01 - Computers and Related Equipment	30 - Finance and Technology	Computers and Related Equipment	Other	174,750	-	-	-		-	174,750	174,750
Total 330 - Information Technology				**440,850**	**-**	**-**	**-**		**-**	**440,850**	**440,850**
Total 30 - Finance				**440,850**	**-**	**-**	**-**		**-**	**440,850**	**440,850**
40 - Safety Services											
460 - Police											
GEN23EQ23 - 2023 CSO Vehicle 5275	40 - Safety Services	Motor Vehicles	Replacement	43,000	-	-	-		-	43,000	43,000
GEN24EQ32 - License Plate Reader (LPR) Camera Project	40 - Safety Services	Other Equipment	New	133,500	-	(133,500)	-	Ongoing lease cost that needs to be accounted for in operating budget	-	-	-
GEN24EQ33 - Outdoor Warning Siren Upgrade	40 - Safety Services	Other Equipment	Replacement	161,000	-	-	(161,000)	If project is necessary before 2025 it will be funded using public safety aid or grant funds through the county	-	-	-
GEN24EQ34 - Patrol Vehicle - Qty 1 Ford F150 Responder Replacement	40 - Safety Services	Motor Vehicles	Replacement	57,500	-	-	-		-	57,500	57,500
GEN24EQ35 - Patrol Vehicles - Qty: 5 Chevy Tahoes	40 - Safety Services	Motor Vehicles	Replacement	281,500	-	-	-		-	281,500	281,500
GEN24EQ36 - Police E-Bikes	40 - Safety Services	Other Equipment	Replacement	6,651	-	-	-		-	6,651	6,651
GEN24EQ37 - Red Dot Sights (RDS)	40 - Safety Services	Other Equipment	New	82,350	-	-	-		82,350	-	82,350
GEN24EQ38 - Rifle rated body armor	40 - Safety Services	Other Equipment	Replacement	73,000	-	-	-		73,000	-	73,000
GEN24EQ40 - Space Save Evidence Lockers	40 - Safety Services	Other Equipment	Replacement	34,450	-	-	(34,450)	Not an immediate need and can be funded with public safety aid if needed prior to 2025	-	-	-
GEN24EQ41 - Admin Services Replacement Vehicle - GMC Acadia AWD	40 - Safety Services	Motor Vehicles	Replacement	32,200	-	-	-		-	32,200	32,200
GEN24EQ42 - Backpack EMS Bags	40 - Safety Services	Other Equipment	Replacement	5,500	-	-	-		-	5,500	5,500
GEN24EQ43 - Camera Trailer	40 - Safety Services	Other Equipment	Addition	82,572	-	-	(82,572)	Not an immediate need and may be able to get a grant or fund using public safety aid if needed prior to 2025	-	-	-
GEN24EQ44 - Detective Vehicle - Ford Edge or Similar	40 - Safety Services	Motor Vehicles	Replacement	43,500	-	-	-		-	43,500	43,500
GEN24EQ45 - Detective Vehicle - GMC Acadia AWD or Similar	40 - Safety Services	Motor Vehicles	Replacement	36,500	-	-	-		-	36,500	36,500
GEN24EQ46 - Gas Mask Fit Test Machine	40 - Safety Services	Other Equipment	New	16,105	-	-	-		16,105	-	16,105
Total 460 - Police				**1,089,328**	**-**	**(133,500)**	**(278,022)**		**171,455**	**506,351**	**677,806**
490 - Community Standards											
GEN24EQ01 - Fire Inspection Vehicles (2) - Ford Interceptor Utility	40 - Safety Services	Motor Vehicles	Replacement	130,000	-	-	-		-	130,000	130,000
Total 490 - Community Standards				**130,000**	**-**	**-**	**-**		**-**	**130,000**	**130,000**
Total 40 - Safety Services				**1,219,328**	**-**	**(133,500)**	**(278,022)**		**171,455**	**636,351**	**807,806**
50 - Public Services											
530 - Public Works											
GEN24EQ06 - Towmaster T-14DT 16' T-Series Large Drop Deck Trailer	50 - Public Services	Heavy Machinery & Equipment	Replacement	18,000	-	-	-		-	18,000	18,000
GEN24EQ09 - Mack tandem axle plow truck	50 - Public Services	Heavy Machinery & Equipment	Replacement	350,000	-	-	-		-	350,000	350,000
GEN24EQ10 - MT Trackless Sidewalk Machine	50 - Public Services	Heavy Machinery & Equipment	Replacement	218,000	-	-	-		-	218,000	218,000
GEN24EQ11 - Larue Snowblower	50 - Public Services	Heavy Machinery & Equipment	New	235,000	-	-	-		-	235,000	235,000
GEN24EQ12 - Prewet brine bars	50 - Public Services	Other Equipment	Replacement	22,000	-	-	-		-	22,000	22,000
GEN24EQ13 - Diamond flail mower	50 - Public Services	Heavy Machinery & Equipment	Replacement	75,000	-	-	(75,000)	Replace attachment 1276-1, which is past its useful life and no longer practical. Risk: lower efficiency with current unit requiring multiple passes at times as the new unit has better cutting and coverage	-	-	-
GEN24EQ14 - Stump Grinder	50 - Public Services	Heavy Machinery & Equipment	Addition	20,000	-	-	-		-	20,000	20,000
GEN24EQ15 - Top Dresser	50 - Public Services	Heavy Machinery & Equipment	New	75,000	-	-	-		-	75,000	75,000
GEN24EQ16 - Beach Groomer/ Infield Drag	50 - Public Services	Heavy Machinery & Equipment	Replacement	61,000	-	-	-		-	61,000	61,000
GEN24EQ17 - Garbage truck/ compactor	50 - Public Services	Heavy Machinery & Equipment	Addition	150,000	-	-	(150,000)	New addition to fleet to provide more effective trash collection in parks, allowing for fewer trips to each park and lower staff resources	-	-	-
GEN24EQ18 - R134A air conditioning machine	50 - Public Services	Other Equipment	Replacement	8,000	-	-	-		-	8,000	8,000
GEN24EQ19 - Parts washer for shop	50 - Public Services	Other Equipment	Replacement	10,000	-	-	-		-	10,000	10,000
GEN24EQ20 - Refurbish single axle plow truck #1272	50 - Public Services	Heavy Machinery & Equipment	Refurbish	40,000	-	-	-		-	40,000	40,000
GEN24EQ21 - Toro 5910 16 foot Mower	50 - Public Services	Heavy Machinery & Equipment	Replacement	175,000	-	-	-		-	175,000	175,000
GEN24EQ22 - Toolcat 5600 with Blower and Grapple	50 - Public Services	Heavy Machinery & Equipment	Replacement	75,000	-	-	-		-	75,000	75,000
GEN24EQ23 - Mack Single Axle Plow Truck	50 - Public Services	Heavy Machinery & Equipment	Replacement	330,000	-	-	-		-	330,000	330,000
GEN24EQ24 - Tow behind 375CFM air compressor	50 - Public Services	Other Equipment	Replacement	60,000	-	-	-		-	60,000	60,000
GEN24EQ25 - Big Tow 18' hydraulic dump trailer	50 - Public Services	Heavy Machinery & Equipment	Addition	40,000	-	-	-		-	40,000	40,000
GEN24EQ26 - Land Pride Bat Wing Pull Behind Mower 16' Deck	50 - Public Services	Heavy Machinery & Equipment	Replacement	28,000	-	-	-		-	28,000	28,000
GEN24EQ27 - Mowing route trailer for parks (1 of 2)	50 - Public Services	Heavy Machinery & Equipment	Replacement	10,000	-	-	-		-	10,000	10,000
GEN24EQ28 - Mowing route trailer for parks (2 of 2)	50 - Public Services	Heavy Machinery & Equipment	Replacement	10,000	-	-	-		-	10,000	10,000
GEN24EQ29 - Electric zero turn mower	50 - Public Services	Heavy Machinery & Equipment	Replacement	50,000	-	-	-		-	50,000	50,000
GEN24EQ30 - Electric zero turn mower	50 - Public Services	Heavy Machinery & Equipment	Replacement	50,000	(22,000)	-	-	Changed to non-electric mower	-	28,000	28,000
GEN24EQ31 - Articulating boom flail mower for trackless sidewalk machine	50 - Public Services	Heavy Machinery & Equipment	Addition	42,000	-	-	-		-	42,000	42,000
Total 530 - Public Works				**2,152,000**	**(22,000)**	**-**	**(225,000)**		**-**	**1,905,000**	**1,905,000**
Total 50 - Public Services				**2,152,000**	**(22,000)**	**-**	**(225,000)**		**-**	**1,905,000**	**1,905,000**
Total Expenditure				**3,812,178**	**(22,000)**	**(133,500)**	**(503,022)**		**171,455**	**2,982,201**	**3,153,656**

2024 Capital Equipment Fund

Council Workshop| Finance

11/13/2023

Printed 11/13/2023

Agenda

- Overview
- Safety Services Adjustments
- Public Works Adjustments
- Next Steps

Overview

Section 1 of 4

Summary of Changes

Description	Alternate Funding	Levy/Debt Funded	Total 2024
Presented October 9	304,955	3,507,223	3,812,178
Changes:			
Cost Adjustments	-	(22,000)	(22,000)
Moved to Operating	(133,500)	-	(133,500)
Deferred to 2025			
Public Safety	-	(278,022)	(278,022)
Public Works	-	(225,000)	(225,000)
Presented November 13	171,455	2,982,201	3,153,656

Safety Services Adjustments

Section 2 of 4

Safety Services Adjustments

$133,500 – Moved to Operating

- $133,500 – License Plate Reader (LPR) Camera Project; ongoing lease cost to be accounted for in operating budget

$278,022 – Deferred to 2025

- $161,000 – Outdoor Warning Siren Upgrade; if project is necessary before 2025 it will be funded using public safety aid or grant funds through the county
- $34,450 – Space Save Evidence Lockers; not an immediate need and can be funded with public safety aid if needed prior to 2025
- $82,572 – Camera Trailer; not an immediate need and can potentially fund with a grant or public safety aid if needed prior to 2025

Public Works Adjustments

Section 3 of 4

Public Works Adjustments

$22,000 – Cost Adjustments

- $22,000 – Electric Zero Turn Mower; changed to non-electric mower

$225,000 – Deferred to 2025

- $75,000 – Diamond Flail Mower; Replace attachment 1276-1, which is past its useful life and no longer practical. Risk: lower efficiency with current unit requiring multiple passes at times as the new unit has better cutting and coverage

- $150,000 – Garbage Truck/Compactor; New addition to fleet to provide more effective trash collection in parks, allowing for fewer trips to each park and lower staff resources

Next Steps

Section 4 of 4

Questions and Notes for Council

- Provide guidance on a capital plan funding level for levy/debt.

Options:

- $3.8 million
- $2.98 million
- Other

Next steps:

- Adoption scheduled for December 18

City of Blaine
Staff Report

File Number: 2023-550

Agenda Date	Status
November 13, 2023	

In Control	File Type
City Council	Workshop Item

New Business - Daniel Schluender, Director of Engineering

Agenda Item # 2.3

Assessment Review Outline, Part 3

Executive Summary

Background

Staff reviewed Special Assessments at the Council Workshop in January 2023. The review provided for an initial discussion and provided the Council
with information and background on the use of special assessments within the framework of the city's pavement management plan.Following the
January meeting, staff scheduled two follow-up discussions to be held at future workshops.The intent of the Workshop discussions was to gather
Council feedback before returning with a draft assessment policy for Council review and adoption.

In January, staff reviewed the Purpose and Authority of Special Assessments as outlined in Minnesota Statues Chapter 429. Background information
was provided from the League of Minnesota Cities' Special Assessment Toolkit Information Memo, which outlines the process a city can use to
assess the benefits to selected properties. (The toolkit information is attached to this item.)

Staff also reviewed how the City's Public Improvement Special Assessment Policy has been utilized on street reconstruction projects over the past
10+ years. A spreadsheet was attached listing the assessed projects and costs over that time period.

Finally, staff reviewed the current funding method(s) used by the city of Blaine, which is a combination of special assessments and property taxes.
The Special Assessment Policy was attached for reference. Staff and council then discussed other potential funding sources available for these
projects.

At that meeting, staff was directed to further research the opportunities and impacts for funding street projects under different funding scenarios, including a flat rate,
changes in cost sharing percentages (25/75, 30/70, 35/65,40/60), and a levy that would cover 100% of the costs (i.e no assessments). Staff was also
directed to research the possibility and financial impacts of removing Tax Exempt properties from the assessment policy and if there are any existing
programs available for hardship(s).

In May 2023, staff reviewed with Council, and Council provided feedback on deferral of assessments due to hardship as well as the possibility of exempting
tax-exempt properties from assessments. (The May presentation materials are attached.)

In June 2023, staff reviewed with council, and council provided feedback on the funding options for street reconstruction projects (flat rate, changes in percent of cost share, 100% levy) and their financial impacts.

Thirty minutes has been planned for discussion on this topic; an addition 30 minutes is currently held on the January 8 workshop in case additional discussion is desired.

Strategic Plan Relationship

Board/Commission Review

Financial Impact

Public Outreach/Input

Staff Recommendation

Amend assessment policy based on Council direction for hardship, tax exempt properties, and assessment rates.

Attachment List

1. Special Assessment Toolkit
2. Special Assessment Policy with Exhibits
3. Assessment 6-20 (2) (3)

LEAGUE OF MINNESOTA CITIES

INFORMATION MEMO

Special Assessment Toolkit

Discusses city authority to levy special assessments for local improvements like streets, waterworks, sanitary sewer and more. It defines special assessments, gives a synopsis of the procedure, discusses challenges by property owners, levying and collecting assessments, borrowing, making corrections, and applicability to tax exempt and railroad properties. Red toolkit icons mark links to model forms.

This toolbox icon marks the link to a downloadable tool. All tools are listed and available in Appendix B, Index of forms for special assessments.

Take action with Information Memo toolkits. They contain the forms, samples or models a city can use to take action on a process or project. Look for the toolkit icon so you can download that tool to use or modify it for your city.

RELEVANT LINKS:

I. What are special assessments?

Minn. Stat. ch. 429.

Special assessments are a charge imposed on properties for a particular improvement that benefits the owners of those selected properties. The authority to use special assessments originates in the state constitution which allows the state legislature to give cities and other governmental units the authority "to levy and collect assessments for local improvements upon property benefited thereby." The legislature confers that authority to cities in Minnesota Statutes Chapter 429. Court decisions and attorney general opinions interpreting the statute add complexity to the issue.

See Section VIII: *Charter cities.*

A charter city may choose to use either Chapter 429 or provisions of the charter to assess for local improvements but even so state law requires that charter cities follow state law in certain steps of the proceedings, as discussed subsequently.

To ensure full protection for property owners, state law and courts applying that law insist on strict compliance with complex procedural requirements. Because these requirements have legal implications, city councils should have the city attorney guide assessment proceedings.

Special assessments have three distinct characteristics:

- They are a levy a city uses to finance, or partially finance, a particular public improvement program.
- The city levies the charge only against those particular parcels of property that receive some special benefit from the program.
- The amount of the charge bears a direct relationship to the value of the benefits the property receives.

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RELEVANT LINKS:

A. What do special assessments pay for?

Special assessments have a number of important uses:

- The most typical use is to pay for infrastructure in undeveloped areas of a city, particularly when the city is converting new tracts of land to urban or residential use. Special assessments frequently pay for opening and surfacing streets; installing utility lines and constructing curbs, gutters, and sidewalks.
- Special assessments may partially underwrite the cost of major maintenance programs. Cities often finance large scale repairs and maintenance operations on streets, sidewalks, sewers, and similar facilities in part with special assessments.
- Another use of special assessments is the redevelopment of existing neighborhoods. Cities use special assessments when areas age and the infrastructure needs updating.

B. The special benefit test

Special assessments reflect the influence of a specific local improvement on the value of selected property. No matter what method the city uses to establish the amount of the assessment, the real measure of benefit is the increase in the market value of the land because of the improvement.

Buzick v. City of Blaine, 505 N.W.2d 51 (Minn. 1993).

Under the special benefit test, special assessments are presumptively valid if:

EHW Properties v. City of Eagan, 503 N.W.2d 135 (Minn. Ct. App. 1993). *Schumacher v. City of Excelsior*, 427 N.W.2d 235 (Minn. 1988). *Tri-State Land Co. v. City of Shoreview*, 290 N.W.2d 775 (Minn. 1980).

- The land receives a special benefit from the improvement.
- The assessment does not exceed the special benefit measured by the increase in market value due to the improvement.
- The assessment is uniform as applied to the same class of property, in the assessed area.

Because special assessments are appealable to district court, it is important that the city considers the benefit to the property as a result of the specific improvement. Councils can and sometimes do this by retaining a qualified, licensed appraiser. At the hearings on the assessments, the council may choose to have the appraiser present a written or oral report on the increase in market value as a result of the improvement.

Buettner v. City of St. Cloud, 277 N.W.2d 199 (Minn. 1979).
Southview County Club. v. City of Inver Grove Heights, 263 N.W. 2d 385 (Minn. 1978).
Minn. Const. art X, § 1.

A special assessment that exceeds the special benefit is a taking of property without fair compensation and violates both the Fourteenth Amendment of the United States Constitution and the Minnesota Constitution. Property assessed must enjoy a corresponding benefit from the local improvement. This is a different concept than property tax valuation. The Minnesota Constitution states:

RELEVANT LINKS:

"The Legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation." As the courts have made clear, the special benefit is the increase in market value of the land as a result of the improvement.

Ewert v. City of Winthrop, 278 N.W.2d 545 (Minn. 1979).

If a city's assessment is challenged in district court, the assessment roll constitutes prima facie (or initial) proof that an assessment does not exceed the special benefit. The party contesting the assessment must introduce evidence sufficient to overcome that presumption. If the evidence as to the special benefit is conflicting it is the responsibility of the district court to determine whether the assessment exceeds the market value increase and, if so, by what amount.

Bisbee v. City of Fairmont, 593 N.W.2d 714 (Minn. Ct. App. 1999). *Quality Homes, Inc. v. Village of New Brighton*, 289 Minn. 274, 193 N.W.2d 555 (1971). *Anderson v. City of Bemidji*, 295 N.W.2d 555 (Minn. 1980). *Village of Edina v. Joseph*, 264 Minn. 84, 119 N.W.2d 809 (Minn. 1962).

For this reason, the city's assessment method should at least approximate market-value analysis. A formula that does not consider an analysis of the increase in market value of each parcel may be invalid. For instance, a method that bases assessment amounts on the average costs of street improvement projects from previous years and doesn't take into consideration the cost of the currently proposed project has been found arbitrary and invalid on its face.

Roberts v. City of Crystal Lake, No. A03-172 (Minn. Ct. App. Nov. 4, 2003) (unpublished decision). *Allen v. City of Minneapolis*, No. C1-02-1506 (Minn. Ct. App. April 23, 2003) (unpublished decision). *Haverberg v. City of Madison*, No. C8-02-1146 (Minn. Ct. App. Jan. 28, 2003) (unpublished decision).

Courts often uphold special assessments based on evidence from a city's qualified and licensed appraiser that the assessment did not exceed the increase in market value as a result of the improvement.

Eagle Creek Townhomes v. City of Shakopee, 614 N.W. 2d 246 (Minn. Ct. App. 2000). *Shorma Family Trust v. Maine Township*, No. C9-01-1548 (Minn. Ct. App. April 16, 2002) (unpublished decision). *Belanger v. City of Long Lake*, No. C1-99-1347 (Minn. Ct. App. May 9, 2000) (unpublished decision). *Reiling v. City of Lino Lakes*, No. C7-99-1594 (Minn. Ct. App. Apr. 11, 2000) (unpublished decision). *Anderson v. City of Buffalo*, No. C7-99-641 (Minn. Ct. App. Jan. 18, 2000) (unpublished decision). *Rohling v. City of Champlin*, No. C3-98-1209 (Minn. Ct. App. Feb. 16, 1999) (unpublished decision). *In re Appeal by Eastside Development*, C4-01-582; (Minn. Ct. App. 2001) (unpublished decision).

However, in many published and unpublished opinions, the appellate courts have routinely upheld decisions that went against the city because the district court found a lack of adequate evidence of a market value increase equal to or exceeding the amount of the special assessment.

RELEVANT LINKS:

In re Appeal by Eastside Development, No.C4-01-582 (Minn. Ct. App. Sept. 11, 2001).
Blomquist v. City of Eagan, No. C2-00-1591 (Minn. Ct. App. May 1, 2001).

Johnson v. City of Eagan, 584 N.W.2d 770 (Minn. 1998).
In re Village of Burnsville, 310 Minn. 32, 245 N.W.2d 445 (Minn. 1976).

Nordgren v. City of Maplewood, 326 N.W.2d 640 (Minn. 1982).
Minn. Stat. § 444.075.
Smith v. Spring Lake Township, No. C0-01-370 (Minn. Ct. App. Nov. 20, 2001).

Farmers Ins. Grp. v. Comm'r of Taxation, 153 N.W.2d 236 (Minn. 1967) (Only those cases where regulation is the primary purpose of a revenue-raising law can be specially referred to the police power.)
Am. Bank v. City of Minneapolis, 802 N.W.2d 781 (Minn. Ct. App. 2011).
First Baptist Church v. St. Paul, 884 N.W.2d 355 (Minn. 2016).

Id. at 365.

Especially with regard to street improvements, it can be difficult to demonstrate that there is an increase in market value as a result of the resurfacing or reconstruction, though not impossible, depending on the circumstances.

When a court disallows a portion of an assessment because it was in excess of the benefit to the specific property, the city may not try to recoup the disallowed amount through another method–such as by imposing a charge for a utility line on only that property and not on the other properties involved in the assessment. When the cost of an improvement exceeds the benefit, the difference must not be borne by a particular property, but instead by the city as a whole.

The Minnesota Supreme Court has held that connection charges, based on a different state law, are not assessments and may be imposed on top of prior assessments. One unpublished Court of Appeals decision, however, held that the cost of the connection charges should be included with the amount of special assessments in determining the special benefit to the property.

Applicability of the special benefit test to a given assessment relies on whether it arises out of regulation of conduct. The Minnesota Court of Appeals has held that the special benefit test does not apply to unpaid special charges collected in the form of special assessments when defraying the cost of providing "police power" services such as removal of public nuisances. However, the Minnesota Supreme Court has held a right-of-way assessment largely collected to address "standard wear and tear on the streets, caused largely by Minnesota weather and use by the general public" with services such as snow plowing and ice control, is not a regulation of landowner conduct. An assessment such as this, the Court held, that is "annually recurring, imposed nearly city wide, benefiting largely the general public traveling the rights-of-way, with diverse services largely provided on an 'as needed' basis," is charged under the taxing power and is subject to the special benefit test.

C. Practical points to consider

The following three strategies help avoid the problem of proceeding on estimates that do not equal actual revenue.

1. Coordinating procedures

Chapter 429 allows coordinating the timelines of the special assessment and competitive bidding processes in a way that may protect the city from successful appeals and ensuing budget shortfalls. The city may determine the assessment amount and prepare the assessment roll before work on the local improvement even begins.

RELEVANT LINKS:

Minn. Stat. § 471.345.
Minn. Stat. § 429.041, subd.1.

The competitive bidding threshold for all cities, regardless of size, is $100,000. Thus, special assessment projects must be bid if the estimated cost exceeds $100,000. If needed, the city may advertise for bids and allow sufficient time after the bid closing date to permit the city to prepare the assessment roll based on the lowest responsible bid the city receives and to hold the assessment hearing (the second hearing) based on that low bid. The city then proceeds with the actual work of the project after certification of the assessment roll and the 30-day appeal period is over.

Using this "coordinated procedure" means the city knows both important numbers up front -- how much money will be available through special assessments and the cost of the local improvement. Because the time for appeals is over before the contract is issued, the city will not need to cover potential budget shortfalls that may occur if a property owner successfully challenges a special assessment or the lowest bid comes in higher than expected. This Guide and the forms attached track this coordinated procedural format.

For larger projects in particular, city councils should seriously consider having provisions in the specifications that give the city more time to accept or reject bids. Either the city can make the improvement contract conditional on the absence of objections filed within 30 days after the assessment hearing, or the city may specify (in the bid documents, or specifications) that the improvement work will not begin until 90 days after the city receives bids. Under both strategies, the council would not enter into a binding contract, nor would any improvement work start until after the improvement and assessment hearings and the time for appeals elapses.

See Section II-A-2: *By council.*

2. Specially assessing less of the cost

The city can also avoid appeals by paying a substantial portion of the cost of all improvements out of general funds. The larger the portion of cost the city assumes, the less the chances that any individual assessment would exceed the benefit from the improvement as measured by the increase in market value.

Indeed, the council can proceed with the proposed assessment based on estimates -- and plan to use monies from a reserve fund from general taxes and other uncommitted sources of revenue making up any difference between the assessments and the project cost.

Ruzic v. City of Eden Prairie, 479 N.W.2d 417 (Minn. Ct. App. 1991).
Minn. Stat. § 429.081.
Minn. Stat. § 462.3531.

3. Waivers

The council might obtain, under certain circumstances, waivers of rights to appeal before entering into the contract and ordering the improvement. Any waiver of rights is effective only for the amount of assessment agreed on by the city and property owners or developers.

RELEVANT LINKS:

See LMC model, *Agreement of Assessment and Waiver* (Form 2).

An effective waiver of rights of appeal is essentially a contract and may contain additional conditions providing for the increases in assessments that will not be subject to appeal; consult the city attorney for specific advice on effective waivers.

D. Pros and cons of special assessments

Following is a summary of the advantages and disadvantages of special assessment financing. The council can avoid many of the disadvantages with adequate plans and a long-range capital improvement program.

Advantages of special assessment financing include:

- Special assessments are generally a dependable source of revenue.
- Special assessments are a means of raising money outside city debt and general property taxes. (Special assessment bonds do not count toward statutory debt limitations).
- Special assessments provide a means of levying charges for public services against property otherwise exempt from taxation.
- Special assessments lower the cost to the community of bringing undeveloped land into urban use.
- Charging the property owner for the benefit received prevents or minimizes the possibility that a property owner will reap a financial profit from the improvement at the expense of the general taxpayer.

Disadvantages of special assessment financing include:

- The difficulty and expense in establishing the special benefit to the property.
- The difficulties in special assessment administration. The administrative procedures require careful execution in order to avoid litigation.
- Cities have at times used special assessments to pay for premature public improvements. Because the city generally bears some of the cost of every public improvement, land speculators sometimes urge councils to do unjustifiable special assessment programs.
- The availability of special assessment financing often tempts city officials to underwrite the cost of governmental programs that should be an obligation of the entire city.
- Unless special assessments conform to a city's long-term financial and capital improvement plans, they can subject a city to two serious financial dangers. First, if a city frequently undertakes special assessment bond issues backed by the full faith and credit of a city in an unplanned manner, city credit might be overextended. This leads to higher interest charges on all city and school district borrowing and increases the possibility of default.

RELEVANT LINKS:

Second, placing too heavy a burden on individual property owners (with special assessments and regular property taxes) runs the risk of increasing tax delinquencies and potentially jeopardizes a city's credit and borrowing position.

- From the council's point of view, the public's reaction to a proposed special assessment might be the most important determinative factor. While taxpayer resistance is usually minimal, this is not true in every instance. Special assessment programs receive much greater public support if the council adequately informs people of its intentions to make the improvement, the benefit the improvements will provide, and the necessary financial demands.

E. Special assessment policies

See Section I-B: *The special benefit test.*

Some cities have attempted to minimize the controversy over special assessment financing by adopting a special assessment policy (not an ordinance). Whatever the policy provides it must adhere to the rule that the amount of a special assessment cannot exceed the special benefit to the property as measured by increase in market value due to the improvement.

With frequent turnover on the council a policy may increase consistency in the use of financing improvements with special assessments. Justifying council decisions in a particular case may also be easier with a policy in place. An updated and current special assessment policy may also facilitate the development of a long-range capital program for public improvements.

A policy should reflect basic procedural decisions on financing local improvements -- decisions that the council must think through carefully, taking into account past practice, equity, revenue productivity, political acceptability, and the rest of the city's revenue system. Practically speaking, many city special assessment policies provide procedures for city-specific issues, such assessing oddly shaped lots, corner lots, lots with septic systems and what method of assessment the city uses. (E.g. including but not limited to the area method of assessment, unit method or a per lot assessment). Cities may wish to work with citizens, appraisers, an attorney and city engineers to develop a special assessment policy that fits the unique needs of their city.

F. Programs cities may finance with special assessments

Generally, cities use special assessments to at least partially finance a variety of public improvements. Cities may also use special assessments to collect certain unpaid service charges, discussed in the next section.

RELEVANT LINKS:

1. Local improvements

Minn. Stat. § 429.021.

Cities are statutorily authorized to finance the following public improvements at least partially through special assessments:

Minn. Stat. § 429.021, subd. 1(1).

- **Streets, sidewalks, alleys, curbs and gutters:** Acquiring, opening, and widening streets and alleys; constructing, reconstructing, and maintaining sidewalks, streets, gutters, curbs, and vehicle parking strips. (These projects may include charges for beautification, storm sewers, or other street drainage systems, and installation of connections from utilities to curb lines).

Minn. Stat. § 429.021, subd. 1(2).

- **Storm and sanitary sewer systems:** Acquisition, development, construction, reconstruction, extension, and maintenance of storm and sanitary sewer systems including outlets, treatment plants, pumps, lift stations, and storm water holding areas and ponds.

Minn. Stat. § 429.021, subd 1(3).

- **Steam heating mains:** Construction, reconstruction, extension, and maintenance.

Minn. Stat. § 429.021, subd. 1(4).

- **Street lighting systems:** Installation, replacement, extension, and maintenance.

Minn. Stat. § 429.021, subd. 1(5).
Minn. Stat. § 444.075.
A.G. Op. 387-B-10 (Mar. 8, 1993).
Minn. Stat. § 429.091, subd. 7a.

- **Waterworks systems:** Construction, reconstruction, extension, and maintenance. (This includes all appurtenances of a waterworks system, even the treatment plant). Special assessments may also pay for the infrastructure necessary to maintain water, sewer, and storm sewer systems; and for the payment of any obligations issued to pay the costs of the waterworks facilities and systems or to refund bonds issued for those purposes.

Minn. Stat. § 429.021, subd. 1(6).

- **Parks, playgrounds, and recreational facilities:** To acquire, improve and equip parks, open space areas, playgrounds, and recreational facilities within or without the corporate limits.

Minn. Stat. § 429.021, subd 1(7).

- **Street trees:** Planting, trimming, care, and removal.

Minn. Stat. § 429.021, subd 1(8).

- **Abating nuisances:** Includes, but not limited to, draining and filling swamps, marshes, and ponds on public or private property.

Minn. Stat. § 429.021, subd. 1(9).

- **Dikes and other flood control works:** Construction, reconstruction, extension, and maintenance.

Minn. Stat. § 429.021, subd. 1(10).

- **Retaining and area walls, including highway noise barriers:** Construction, reconstruction, extension, and maintenance.

RELEVANT LINKS:

Minn. Stat. § 429.021, subd. 1(11).
Minn. Stat. § 429.031, subd. 3.

- **Pedestrian skyway systems:** Construction, reconstruction, maintenance, and promotion of bridges, overpasses, hallways, plazas, elevators, and escalators on public or private property. A petition for a pedestrian skyway system must meet unique statutory requirements.

Minn. Stat. § 429.021, subd. 1(12).

- **Underground pedestrian concourses:** Construction, reconstruction, maintenance, and promotion of tunnels, arcades, plazas, elevators, and escalators.

Minn. Stat. § 429.021, subd. 1(13).

- **Malls:** Acquisition, construction, improvement, alteration, extension, operation, maintenance, and promotion of public malls, plazas or courtyards.

Minn. Stat. § 429.021, subd. 1(14).

- **District heating systems:** Construction, reconstruction, extension, and maintenance of district heating systems.

Minn. Stat. § 429.021, subd. 1(15). Minn. Stat. § 429.031, subd. 3.

- **Fire protection systems:** Construction in existing buildings upon petition of owners. A petition for a fire protection system, on public or private property, must meet unique statutory requirements.

Minn. Stat. § 429.021, subd. 1(16).

- **Highway sound barriers:** Acquisition, construction, reconstruction, improvement, alteration, extension, and maintenance of highway sound barriers.

Minn. Stat. § 429.021, subd. 1(17).

- **Gas and electric distribution facilities:** Improvement, construction, reconstruction, extension, and maintenance of gas and electric distribution facilities owned by a municipal gas or electric utility.

Minn. Stat. § 429.021, subd. 1(18).

- **Markers relating to 911 services:** Purchase, installation, and maintenance of signs, posts, and other address markers related to the operation of enhanced 911 services.

Minn. Stat. § 429.021, subd. 1(19).

- **Internet access:** Improvements, construction, extension, and maintenance of facilities for Internet access, and other communication purposes, if the council finds that the facilities:
  - Are necessary to make Internet access (or other communications services) available that are not and will not be available through other providers or the private market in the reasonably foreseeable future.
  - Provide services that will not compete with service provided by private entities.

Minn. Stat. § 429.031, subd. 3.
Minn. Stat. § 429.011, subd. 16.

- **On-site water contaminant systems:** Installation of publicly or privately owned pipes, wells, and other devices and equipment in or outside a building for the primary purpose of eliminating water contamination caused by lead or other toxic or health threatening substances in the water. A petition for an on-site water contaminant system must meet unique statutory requirements.

RELEVANT LINKS:

Minn. Stat. § 429.021, subd. 1(20).
Minn. Stat. § 429.031, subd. 3.

- **Burying overhead utility lines within the public right-of-way:** Cities can only finance the burying of overhead utility lines with special assessments in response to a petition from all the abutting landowners. In addition, burying the lines in the public right of way must exceed the utility's design and construction standards, or those set by law, tariff, or franchise. In that situation all or a portion of the costs associated with burying the lines, or altering a new or existing distribution system, can be specially assessed as agreed to with an electric utility, telecommunications carrier, or cable system.

Minn. Stat. § 459.14.

- **Parking facilities:** Acquisition and construction.

Minn. Stat. §§ 216C.435-.436.
2017 Minn. Laws Ch. 94, Art. 10, § 27, subd. 10.
Minn. Stat. § 429.021, subd. 1(21).
Minn. Stat. § 429.101, subd. 1(c).

- **Energy improvement programs:** Cities may finance cost-effective energy improvements to certain (currently only multifamily) residential dwellings, or commercial or industrial buildings, through revenue bonds funded by special assessments. Among other requirements of such a program is a petition by all owners of the qualifying real property requesting collections of repayments as special assessments as with other unpaid charges assessable under chapter 429.

Joint Indep. Sch. Dist. No. 287 v. City of Brooklyn Park, 256 N.W.2d 512 (Minn. 1977).
In re Village of Burnsville, 310 Minn. 32, 245 N.W.2d 445 (Minn. 1976).

Chapter 429 defines a number of projects as local improvements that may benefit the entire city, such as a sewage disposal plant, interceptor sewer or water treatment plant. The constitutional provision authorizing special assessments for local improvements may allow these kinds of projects as long as they confer a special benefit on assessed property that the improvements do not confer upon the city as a whole.

2. Assessing unpaid special service charges

Minn. Stat. § 429.101, subds. 1, 2.
Minn. Stat. § 412.221, subd. 6.

Cities may, through an ordinance, require that property owners perform certain property-related special services -- or the ordinance can allow that the city performs the special services and sends a bill to property owner for the work. If the property owner fails to pay, the city may assess for all or any part of the unpaid charges as a special assessment against the property benefitted. When assessing unpaid service charges, cities must follow some, but not all, of the special assessment notice, hearing and calculation procedures in Chapter 429.

Minn. Stat. § 429.101, subd. 2.
Sykes v. Rochester, 787 N.W.2d 192 (Minn. Ct. App. 2010).

The law specifically lists the special services that cities can specially assess if not paid by the property owner or occupant. Statutory cities cannot add the following to this list, but charter cities may be able to add to it by charter amendment:

Minn. Stat. § 429.101, subd. 1(1).
Minn. Stat. § 429.101, subd. 1(2).
Minn. Stat. § 429.101, subd. 1(3).

- Snow, ice and rubbish removal from sidewalks.
- Weed elimination from streets and private property.
- Removal or elimination of public health or safety hazards from private property, excluding any hazardous or substandard buildings.

RELEVANT LINKS:

Minn. Stat. § 429.101, subd. 1(4).

Minn. Stat. § 429.101, subd. 1(5).

Minn. Stat. § 429.101, subd. 1(6).

Minn. Stat. § 429.101, subd. 1(7).

Minn. Stat. § 429.101, subd. 1(8).

Minn. Stat. § 429.101, subd. 1(9).

Minn. Stat. § 429.101, subd. 1(10).

Minn. Stat. § 429.101, subd. 1(11).

Minn. Stat. § 429.101, subd. 1(12).

Minn. Stat. § 443.015.

Minn. Stat. § 429.101, subd 1(b).

Minn. Stat. § 429.101, subd. 2. See also *Sykes v. Rochester*, 787 N.W.2d 192 (Minn. Ct. App. 2010). *Am. Bank v. City of Minneapolis*, 802 N.W.2d 781 (Minn. Ct. App. 2011).

Minn. Stat. § 429.101, subd. 3.

All model forms in a compressed file.

- Installation and repair of water service lines, and sprinkling and dust treatments.
- Trimming and care of trees, and removal of unsound trees.
- Treatment and removal of insect-infested or diseased trees on private property and the repair of sidewalks and alleys.
- Operation of a street lighting system.
- Operation and maintenance of a fire protection or a pedestrian skyway system.
- Inspections related to a municipal housing maintenance code violation.
- Recovery of payments to rehabilitate and/or maintain safe and habitable housing conditions over the useful life of a house or land - including payment of utility bills and other services, even if provided by a third party in rental situations.
- Painting the exterior of a structure to remedy a municipal code violation.
- The recovery of delinquent vacant building registration fees under a municipal program designed to identify and register vacant buildings.
- Garbage collection and disposal.

Again, a city cannot exercise this authority until passing an authorizing ordinance providing that such matters are the responsibility of the property owner. (The ordinance cannot require that property owners perform street sprinkling or other dust treatment, alley repair, tree trimming, care, and removal or the operation of a street lighting system.)

Unpaid charges collected as special assessments are subject to the same notice, hearing, and appeal requirements as any other special assessments. They are not, however, subject to the special benefit test.

Cities may issue bonds or other debt instruments to finance the cost of special services in the same manner as for local improvements, with three modifications:

- These obligations may not run for more than two years.
- The amount of debt a city issues at any one time may not exceed the estimated cost of the work it will do during the next six months.
- The council must set up a separate fund for each of the different services financed through this procedure.

II. Synopsis of procedures

The following discussion is a guide, but not legal advice, as to the proper fulfillment of special assessment procedures. The council should consult an attorney familiar with the individual project to make sure the city follows all legal procedures.

RELEVANT LINKS:

Gadey v. City of Minneapolis, 517 N.W.2d 344 (Minn. Ct. App. 1994).

Minn. Stat. ch. 429.

If the proper procedures are not followed, a court may set the assessment aside and order a reassessment.

In general, Chapter 429 proposes the following steps.

A. Initiation of proceedings

Minn. Stat. § 429.031.

Either a petition from affected property owners or the council initiates Chapter 429 proceedings.

1. By petition

Minn. Stat. § 429.031, subd. 1(f).

LMC model, *Petition for Local Improvement – more than 35% of property owners* (Form 3).

If the council chooses to proceed with an improvement based on a petition (they are not required to do so) it must have the signatures of the owners of at least 35 percent in frontage of the property bordering the proposed improvements. Computing the 35 percent is not always easy.

A.G. Op. 396g7 (June 9, 1958).

The Minnesota Attorney General has opined that the 35 percent requirement applies to the entire area petitioning for the local improvement so each specific street need not meet it.

City of Brainerd v. Brainerd Investments Partnership, (Minn. 2013).

A.G. Op. 387-B-10 (June 29, 1954). A.G. Op. 408-C (October 28, 1954).

The Minnesota Supreme Court finds that the state may be an "owner" for purposes of this 35 percent petition. (The Court finds the statute unambiguous and refuses to consider extrinsic evidence by looking at three Attorney General Opinions. These Opinions suggested that neither the state nor the city is an "owner" for purposes of this 35 percent petition.)

If the council relies upon the petition as its basis for proceeding, it cannot make a substantial change in the nature of the improvement from that asked for in the petition. For example, it may not order an improvement for water and sewer when the petition has asked for water alone, or add curb and gutter to a petition for blacktop.

LMC model, *Petition for Local Improvement - 100% of property owners* (Form 1).
and
LMC model, *Agreement of Assessment and Waiver of Irregularity and Appeal* (Form 2).

In some cases, for example buried utility lines, 100 percent of landowners must petition for an improvement.

RELEVANT LINKS:

Minn. Stat. § 429.035.
Minn. Stat. § 429.036.

LMC model, *Resolution Declaring Adequacy of Petition and Ordering Preparation of Report* (Form 4).

The council must pass and publish a resolution determining whether the petition is legally sufficient or not. Any person directly affected by the resolution may challenge the council's determination (as to the legal sufficiency of the petition) in district court. The appeal must be made within 30 days and include a bond of $250.

Minn. Stat. § 429.031, subd. 1(f).

LMC model, *Alternate Resolution Ordering Preparation of Report on Improvement* (Form 4-Alt).

See Section II-D-1: *Voting requirements for ordering the improvement.*

2. By council

The council certainly may act on its own initiative in proposing a local improvement and ordering a feasibility report. As a practical note, an extraordinary majority vote from the council is not necessary to initiate the proceedings. (Later in the process, a four-fifths council vote will be required to pass the resolution ordering an improvement initiated by council). The council must calculate the cost of the improvement or direct staff to do so.

Minn. Stat. § 429.031, subd. 1(b).

Minn. Stat. § 429.031, subd. 1(d).

LMC model, *Resolution Receiving Feasibility Report and Calling Hearing on Improvement* (Form 5).

B. Feasibility report

Whether initiated by petition or by council, Chapter 429 requires that the city engineer, or another person with similar skills, prepare what is commonly called a "feasibility report." (Bond attorneys require a certified copy of a feasibility report before issuing bonds to finance a local improvement.) The feasibility report must cover such factors as whether the project is necessary, the availability of money in the general fund to pay the city's share of the cost, an estimate of that cost, whether the improvement is cost effective, and any other information necessary for council consideration.

Note: If someone other than a city employee prepares the report, the law prohibits using a percentage of the costs of the proposed improvement as a basis to pay for the report. The feasibility report must also include the estimated cost of the improvement as recommended. Since a reasonable estimate of the total amount to be assessed, and a description of the methodology used to calculate individual assessments for affected parcels, must be available at the hearing, it could be part of the commissioned report. The feasibility report is integral to the assessment process. Best practice suggests that the city council pass a resolution receiving the report and provide preliminary notice of the improvement.

RELEVANT LINKS:

C. Initial considerations

Overall the law requires two public hearings commonly known as an improvement hearing and an assessment hearing; in between these two public hearings councils may order the improvement, decide how to construct the project and tabulate an assessment roll. This Guide outlines some initial considerations, describes the improvement hearing, discusses ordering and constructing the improvement; and subsequently addresses the assessment hearing.

1. Determining benefit districts

See Section I-B: *The special benefit test.*

Determining what area benefits from improvement projects, or the area against which the city will levy assessments, is a major policy decision for the city council. The benefit district (or assessment district) varies with the kind of improvement. For some improvements, such as a new water tank, the area benefited might be very large. In levying an assessment to finance the tank's construction, for example, the council might assess the entire area the tank services. The special benefit test still applies. City staff, city engineers, consultants and attorneys may provide the basis for council to determine what area or district to assess for a specific improvement because that area benefits from the improvement.

2. City's share

Minn. Stat. § 429.061, subd. 1.

LMC model, *Resolution Declaring Cost to Be Assessed and Ordering Preparation of Proposed Assessment* (Form 12).
Minn. Stat. § 429.051, applied in *In Re Mackubin St.*, 279 Minn. 193, 155 N.W.2d 905 (Minn. 1968).

At any time before or after the city actually incurs expenses for the improvement, the council must pass a resolution determining how much the city plans to pay (above and beyond what it may decide to pay for city-owned property in the assessment area) and separate from amounts to be assessed. Cities may assess the cost of an improvement to property benefited whether or not any part of the cost of the improvement is paid from the county state-aid highway fund, the municipal state-aid street fund or the trunk highway fund. Best practice suggests the council work with an appraiser and an attorney to determine the appropriate city share of a particular project.

See Section I-B: *The special benefit test.*

The council must also decide, with consultation from staff and consultants, which cost allocation methodology most nearly equates costs and benefit. Such methodology is often described as unit or area charges and involves classification of assessed properties. (The third prong of the benefit test requires a uniform assessment applied to the same class of property, in the assessed area). Methodology may address the treatment of corner and odd-shaped lots. Many cities have adopted a policy of paying for all intersections, crosswalks, curb returns, and similar parts of public improvement projects not immediately fronting on private property. Other communities distribute the same costs over the benefited area.

RELEVANT LINKS:

3. Non-abutting property

Normally, cities assess all properties abutting or bordering on the improvement, but the council may wish to levy assessments against adjacent, non-abutting properties if the properties benefit from the improvement.

4. Service laterals

LMC model, *Resolution Ordering Installation of Service Lateral for Sewer and Water in Advance of Street Paving* (Form 8).

Minn. R. 7560.0100, subp. 12.
Minn. R. ch. 7560.

See LMC information memo, *Acquisition and Maintenance of City Streets.*

City utility ordinances often require that property owners maintain private water or sewer service laterals. "Service lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises. When an improvement project requires new service laterals, and the city's ordinance assigns responsibility for service laterals to property owners, the city may require that property owners install or replace them. If the property owner fails to do so, the city may (with notice) install or replace the service lateral and charge the cost to the property owner. Note: under state utility marking rule, cities must locate the portion of the service lateral within the public right-of-way.

5. May omit improvement hearing

Minn. Stat. § 429.031, subd 3.

See Section II-A-1, *Initiation of proceedings by petition.*

The council may omit the improvement hearing if 100 percent of the affected landowners sign the petition requesting the improvement. Cities should be aware that the law is not as clear on omitting a public hearing where the city pays for any portion of the petitioned for local improvement. In that case, where landowners do not pay all the costs of the local improvement, cities may still want to hold both public hearings.

6. Two or more simultaneous local improvements

Minn. Stat. § 429.021, subd. 2.

If a city proposes undertaking two or more local improvements simultaneously the city does not need to issue separate notices and hold separate improvement hearings.

An improvement on two or more streets or two or more types of improvement in or on the same street or streets or different streets may be included in one proceeding and conducted as one improvement.

7. Local planning agency review

Minn. Stat. § 462.356, subd. 2.

If a city has a comprehensive plan, the council may not approve a capital improvement project until the local planning agency reviews whether the improvement complies with the comprehensive plan and reports its findings to the council in writing.

RELEVANT LINKS:

(Capital improvement simply means the basic facilities, services, and installations needed for the functioning of a city, including transportation, water, storm water, wastewater plants and pipes, and so on). The council may -- by resolution adopted by two-thirds vote -- dispense with this requirement to send the capital improvement to the local planning agency for review if, in the council's judgment, it finds that the proposed capital improvement has no relationship to the comprehensive plan.

D. Prepare for the improvement hearing

The purpose of the first hearing is for the council to discuss a specific local improvement before ordering it done. The council considers all the information in the feasibility report and any other information necessary for council deliberation.

1. Publish notice of the improvement hearing

Minn. Stat. § 429.031, subd. 1(a).

LMC model, *Notice of Hearing on Improvement* (Form 6).

The city must publish notice of the initial public hearing (the improvement hearing) on the proposed project twice in the official newspaper, stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The notices must appear at least one week apart. At least three days must elapse between the last publication date and the date of the hearing.

2. Mail notice of improvement hearing

Minn. Stat. § 429.031, subd. 1(a).

The city must mail a notice once to each property owner in the proposed assessment area, at least 10 days prior to the improvement hearing that states the time and place of the hearing, the general nature of the improvement, the estimated cost and the proposed assessment area. The notice must also contain a statement that a reasonable estimate of the cost of the assessment will be available at the hearing.

Klapmier v. Town of Center, 346 N.W.2d 133 (Minn. 1984).

Cities will want to use great care when notifying citizens about assessment proceedings. An accurate description of the assessment area is important. The law requires detailed and careful notification to communicate which property owners face paying assessments for local improvements.

According to the statute, failure to give mailed notice of the improvement hearing will not invalidate subsequent assessment proceedings. In spite of this statutory language one case found that failure to include the correct information in mailed notices invalidated the entire special assessment proceeding on that property.

Minn. Stat. § 429.031, subd. 1.
See Section VII: *Exempt property*.

Tax exempt properties or those not listed on county tax records potentially pose problems for cities when notifying property owners about public hearings regarding special assessments.

RELEVANT LINKS:

Minn. Stat. § 303.10, subd. 1(1).

Minn. Stat. § 435.19, subd. 2.

Cities may use any "practicable means" to determine the owners of such property. This could include mailing notice to the owner's principal office in the state or the owner's registered business office. Notice to other governmental entities must be sent out at least two weeks before the improvement hearing, by registered or certified mail to the head of the instrumentality, department or agency having jurisdiction over the property.

E. Improvement hearing

In re Channel Lane, 444 N.W.2d 602 (Minn. Ct. App. 1989).
Minn. Stat. § 429.031, subd. 1.

At the improvement hearing, interested persons may voice their concerns, whether or not they are in the proposed assessment area. A reasonable estimate of the total amount to be assessed and a description of the methodology used to calculate individual assessments for affected parcels must be available at the hearing. If the council rejects the project, it may not reconsider that same project unless another hearing is held following the required notice. The council must prepare a record of the proceedings and make written findings.

Minn. Stat. § 429.031, subd. 1(f).

The council may adjourn and subsequently continue the improvement hearing. To provide proper notice, before the improvement hearing is adjourned, the council must state on the record, the date, time and place of the continuation of the improvement hearing, if any.

F. Ordering the improvement

Minn. Stat. § 429.031, subd. 1(f).

LMC model, *Resolution Ordering Improvement and Preparation of Plans* (Form 7).

A resolution ordering the improvement may be adopted at any time within six months after the date of the improvement hearing. This resolution may reduce, but not increase, the extent of the improvement as stated in the notice of hearing. As a practical matter, if the cost of improvement and thus the amount to be assessed changes by at least 25%, council might wish to hold the improvement hearing again.

1. Vote requirements for ordering the improvement

Minn. Stat. § 429.031, subd. 1(f).

If the improvement is made pursuant to a legally sufficient petition from property owners, the council adopts the resolution by a simple majority vote of all members of the council.

Nastrum v. City of Blaine, 515 N.W.2d 374, (Minn. 1994).

LMC model, *Alternative Resolution Ordering Improvement and preparation of Plans* (Form 7-Alt).

If there is not a petition, adoption requires a "super-majority" vote, meaning the council can only adopt the resolution by a four-fifths vote of all members of the council. (If the mayor of a charter city has no vote or votes only in case of a tie, the mayor is not considered a member for the purpose of determining a four-fifths majority vote).

RELEVANT LINKS:

Minn. Stat. § 462.356.

There is another voting quirk tangentially related to ordering the improvement; as noted above, if a city with a comprehensive plan determines that the improvement has no relationship to the plan, it need not send the proposed capital improvement to the planning agency for review; however, the council must adopt such a resolution by a two thirds vote.

2. Time limits for local improvements

Minn. Stat. § 429.031, subd. 1(f).

The resolution ordering the improvement may be adopted at any time within six months after the date of the improvement hearing.

Minn. Stat. § 429.041, subd. 1.
Minn. Stat. § 435.191.
See Section I-C: *Practical points to consider*.

Either arrangements for day labor or a contract must be made within one year of adopting the resolution ordering the improvement -- unless the council specifically states a different timeframe in the resolution ordering the improvement.

G. Competitive bidding

The law permits the council to carry out, in advance of the assessment hearing, virtually all the necessary steps prior to actually issuing a contract for the improvement. Thus, if the council wishes to provide firm estimates of costs at the improvement (first) hearing, it may, in addition to the required preliminary report, prepare completed plans and specifications, advertise for bids, and open and tabulate them before the assessment (second) hearing.

LMC model, *Resolution Approving Plans and Specifications and Ordering Advertisement for Bids* (Form 9).

Once a city council orders a public improvement, staff or consultants prepare the necessary plans and specifications and the council either:

- Contracts for all or part of the work to be performed by outside parties, or
- Orders all or part of the work to be done by day labor (city employees) and merely contracts for any necessary materials and equipment.

LMC information memo, *Competitive Bidding Requirements in Cities*.

In either case, contracting law applies. Consult the city attorney to coordinate the contracting process in combination with the special assessment process and remember to include the city's right to reject all bids in advertisements and bid specifications.

1. Performance by contract

Minn. Stat. § 429.041, subd. 2.

The uniform municipal contracting law, or competitive bidding process, applies to most contracts for local improvements.

RELEVANT LINKS:

LMC model, *Advertisement for Bids* (Form 10).

Minn. Stat. § 429.041, subd. 4.
See LMC information memo, *Competitive Bidding Requirements in Cities.*

If a contract is likely to exceed $100,000, cities must use municipal contracting procedures, which include the "best value" alternative in some situations. There is an exception to the competitive bidding requirement; the council may order the use of day labor (city employees) discussed subsequently for grading, graveling or bituminous surfacing of streets and alleys regardless of the estimated cost.

Minn. Stat. § 429.041, subd. 1.

Minn. Stat. § 331A.01, subd. 11.

Chapter 429 is very specific in bid advertisement requirements. If the estimated cost exceeds $100,000, the city must advertise for bids for the improvement in the newspaper or a "recognized industry trade journal" for however long the council deems advisable. A "recognized industry trade journal" is defined as a printed or digital publication or Web site that contains building and construction news of interest to contractors in this state, or that publishes project advertisements and bids for review by contractors or other interested bidders in its regular course of business. If the estimated cost exceeds $200,000, publication must be made no less than three weeks before the last day for submission of bids once in the newspaper and at least once in either a newspaper published in a city of the first class or a recognized industry trade journal.

Minn. Stat. § 429.041, subd. 1.
See Section I-C-1, *Coordinating procedure.*
Minn. Stat. § 429.041, subd. 2.

Cities should remember that citizens may challenge special assessments in district court. If a court reduces the amount of a special assessment, the city has less money than anticipated to pay for the work. For this reason, cities may want to coordinate the timing of the competitive bidding process and the special assessment process.

LMC model, *Resolution Accepting Bid* (Form 20).

Minn. Stat. § 429.041, subd. 2.

When contracting for an improvement, the council must require the execution of one or more written contracts which comply with relevant public contracting law. Also, contractors must give the city both performance and payment bonds.

LMC model *Contract* (Form 21).
Minn. Stat. § 574.26, subd. 2.

LMC model, *Contractor's Performance Bond* (Form 22).
LMC model, *Contractor's Payment Bond* (Form 23).

RELEVANT LINKS:

A.G. memorandum to public officials (Feb. 22, 1974).

The council must award the contract to the lowest responsible bidder or it may reject all bids. Note: the attorney general suggests that cities should take great care in specifying the contractual obligations of both parties in bid advertisements. Cities may want to address the city's right to reject all bids in the bid advertisements and in the bid specifications. If any bidder to whom a contract is awarded fails to enter promptly into a written contract and to furnish the required bond, the defaulting bidder shall forfeit to the municipality the amount of the defaulter's cash deposit, cashier's check, bid bond, or certified check, and the council may then award the contract to the next lowest responsible bidder.

Minn. Stat. § 429.041, subd. 6.

LMC model, *Engineer Estimate for Partial Payment* (Form 24).

LMC model, *Engineer Recommendation for Final Acceptance* (Form 26).
LMC model, *Resolution Accepting Work* (Form 27).

State law governs ongoing payments to contractors performing work on local improvements. Cities may retain 5 percent of the amount the contractor actually earns each month. The percentage retained protects the city's interest in getting the work done satisfactorily. The city engineer recommends to the council when such retained funds should be released and final payment made to the contractor. The city council may accept the work by resolution. However, if the city fails to pay the amount due within 30 days of a monthly estimate, or 90 days after the final estimate, the city must pay interest on the past due amount as prescribed by law.

Minn. Stat. § 270C.66.

Minnesota Department of Revenue Contractor Affidavit Requirements.

Note: Cities may not make final payment to a contractor until the contractor has shown proof of compliance with the state income tax withholding requirements. The Department of Revenue requires all contractors and subcontractors to file a Form IC-134 to show compliance with the withholding requirements. This certificate is the contractor's proof of compliance. A city should request a copy of this document from contractors before making the final payment on a contract.

Minn. Stat. § 429.041, subd. 2.

LMC model, *Order to Suspend Work* (Form 25).
LMC model, *Resolution Approving Plans and Ordering Day Labor,* (Form 28).
LMC model, *Detailed Report on Construction Work by Day Labor* (Form 30).

If the contractor improperly constructs or unreasonably delays work on the local improvement, the council may order suspension of the work at any time and re-let the contract, or order reconstruction of any portion of the work improperly done. If the cost of completing or reconstructing the improvement is less than $100,000, the council may do it by use of day labor.

Minn. Stat. § 429.041, subd. 7.

LMC model, *Proposal for Local Improvement* (Form 11).

Chapter 429 provides that once work begins on an improvement involving a unit price contract, the council may, without advertising for bids, authorize changes to include additional units of work at the same unit price. This may be done, however, only if the additional work costs no more than 25 percent of the "original contract price." To determine the "original contract price" multiply the estimated number of units required by the unit price.

RELEVANT LINKS:

2. Day labor

Minn. Stat. § 429.041, subd. 1 and 2.

See Appendix B, Forms 28 – 32 for performing work by day labor.

Minn. Stat. § 410.01.

Using day labor, or city employees, means there is no contract to bid out for labor but there may be a contract to bid for materials and equipment. The city may use day labor in the following situations:

- the estimated contracts are under $100,000, or
- the improvement is grading, graveling or bituminous surfacing of streets and alleys, or
- there are no bidders on the project, or
- if the only bids the council receives exceed the estimated cost of the project.

Even using day labor, however, the city must get bids for purchases of materials or equipment worth more than $100,000.

Minn. Stat. § 429.041, subd. 2.

The council may have the work performed by day labor supervised by the city engineer or other qualified person. However, council must have the work supervised by a registered engineer if done by day labor and it appears to the council that the entire cost of all work and materials for the improvement will be more than $25,000.

Minn. Stat. § 429.041, subd. 3.

LMC model, *Detailed Report on Construction Work by Day Labor,* Form 30.

When the council orders construction work done by day labor it must require a detailed report indicating that the work was done according to the plans and specifications, or, if there were any deviations from them, an itemized statement of those deviations. This report must be certified by the registered city engineer (or other person in charge if there is no registered engineer). The report must also show:

- the complete cost of the construction.
- final quantities of the various units of work done.
- materials furnished for the project and the cost of each item thereof.
- cost of labor, cost of equipment hired, and supervisory costs.

H. Prepare the proposed assessment rolls

Minn. Stat. § 429.061, subd. 1.

See Section I-B: *The special benefit test.*

LMC model, *Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment* (Form 12).

The city clerk, with the assistance of the engineer or other qualified person selected by the council, prepares the proposed assessment rolls. (Cities should seriously consider retaining the services of a qualified and licensed appraiser to help assure that the amount of the special assessment does not exceed the increase in market value accruing to the property as a result of the public improvement project). While there are no specific directions in the law on the subject of making up the assessment roll, it should contain:

RELEVANT LINKS:

- A legal description of each lot or tract assessed, including an address according to tax records;
- The name of the owner according to tax records unless the records are known to be inaccurate, and
- The total amount assessed against each lot or tract; and (4) the parcel identification number of each parcel.

The assessment should be a complete statement including each installment with the interest. Ditto marks should not be used.

I. Prepare for the assessment hearing

LMC model, *Resolution for Hearing on Proposed Assessment,* Form 13.

The purpose of the second hearing, commonly known as the assessment hearing, is to give property owners an opportunity to express concerns about the actual special assessment. Best practice suggests cities pass a resolution setting the date and time of the assessment hearing and directing that the city clerk publish and mail notice about the assessment hearing. This resolution need not be published.

1. Publish notice of the assessment hearing

Minn. Stat. § 429.061, subd. 1.

LMC model, *Notice of Hearing on Proposed Assessment* (Form 14 - modify slightly, see FN 2).

At least once and at least two weeks before the assessment hearing, the city must publish notice of the hearing in the city newspaper or, if no city newspaper exists, in a county seat newspaper. The published notice must include the hearing time, date, place, overall project description, area to be assessed, total cost of the improvement, a description of a landowner's right to appeal the assessment, and any deferment options, if available.

2. Mail notice of the assessment hearing

Minn. Stat. § 429.061, subd. 1.
Klapmier v. Town of Center, 346 N.W.2d 133 (Minn. 1984).

LMC model, *Notice of Hearing on Proposed Assessment* (Form 14).

At least two weeks before the hearing the city must also mail notice of the hearing to each affected property owner. This mailed notice must include the amount of the special assessment against the individual parcels, a description of the landowner's right to appeal the assessment, possible prepayment provisions, and the interest rate on the assessments. (Note: Certain properties (e.g., railroads) may not be reflected on the county's records because these property owners pay no state property tax. To provide notice, cities may need to search other records for such owners). For the assessment hearing, failure to comply with the requirements for published and mailed notice invalidates the assessments.

RELEVANT LINKS:

Minn. Stat. § 429.061, subd 1.

LMC model, *Optional Affidavit of Mailing Assessment Hearing Notice* (Form 14-Opt.).

Because specific mailed notice of the assessment is important at this stage of the process, best practice suggests the clerk execute an affidavit attesting to the mailing to property owners.

J. Assessment hearing

Minn. Stat. § 429.061, subd. 2.

The assessment hearing may be adjourned and continued to another time. If the assessment hearing is adjourned provide proper notice by stating on the record, the date, time and place of the continuation of the hearing.

1. Resolution adopting assessment roll

Minn. Stat. § 429.061, subd. 2.

LMC model, *Resolution Adopting Assessment* (Form 15).

Metropolitan Airports Com'ns v. Bearman, 716 N.W.2d 403 (Minn. Ct. App. 2006).
Minn. Stat. § 272.32.
Minn. Stat. § 272.37.

At the assessment hearing the council shall hear and consider all objections to the proposed assessment, whether presented orally or in writing. The council has some flexibility before it adopts the assessment roll and may change, or amend, the proposed assessment as to any parcel. Council must, by resolution, adopt the same as the special assessment against the lands named in the assessment roll.

Once the assessment roll is adopted the assessments are set and become liens against the properties listed. The council must prepare a record of the proceedings and written findings as to the amount of the assessment roll at this hearing.

2. Notice to affected landowners

Imperial Refineries of Minnesota, Inc. v. City of Rochester, 282 Minn. 481, 165 N.W.2d 699 (1969),

The statute does not require notification of affected landowners, either by publication or personally, of the final approval of the assessment. While the Minnesota Supreme Court has held that the notices of hearing on the improvement and on the assessment satisfied the requirement of due process without the constitutional need for a notice of the final approval of the assessment, the council may wish to provide for such notice on grounds of fairness to the property owner as well as to avoid the possibility of judicial challenge in the future if the courts continue to expand the concept of due process in such cases. In any event, the notice of the assessment hearing must state that the owner may appeal his/her assessment to the district court within 30 days after the adoption of the assessment.

3. Council decides interest on special assessments

Minn. Stat. § 429.061, subd. 2.
Minn. Stat. § 475.55, subd. 3.

Special assessments may bear interest at any rate the council determines, (unless a charter sets limits on interest rates for assessments).

RELEVANT LINKS:

In setting the rate, the council should make sure there is a reasonable relationship between the assessment interest rate and the bond interest rate if the city issued bonds to finance the project. If the city finances the project with funds on hand without using bonds, the council will want to look at the interest rate the city would otherwise have earned on the funds.

4. Council decides payment timelines

Minn. Stat. § 429.061, subd. 2.

The council must also decide the number of years over which the property owners may pay the assessment. The statutes permit payment over a period of not more than 30 years. Council may wish to consider the life expectancy of the improvement when selecting the payment period for the assessments.

See Section II-G-2: *Mail notice of assessment hearing.*

LMC model, *Notice of Final Assessment,* (Form 16).

Minn. Stat. § 429.061, subd. 2.

Generally, the law does not require that the city send a final notice of assessment to property owners if the amount assessed is the same as that listed in the previously mailed assessment hearing notice. However, the clerk must notify property owners of any change if the final assessment amount differs from the proposed assessment as to any particular lot, piece or parcel of land. The clerk must also notify owners by mail of any changes in interest rates or prepayment requirements the council adopts that differ from those contained in the previously mailed notice of the proposed assessment.

III. Challenges by property owners

Minn. Stat. § 429.081.

Minn. Stat. § 278.01 subd. 3.

The law sets out discrete timelines and procedures for challenging a city's special assessment. For the most part, objections must be raised at or before the assessment hearing. Only those who object at this stage may proceed to appeal an assessment to the district court. Further, these provisions for appeals to the district court are the exclusive method of appeal from a special assessment levied under the local improvement code. Thus, it is not possible to contest such an assessment under the statute providing for contesting property tax levies.

A. Objections

Minn. Stat. § 429.061, subd. 2.
Minn. Stat. § 429.081.

No one can formally object to, or appeal, the amount of an assessment unless the property owner signs a written objection and files it with the city clerk prior to the assessment hearing or presents it to the presiding officer at the hearing. Property owners subject to proposed special assessments must be informed of this requirement in the mailed notice. They should also be reminded of the requirement at the hearing itself.

Habel v. City of Chisago City, 346 N.W.2d 668 (Minn. Ct. App. 1984).

Any objections to the assessments not received at the public assessment hearings in the manner prescribed are waived, unless the failure to object at the assessment hearing is due to a "reasonable cause." Reasonable cause is not defined in statute and has not received in-depth judicial analysis.

RELEVANT LINKS:

B. Appeals to the district court

Minn. Stat. § 429.081.

Within 30 days after the adoption of the assessment roll, a property owner who has properly objected to the assessment may appeal a special assessment to the district court. The property owner appeals by serving notice upon the mayor or city clerk and then filing the served notice with the district court within 10 days of that service. The city clerk is required to furnish the person appealing a certified copy of objections filed in the assessment proceedings, the assessment roll or part complained of, and all papers necessary to present the appeal.

See Section I-B.

If a city's assessment is challenged in district court, the assessment roll constitutes initial proof that an assessment does not exceed the special benefit. The party contesting the assessment must introduce evidence sufficient to overcome that presumption. If the evidence as to the special benefit is conflicting it is the responsibility of the district court to determine whether the assessment exceeds the market value increase and, if so, by what amount.

Minn. Stat. § 429.081.

Pres. Ass'n v. City of Eden Prairie, 421 N.W.2d 419, 420 (Minn. Ct. App. 1988).

State v. Roselawn Cemetery Association, 259 Minn. 479, 108 N.W.2d 305 (1961).

The appeal is placed upon the calendar of the next general term of the district court, commencing more than five days after the date of serving the notice, and is tried like other appeals in such cases. If the person appealing does not win his/her case, the court must award the city its costs of the appeal (other than attorney fees). All objections to the assessment are waived unless presented on such appeal except the defense of payment or exemption of the property from assessment. On appeal the district court must either affirm the assessment or set it aside and order a reassessment.

See Section I-C-1.

As discussed previously, if the city coordinates the competitive bid process with the special assessment process, the city now proceeds with the actual work of the project after certification of the assessment roll and the 30-day appeal period is over. Because the time for appeals is over before the contract is issued, the city will not need to cover potential budget shortfalls that may occur if a property owner successfully challenges a special assessment or the lowest bid comes in higher than expected.

IV. Levying and collecting assessments and interest

Minn. Stat. § 429.061, subd. 3.

Metropolitan Airports Com'ns v. Bearman, 716 N.W.2d 403 (Minn. Ct. App. 2006).

Assessment rolls are lists for each assessment project containing a description of each parcel of property, including the parcel identification number (PID), the name of the property owner, and the amount of the assessment. The clerk should prepare a separate assessment roll for each improvement project prior to the assessment hearing. At or after the assessment hearing, the council must officially adopt the roll by resolution and then the clerk must certify it to the county auditor.

RELEVANT LINKS:

Minn. Stat. § 429.061, subd. 3.

LMC model, *Certificate to County Auditor* (Form 17).

There are two ways for a city to collect assessments:

- The city clerk, on council direction, certifies a duplicate copy of the assessment roll and sends it to the county auditor who spreads the assessments every year for collection with taxes.
- The city clerk retains the assessment roll in his or her office and annually certifies to the county auditor the total amount of principal and interest due on special assessments from each parcel of property for the following years.

In the first method, the certification of assessments should be filed with the county auditor on or before Nov. 30 if the auditor is to spread the first installment on the books for collection the following year. The auditor is then responsible for spreading the assessment against the properties every year that an installment payment is due. This is the preferred method for two reasons. First, it eliminates the clerk having to do an annual computation and, thus, avoids errors in later years.

Second, once all the assessments have been certified, the city may retain the ability to collect the assessments if the land is forfeited due to nonpayment of property taxes, or the owner declares bankruptcy.

Minn. Stat. § 429.061, subd. 3.

LMC model, *Alternate Certificate to County Auditor* (Form 17-Alt.).

If the council prefers the second method it may direct the clerk to file all the special assessment rolls in the clerk's office, and to certify annually to the county auditor only the total amount of principal and interest due on special assessments from each parcel of property for the following year. The clerk must certify all assessments to the county auditor on or before Nov. 30 if the auditor is to spread the first installment on the books for collection in the following year.

A. Payment of assessments and interest

Minn. Stat. § 429.061, subd. 3.

Once the clerk has prepared the special assessment roll and the council has approved it, property owners initially have two options:

- either pay the total amount of their assessment immediately, or
- pay the assessments in annual installments (with interest) under the terms set by the council.

Minn. Stat. § 429.061, subd. 3.

Alternatively, the property owner can:

- Pay the entire amount of the assessment within 30 days after the council adopts the assessment rolls. In this situation, the city cannot charge any interest.
- Pay the entire amount at any time after 30 days, but before any certification to the county auditor. The property owner pays only the amount of interest accrued as of the date of payment.

RELEVANT LINKS:

- At any time after the certification, the property owner may still pay the entire remaining unpaid amount to the county treasurer. However, the property owner must pay the entire remaining unpaid amount of the assessment before Nov. 15 of any year, and must also pay all interest accrued until the end of that calendar year.

Minn. Stat. § 429.061, subd. 3.

The council may authorize, by ordinance, partial prepayment of assessments prior to certification to the county auditor.

See Section II-G-3-a: *Council decides interest on special assessments.*

If the property owner elects not to pay the entire amount of the assessment at once, he or she may pay it in annual installments spread over the number of years the council has allowed. As noted previously, postponement of payment may require city borrowing to pay for the improvement so the city must add an interest charge to each year's assessment payment.

Minn. Stat. § 462.353, subd. 5.

As an added collection tool, a city may require payment of all delinquent assessments before granting a building permit, a conditional use permit, variance, or a zoning change.

The city must notify residents of this requirement in an ordinance or in the application materials used to request such a change or permit.

B. Postponed assessments

Minn. Stat. § 429.051.
Minn. Stat. § 429.052.

Postponed assessments occur when a city pays the cost of a local improvement, and delays assessing one or more benefited properties. Postponed assessments are not generally a good idea as they are not liens against the property and the city may not recoup what has already been spent on a project. If a city wishes to eventually reimburse itself for improvement costs by applying postponed assessments, those assessments may only be collected if 1) the property was not previously assessed for the project, and 2) the property owners were provided notice and hearing at the same time as those whose assessments were not postponed. A successful appeal of the assessment leaves the city with less money to pay for the completed project.

Given that concern, there are certain situations where the council may postpone the assessment of the cost of water, storm sewer, sanitary sewer, and street construction or road improvements until a later date. Such situations include:

Minn. Stat. § 429.051.

- Property is unplatted and undeveloped; the owner will subdivide or otherwise make it available for building sites in the future.
- The city cannot immediately use a trunk main because of the absence of laterals.

RELEVANT LINKS:

Minn. Stat. § 429.052.

Street or road improvements may be completed outside the city's jurisdiction with the consent of either the affected township (or if the property is located in unorganized territory, the county) and then assessed when later annexed into the city. This would likely only make sense if the land was soon to be annexed. And as above, these postponed assessments cannot be collected unless the property eventually being assessed was given the notice and hearing of the improvements at the time the improvement was ordered (provided under Minn. Stat. § 429.031), and subsequently in accordance with the notice, hearing, and appeal rights (provided for under Minn. Stat. §§ 429.061 and 429.081).

C. Deferred assessments

Minn. Stat. § 429.061, subd. 2.

Deferred assessments are certified to the county auditor but collection is deferred. All deferred assessments constitute liens on the property and must be paid within 30 years of the assessment levy. Interest on the assessments discussed subsequently, may be paid or deferred. Cities are authorized to let a property owner defer paying a certified assessment until a later date, provided the property owner or the property meets certain criteria.

There are three types of authorized deferrals:

- undeveloped property.
- senior citizen, permanent and total disability and military service deferrals.
- green acres.

1. Notice of deferred assessments

LMC model, *Certificate to County Recorder of Deferred Assessments* (Form 19).

Minn. Stat. § 429.061, subd. 2.

The law requires that cities record deferred special assessments with the county recorder. A certificate of the deferred assessment must contain the legal description and the parcel identification number (PID) of the affected property and the amount deferred.

2. Interest on deferred assessments

Minn. Stat. § 429.061, subd. 2.

The city also determines, by ordinance or resolution, the amount of interest on deferred assessments. Property owners may pay interest either annually during the period of deferment, or when the assessment becomes payable. In the resolution deferring the assessment, the council may forgive interest for the deferment years through Dec. 31 of the year before the first installment is due. The county auditor records deferred interest as well as deferred assessments.

RELEVANT LINKS:

3. Deferrals for undeveloped property

Minn. Stat. § 429.061, subd. 2.

For undeveloped property it is better to defer an assessment than to postpone it because the city will eventually recoup costs. The council must include all benefited property in the proceedings. At the meeting where the council approves the assessment, it may levy the assessment but defer the first installment of the assessment for unimproved property until a designated future year, or until the platting of the property or the construction of improvements. The council may set, by resolution, terms, conditions, standards, and criteria for the deferral and future payments. The city must file a certificate with the county recorder stating the legal description of property subject to deferred assessments, and the amount of the deferred assessment.

4. Deferrals for senior citizens, people with disabilities and members of the military

Minn. Stat. §§ 435.193 to 435.195.

When adopting a special assessment, a city council has authority to defer the payment of that assessment for any homestead property owned by a person 65 or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments.

Minn. Stat. § 190.05, subd, 5b or 5c.

Cities may also defer assessment payments for property owned by a member of the Minnesota National Guard (or other military reserves) ordered into active military service if it would be a hardship for that person to make the payments. If the city grants the deferment, it must notify the register of deeds of the deferment. The council may determine the amount of interest charges on the deferred assessment.

The deferment ends and all accumulated amounts (plus applicable interest, if any) become due upon the death of the owner (if the spouse is not otherwise eligible for the deferment); the sale, transfer or subdivision of any part of the property; loss of homestead status on the property; or the council's determination that immediate or partial payment would impose no hardship.

Minn. Stat. § 429.061, subd. 1.
Minn. Stat. § 435.194.

The council must adopt an ordinance establishing general rules for granting deferments to senior citizens, people with disabilities or members of the military including guidelines for determining the existence of a hardship. If the council follows a policy of deferring payment of assessments in hardship cases, it must include a notice of that fact in the notice of the proposed assessment.

5. Deferrals for green acres

Minn. Stat. § 273.111, subds. 3, 6 and 11.

"Green acres" law requires deferrals for certain agricultural or specialized use property (such as a nursery or a greenhouse).

RELEVANT LINKS:

Minn. Stat. § 273.111.

To defer these assessments on agricultural property, a city must file a certificate with the county recorder stating the legal description of property subject to deferred assessments and the amount of the deferred assessment. Agricultural deferrals follow different procedures in addition to those in Chapter 429. In addition, property must meet strict requirements to qualify for tax benefits as agricultural property. Consult the city attorney to ensure the property qualifies.

D. Abandoned improvements

Minn. Stat. § 435.202, subd. 1.

If a city abandons a local improvement project before completion the city must notify the collecting agent for the special assessment (either the city treasurer or more likely, the county auditor). Upon notification, the auditor or treasurer must cancel collection of all payments and interest not already collected, or in the process of collection. This law does not preclude a city reassessing the same properties benefitted by the improvement.

Minn. Stat. § 435.202, subd. 2.

Once the city council decides to abandon an improvement project, the clerk must notify citizens of that fact. The notice must describe the local improvement; state that is has been abandoned and may provide information on refunds. The city may, but is not required to, refund payments to any person who files a substantiated claim within six months of the abandonment notice.

Claims may be paid from funds collected for the improvement or from the general fund. However, abandoning the improvement does not alleviate the city's obligation to make bond and bond interest payments related to the project.

Minn. Stat. § 435.202, subd. 3.

Funds collected for the abandoned improvement must be transferred to the general fund if they are not canceled, refunded, or needed to pay the cost of the improvement or needed for bond payments.

See A.G. Op. 480-B (April 26, 1954).

In most cases, if the council abandons the local improvement in the early stages, before any assessments are levied, the city must pay the costs associated with the proceedings, even if a petition initiated them.

V. Tax-exempt property

Minn. Const. Art. X, § 1. Minn. Stat. § 429.061, subd. 4. *In re Front Street Sewer Assessment*, 138 Minn. 67, 163 N.W. 978 (1917). *Ramsey County v. Trustees of Macalester College*, 87 Minn. 165, 91 N.W. 484 (1902). *Washburn Mem'l Orphan Asylum v. State*, 73 Minn. 343, 76 N.W. 204 (1898).

The tax exemptions the Minnesota Constitution grants to religious, charitable, and educational institutions do not prevent special assessments against these types of property. Most privately owned cemeteries churches, hospitals, schools, and similar institutions must pay special assessments. Railroads in Minnesota are not exempt from special assessments.

RELEVANT LINKS:

Minn. Stat. § 306.14, subd. 2. *Oakland Cemetery Ass'n v. City of St. Paul*, 36 Minn. 529, 32 N.W. 781 (Minn. 1887). *State v. Crystal Lake Cemetery Ass'n*, 155 Minn. 187, 193 N.W. 170 (Minn. 1923).

Public cemeteries are usually exempt from special assessments but private, for-profit cemeteries must pay them.

Minn. Stat. § 307.09.

Land dedicated as a private cemetery by a private person or a religious corporation is exempt to a certain extent.

A. Other governmental lands

A.G. Op. 408-C (Sept. 21, 1953).
Minn. Stat. § 435.19.

Property owned by the United States government is exempt from assessments for local improvements. Regarding the property of any other governmental unit, cities may levy special assessments against such property to the same extent as if the property were privately owned. For this purpose, "governmental unit" refers to all cities (except First Class cities) towns, school districts, public utility corporations, and counties. If the unit does not pay the amount of an assessment against it, the city may recover the money in a civil action.

Minn. Stat. § 435.19, subds. 2, 3.

In the case of state-owned property, or property owned by First Class cities, the city should determine the amount it would assess the land if it were privately owned. Before making this determination, the city must hold a public hearing on the proposed assessment.

Minn. Stat. § 3.754.

The hearing must take place at least two weeks after giving notice by registered or certified mail to the head of the department or agency having jurisdiction over the property. The council's determination is not binding, however, and if the state agency or the other city decides the measure of benefit is a lesser amount, it may pay the lesser amount. Note that other law requires agencies or departments which feel they were "unfairly assessed" to contact particular legislative committee members for review of the assessment. Ideally state agencies and departments negotiate assessments prior to commencement of the project.

B. Collecting assessments from tax-exempt or railroad property

See Section VII: *Tax-exempt property*.
Minn. Stat. § 429.061, subd. 4.

LMC model, *Notice of Assessment Against Public Corporation* (Form 18).
Minn. Stat. § 429.061, subd. 4.

When the council approves an assessment bill, the city mails notice to the owners of tax-exempt or railroad property so long as the property benefits from the improvement. The notice specifies the amount payable under the assessment and the conditions for payment, including the number and the amount of each installment, the rate of interest, and the penalties for default. Interest does not accrue until 30 days after the mailed notice is given. If the assessment is not paid in a single installment, the law requires that the city annually mail a payment reminder to certain owners. These are:

RELEVANT LINKS:

- the owner of any railroad;
- a utility right-of-way owner, or
- to the owner of any public property (another governmental unit).

Minn. Stat. § 429.061, subd. 4.

Technically the law allows a city to collect the amount due from the owner of any railroad or privately owned public utility by a seizing and selling personal property. Consult the city attorney before using this collection method.

Minn. Stat. § 435.19.

State-owned land, such as state parks and recreational land may be notified of the amount it will be charged for a special assessment. The state, however, cannot be required to pay special assessments against state-owned land, although it may agree to do so.

VI. Corrections

Minn. Stat. § 429.071. *Independent Sch. Dist. No. 254 v. City of Kenyon*, 411 N.W.2d 545 (Minn. Ct. App. 1987).

After a city has made special assessments, it is sometimes possible to correct errors or make other changes either by levying supplemental assessments, ordering a reassessment for the entire project or reapportioning an assessment.

A. Supplemental assessments

Minn. Stat. § 429.071, subd. 1. *In re Meyer*, 158 Minn. 433, 199 N.W. 746 (1924).

If, because of omissions or errors in the assessment of any improvement, the council wishes to increase the amount of assessments, it may levy supplemental assessments. The council may levy these assessments only after giving property owners notice and a chance to be heard at a public hearing. Requirements are the same as those for the original assessment and owners may appeal the supplemental assessment.

B. Reassessments

Minn. Stat. § 429.071, subd. 2.

The council may order reassessment of all properties affected by special assessment levy for any of the following reasons:

- To reassess property when the courts nullify the original assessment.
- To validate an assessment that the city attorney feels the city may have made improperly or not in compliance with jurisdictional requirements.
- To reduce assessments the city later determined to be excessive.

C. Reapportionment

When a city levies a special assessment against land that is later subdivided, the council may, on its own motion or on application of the owner of any part of the tract, equitably apportion the unpaid portion of the assessment among the lots.

RELEVANT LINKS:

Minn. Stat. § 429.071, subd. 3.

When a city levies a special assessment against land that is later subdivided, the council may, on its own motion or on application of the owner of any part of the tract, equitably apportion the unpaid portion of the assessment among the lots. The council must determine that the apportionment will not impair collection of the balance due. If the city has pledged the assessment toward payment of bonds, the council must require that the property owners furnish surety bonds.

D. Tax-forfeited land returned to private ownership

Minn. Stat. § 429.071, subd. 4.
Minn. Stat. § 444.076.
Minn. Stat. § 435.23.
Minn. Stat. § 435.19, subd. 2.
Singer v. Minneapolis, No.C5-97-1265 (Minn. Ct. App. Nov. 10, 1997) (unpublished decision).

When tax-forfeited land returns to private ownership, and the parcel benefitted from an improvement for which the city canceled special assessments because of the forfeiture, the city may, with the same notice and hearing as for the original assessment, assess or reassess the parcel. The assessment amount would be equal to the amount remaining unpaid on the original assessment. Any city may reassess or make a new assessment on tax-forfeited land that returns to private ownership. A city can specially assess state-owned tax-forfeited land while it is owned by the state. The state has the option of paying the assessment or not, but the assessment can be collected from someone who acquires title to the property from the state in the future.

VII. Borrowing for special assessment purposes

For more information on bonding, see Handbook, *Debt and Borrowing*.

Cities collect most special assessment revenue over a period of several years. Consequently, cities often obtain funds for public improvement projects from bond issues. The city pays off the bonds as the funds become available through collection of the assessments and any taxes the city levied especially for that purpose.

There are three kinds of debt instruments cities use for special assessment purposes, none of which count in determining the net debt of the city. (Net debt refers to the total outstanding debt of the city subject to the city debt limit).

Improvement bonds are the first kind of debt instrument cities use for special assessments. Payment of these bonds is backed by the special assessments the city has levied and by the general taxing power of the city.

Improvement warrants are the second kind of debt instrument. These differ from improvement bonds in that they are not backed by the taxation power of the city. Improvement warrants are payable only from the assessments against the affected property owners. Because improvement bonds are more readily marketable at a lower rate of interest than improvement warrants, very few cities issue improvement warrants.

RELEVANT LINKS:

The council may also issue and sell temporary bonds at any time before completion of a public improvement project. These obligations must mature within three years, and are payable from the proceeds of the regular improvement bonds the city must issue by the maturity of the temporary bonds. Temporary bonds are subject to redemption and repayment of any interest due on 30 days mailed notice to registered holders.

Unlike improvement warrants, some cities frequently issue temporary improvement bonds. By issuing these bonds, cities can postpone the issuance of the regular special assessment bonds. There are two other advantages:

- The city may consolidate several improvement projects into a single bond issue.
- The city reduces the chance of excessive borrowing by delaying the long-term bond issue until it knows all the costs of a project.

Frequently, cities will purchase their own temporary improvement bonds with surplus cash available in other funds, such as a liquor or utilities fund. This results in savings of interest and other investment expenses.

Minn. Stat. § 429.091, subds. 3, 4.

The city may issue regular improvement bonds or warrants after ordering one or more improvements. Generally, cities issue them before the work is complete and before determining the final cost. If the city uses this procedure and the cost estimate turns out to be higher than actual costs the city may use the surplus funds to finance any other improvements it started under Chapter 429, or it may transfer the surplus to the fund used for the repayment of the bonds themselves. If the cost estimate is too low, the city may sell additional bonds.

Minn. Stat. § 429.091, subd. 1.

If the city is involved with several public improvements at the same time under Chapter 429, it may be advisable to consolidate all necessary financing into a single issue of improvement bonds or warrants, even if the city did not consolidate the assessment proceedings. Such a substantial block of bonds is often more readily marketable than several smaller issues.

Minn. Stat. § 429.091, subd. 3.
Minn. Stat. § 475.58, subd. 1(3).

Although in most cases the special benefit test limits the percentage of the cost of the improvement that can be assessed, an election is required for bonds if less than 20 percent of the cost is to be assessed against the benefitted property. Put another way, if the city itself is to pay 80 percent or more of the cost through its general funds, the voters must approve the bond issue on the improvement project.

If some funding for an improvement project comes from county or federal sources, the application of the 20 percent is less clear. Consult the city attorney and bond counsel for specific legal advice on this question.

RELEVANT LINKS:

Minn. Stat. § 429.091, subd. 3.

In a resolution authorizing a bond issue, the council must decide the bond maturity, denominations, interest rate, and form. The factors the council should consider in fixing such terms include the marketability of the bonds, the anticipated collection of the assessments, and the need for future bond issues under the comprehensive city plan and the capital improvement budget.

Before it can deliver the bonds or warrants to the purchaser, the council must levy a general tax for the payment of that portion of the cost not covered by the special assessment levies.

The council must make any tax levy for this purpose irrevocable for as long as the bonds or warrants are outstanding. While the council cannot repeal the levy until after all the principal and interest are paid, it may reduce the tax in any year if a surplus occurs in the sinking fund from which the city pays the improvement bonds.

A. Interest on improvement bonds

Minn. Stat. § 429.091, subd. 3.

Bonds may carry any interest rate the council determines. In effect, the market determines the interest rate cities will pay on bonds.

B. Interest on special assessments

Minn. Stat. § 429.061, subd. 2.
Minn. Stat. § 475.55, subd. 3.
See Section II-G-3-a: *Council decides interest on special assessment.*

As noted previously special assessments may bear interest at any rate the council determines, unless the charter sets interest limits on the rates for assessments. In setting interest rates on assessments, the council should make sure there is a reasonable relationship between the assessment interest rate and the bond interest rate if the city issued bonds to finance the project. If the city finances the project with funds on hand without using bonds, the council will want to look at the interest rate the city would otherwise have earned on the funds.

VIII. Charter cities

Minn. Stat. § 429.111.
A.G. Op. 59-B-14, (June 26, 1956).
Minn. Stat. § 429.021, subd. 3.

Generally, any city operating under a home rule charter may proceed either under Chapter 429 or under its charter in making an improvement, unless a home rule charter or amendment taking effect after April 17, 1953 provides for an improvement under Chapter 429 or the charter exclusively. If a city proceeds under its charter, the city council should consult the city attorney to ensure that the charter procedure complies with Chapter 429 where state law so requires. Some specific areas to consider are as follows:

A. Special benefit test

See Section I-B: *The special benefit test.*

The special benefit rule applies to charter cities.

RELEVANT LINKS:

Again, the special benefit rule requires that the amount of special assessments to a parcel of property cannot exceed the increase in market value of that property because of the improvement.

B. Assessing unpaid charges

Minn. Stat. § 429.101.
See Section I-F-2: *Assessing unpaid special service charges.*

The law specifically lists the special services that cities can specially assess if not paid by the property owner or occupant. Statutory cities cannot add to this list but charter cities may be able to add to it by charter amendment.

C. Voting requirements

Minn. Stat. § 429.031, subd.1(f).
See Section II-D-1: *Voting requirements for ordering the improvement.*

If there is no petition for the local improvement, statutory city councils must adopt the resolution ordering an improvement with a "super-majority" vote. This means the council can only adopt the resolution by a four-fifths vote of all members of the council. If the mayor of a charter city has no vote or votes only in case of a tie, the mayor is not considered a member for the purpose of determining a four-fifths majority vote.

D. Notice of right to appeal

Minn. Stat. § 429.061, subd. 1.
Minn. Stat. § 429.021, subd. 3.
See Section II-G-1: *Publish notice of assessment hearing.*

Even if the city follows charter procedures, state law requires that charter cities send the same notices of proposed assessments to inform property owners of the procedures they must follow under the charter in order to appeal the assessments to district court.

E. Deferrals

Minn. Stat. § 429.021, subd. 3.
See Section IV-C: *Deferred assessments.*

If the city offers deferments, notices of proposed assessments must tell property owners about deferments and how to procure them. Like statutory cities, charter cities may choose to offer deferrals to those who are 65 years of age or older or retired by virtue of a permanent and total disability.

F. Day labor

Minn. Stat. § 429.021, subd. 3.

State law considers charter provisions as requiring that the council issue the contract for all or part of the work, or order all or part of the work done by day labor, no later than one year after the adoption of the resolution ordering such improvement–unless the council specifically states a different time limit in the resolution ordering the improvement.

Appendix A: Special Assessment Checklist

The following is a suggested checklist that may be useful in helping to ensure that every step in the process of making the local improvement, assessment of the cost, and financing is done as required. In no way does it diminish the necessity of checking with the city attorney throughout the process to assure legal compliance. Some of the steps will be omitted in some projects, others in different projects, but these can be crossed off when not applicable in the individual case. Where certain steps are never done locally, as where the financing steps are the responsibility of an outside consultant, these may be omitted altogether from the list. Additional steps may be put in the list – for example, to list both the preparation of the notice of hearings and of their affidavits of publication.

No checklist of this kind is legally required. For proceedings where some steps are combined for a number of projects, the form as drawn may be cumbersome and perhaps impractical.

SPECIAL ASSESSMENT CHECKLIST[1]

Steps to Follow	Completed by Whom	Date
1) Petition received (Forms 1-3)		
2) Resolution declaring adequacy of petition and order in preparation of feasibility report (Form 4, 4-Alt.)		
3) Feasibility report (preliminary report and cost estimate)		
4) Resolution accepting report and calling for hearing (Form 5)		
5) Publication of notice of improvement hearing (Form 6)		
6) Mailing notice to affected property owners (Form 6)		
7) Minutes of public hearing showing testimony and findings		
8) Resolution ordering improvement and preparation of plans (Forms 7, 7-Alt, 8)		
9) Resolution approving plans and ordering advertisements for bids (Form 9)		
10) Publication of advertisement for bids (Form 10)		
11) Preparation of contract proposal (Form 11)		
12) Preparation of assessment roll (Form 12)		

Steps to Follow	Completed by Whom	Date
13) Resolution for hearing on proposed assessment (Form 13)		
14) Publication of notice of assessment hearing (Form 14)		
15) Mailing notice to affected property owners (Form 14-Opt.)		
16) Minutes of public hearing showing testimony and findings		
17) Resolution adopting assessment (Form 15)		
18) Notice of final assessment (NOTE: This may be an optional step. See Form 16, FN1)		
19) Certification of assessment to county auditor (Form 17, 17-Alt.) (NOTE: If annual certification plan is followed, the clerk may wish to include a separate sub-step for each year)		
20) Notice of assessment against public corporation (Form 18)		
21) Resolution accepting bid and awarding contract (Form 20)		
22) Contract (Form 21)		
23) Receipt of contractor's performance and payment bonds (Forms 22 and 23)		
24) Engineer's recommendation for final acceptance (Form 26)		
25) Resolution accepting work (Form 27) (NOTE: If work is sometimes done by day labor, additional steps might be added here based on Forms 28 to 32.)		
26) Resolution of issuance of temporary improvement bonds		
27) Advertisement for bids for temporary improvement bonds		
28) Affidavit of publication of advertisement for bids for temporary improvement bonds		
29) Resolution awarding contract for temporary improvement bonds (NOTE: Steps 27, 28, 29 may be omitted if city invests in its own temporary improvement bonds. If temporary bonds are not used, Step 26 may be omitted also.)		

Steps to Follow	Completed by Whom	Date
30) Resolution for issuance of improvement bonds a. Advertisement for bids for improvement bonds b. Affidavit of publication of advertisement for bids for improvement bonds		
31) Resolution awarding contract for improvement bonds		
32) Resolution prescribing bond form and making tax levy		
33) Certified copy to county auditor		
34) Certificate of county auditor		
35) Signature and no litigation certificate		
36) Treasurer's receipt and delivery certificates		

[1] In the event that assessment occurs after awarding the contract, Steps 12-20 (Forms 12-18) would take place beginning after Step 29.

Appendix B: Index of forms for special assessments

Before using these forms:

The sample forms on this page help cities complete the steps in making a special assessment for a local improvement under Chapter 429 of the Minnesota Statues. Please read the Special Assessment Toolkit to understand the procedure and areas for special care. The League of Minnesota Cities provides the Special Assessment Toolkit as informational material on a detailed statutory procedure. Cities should consult their attorney, engineer, qualified licensed appraiser and financial advisor for professional advice in using these materials.

How to use these forms:

All forms are Microsoft Word documents. Open a document and save it to your computer. Read all footnotes to assist you in best completing the forms.

Remove all footnotes before making any official use of the forms (i.e. adoption, publication, notice) by selecting each superscript number (e.g. [1]) in the form with your cursor, then deleting it. The corresponding footnote text will be removed at the same time.

All model forms in a compressed file.
Note: Will not download to some mobile devices.

Forms for Commencing Improvements	
Form 1	Petition for Local Improvement (100 percent of property owners)
Form 2	Agreement of Assessment and Waiver of Irregularity and Appeal
Form 3	Petition for Local Improvement (at least 35 percent of property owners)
Form 4	Resolution Declaring Adequacy of Petition and Ordering Preparation of Report

Form 4-Alt.	Alternate Resolution Ordering Preparation of Report
Form 5	Resolution Receiving Feasibility Report and Calling Hearing on Improvement
Form 6	Notice of Hearing on Improvement
Form 7	Resolution Ordering Improvement and Preparation of Plans
Form 7-Alt.	Alternate Resolution Ordering Improvement and Preparation of Plans
Form 8	Resolution Ordering Installation of Service Laterals for Sewer and Water in Advance of Street Paving

	Forms for Plan Approval and Advertisement for Bids
Form 9	Resolution Approving Plans and Specifications, and Ordering Advertisement for Bids
Form 10	Advertisement for Bids
Form 11	Proposal for Local Improvement

Forms for Assessing Cost	
Form 12	Resolution Declaring Cost to be Assessed, and Ordering Preparation of Proposed Assessment
Form 13	Resolution for Hearing on Proposed Assessment
Form 14	Notice of Hearing on Proposed Assessment
Form 14-Opt	Optional Affidavit of Mailing Assessment Hearing Notice
Form 15	Resolution Adopting Assessment
Form 16	Notice of Final Assessment
Form 17	Certificate to County Auditor
Form 17-Alt.	Alternate Certificate to County Auditor – Annual Certification
Form 18	Notice of Assessment Against public Corporation
Form 19	Certificate to County Recorder of Deferred Assessments

Forms for Contracting and Work Under Contract	
Form 20	Resolution Accepting Bid
Form 21	Contract
Form 22	Contractor's Performance Bond
Form 23	Contractor's Payment Bond
Form 24	Engineer's Estimate for Partial Payment
Form 25	Order to Suspend Work
Form 26	Engineer's Recommendation for Final Acceptance
Form 27.	Resolution Accepting Work

Forms for Work by Day Labor	
Form 28	Resolution Approving Plans and Ordering Day Labor
Form 29	Resolution Ordering Improvement by Day Labor
Form 30	Detailed Report on Construction Work by Day Labor

Special Forms for Street Graveling,	
Form 31	Resolution Making Estimates of Materials and Equipment, and Ordering Advertisement for Bids
Form 32	Advertisement for Bids

City of Blaine

PUBLIC IMPROVEMENT SPECIAL ASSESSMENT POLICY

Adopted May 2, 1991, by Blaine City Council

Amended as follows:

09/05/91	-	Paragraph III.6.C, Page 6
02/02/95	-	Resolution No. 95-28, Exhibit V
04/01/99	-	Paragraph IV.6.B, Page 9
10/07/10	-	Added methods and rules for assessing street improvement projects initiated under the Pavement Management Policy. Miscellaneous language changes and clarifications.
05/03/12	-	Paragraph II.5.d, page 4, Remove paragraph III.9.b, Miscellaneous language changes and clarifications.
08/16/12	-	Amended Resolution No. 78-28 – A Resolution Authorizing Deferrals Of Special Assessments for Certain Senior Citizens.
01/24/19	-	Changed residential street assessment rate, established flat rate for bituminous replacement, miscellaneous language changes and clarifications.
08/05/19	-	Amended Resolution No. 78-28 – A Resolution Authorizing Derferrals of Special Assessments

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EXHIBITS

I. GENERAL

Minnesota State Law, Chapter 429 provides a municipality the authority "to levy and collect assessments for local improvements upon property benefited thereby" for public improvements such as sanitary sewer; storm drainage; water source, storage, and distribution facilities; street improvements including grading, curb and gutter, and surfacing; sidewalks; trails; sound barriers; street lighting; recreational facilities; etc. To ensure full protection for property owners, state law and courts applying the law insist on following a strict set of procedural requirements when assessing a local improvement project. This policy statement summarizes Chapter 429 special assessment procedures and also details project cost apportionment procedures.

1. The Theory of Special Assessments

Special assessments are a compulsory charge for a particular improvement or service which benefits the owners of certain properties and which are also undertaken in the interest of the public. Special assessments have three distinct characteristics:

a) They are a compulsory levy used to finance or partially finance a particular public improvement program.

b) The levy is charged only against those particular parcels of property deemed to receive a special benefit from the program.

c) The amount of the charge bears a direct relationship to the value of the benefits the property receives.

Special assessments are imposed only on real estate. They are never levied against personal or movable property. In theory, special assessments are frequently regarded as more equitable than property taxes because those who pay them obtain direct benefits from the improvements undertaken and because they are not a function of the relative value of homes or buildings.

2. Special Assessment Uses

Special assessments have three important applications:

a) The first and most popular use is for financing new public improvements, particularly when new tracts of land are being converted to urban use. In this application, they are frequently used to pay for sanitary sewer, storm drainage, water source, storage, and distribution facilities, street improvements including grading, curb and gutter, and surfacing, sidewalks, trails, street lighting, recreational facilities, etc.

b) Special assessments may also be used to finance the cost of major public reconstruction programs. Large-scale repairs and maintenance operations on streets, sidewalks, trails, water mains, sanitary sewers, storm drainage, and similar facilities can and often should be financed with special assessments.

c) Special assessments can also be utilized in the redevelopment of existing neighborhoods when areas are confronted with progressive deterioration, or even when presently sound, neighborhoods can be made more desirable through the development of parks, playgrounds, tree plantings, and new street patterns, the City can utilize special assessments to good advantage.

3. Summary of Steps in Special Assessment Proceedings

a) ***Initiation of Proceedings:*** This may be done either by the Council on its own initiative or by the Council accepting a petition submitted by affected property owners. If the petition is used, it must be signed by the owners representing at least 35% in frontage of the property bordering on the proposed improvements. If the Council acts originally on its own initiative, a simple majority is needed to initiate the proceedings. In initiating proceedings, or in accepting a petition requesting such proceedings, the Council may simultaneously order a Feasibility Report on the proposed improvement.

b) ***Preparation of a Report:*** The law requires a report on the feasibility of the proposal be prepared by the City Engineer or by some other competent person selected by the Council. It must cover such factors as the need for the project, an estimate of cost, and any other information thought pertinent and necessary for complete Council consideration.

c) ***Public Hearing:*** A hearing is held (see exception below) after notice of the hearing is published in the official newspaper and mailed to each property owner proposed to be assessed. The notice states the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. All interested persons should have a chance to be heard at the hearing. This public hearing step may be omitted when a petition requesting the improvement has been signed by 100% of the affected landowners.

d) ***Ordering the Improvement and Preparation of Plans:*** The resolution ordering the improvement may be passed by a simple majority of the Council if proceedings were originally initiated by petition. If not, the resolution must be adopted by an affirmative vote by at least four-fifths (6 of 7) of the Council.

e) ***Preparation of Plans, Awarding Bids:*** Upon completion, the plans and specifications must be approved by the Council prior to ordering advertisement for bids. Upon taking bids, the Council then awards a contract and construction proceeds.

f) ***Preparation of Proposed Assessment Rolls:*** Assessment rolls are lists of benefited properties prepared for each assessment project. They should contain an identification of each parcel of property, and the amount of the proposed assessment apportioned to each parcel.

g) ***Public Hearing on the Proposed Assessment:*** The purpose of this hearing, normally conducted after an improvement project is substantially completed, is to give affected property owners an opportunity to be heard on the matter of the actual assessments proposed to be levied. Notice must be published in the official newspaper and mailed to each property owner prior to the hearing date. This assessment hearing may also be held prior to awarding the contract, with the understanding that the adopted assessment roll may not be varied to reflect higher than estimated actual project costs.

h) ***Approval and Certification of Assessment Rolls:*** After the assessment hearing, the roll must be officially adopted by a Council resolution and then certified to the County Auditor for levy and collection.

i) ***Financing the Improvement:*** Most special assessments may be paid over a period of several years. Consequently, necessary funds are generally obtained through bonds issued at the time the improvement is made. The bonds are then paid as funds become available through collection of the assessments and any taxes levied for the purpose of paying the bonded debt. The bonds are guaranteed by the pledge of a property tax levy to cover any shortfall in funding.

II. POLICY STATEMENT

It is the overriding policy that development shall occur, whenever practical and reasonable, in a planned and contiguous fashion. "Leap frogging" development leading to community sprawl and associated higher infrastructure and operation costs is to be avoided.

It is further the policy that all properties shall pay a fair share of the cost of local improvements as those properties benefit. It is intended that no property shall be provided the benefits of improvements without paying for them.

III. POLICIES RELATING TO SPECIAL ASSESSMENTS

1. Assessment Limitations

The total of assessments cannot exceed the project cost and must be apportioned equally within properties having the same general land use (residential and institutional, multiple family, and commercial, or industrial), based on benefit. Total assessment against any particular property may not exceed benefit to that property with benefit being defined as the increase in market value of the property because of the improvement. Project cost may include part or all of the cost of previously installed projects not previously assessed.

2. Assessment Period

Improvements installed to serve a new residential subdivision and petitioned for by the Developer shall be assessed for a period up to five years. Improvements to serve new commercial and industrial subdivisions petitioned for by the Developer shall be assessed for a period up to ten years. Assessments for improvements not included as part of a Developer's development shall be assessed for a ten-year period. Assessments for street improvement projects shall be assessed for a fifteen-year period except for bituminous overlays and bituminous replacements which shall be assessed for a five-year period.

3. Interest Rate

The interest rate will be calculated annually by the Blaine Finance Department.

4. Indexes

A construction cost index may be used in the special assessment process. The construction cost index is a number computed by "Engineering News Record" (ENR index) derived from prices of construction materials, labor, and equipment for the Minneapolis area.

5. Properties Not Assessed

Special assessments will not be levied against properties described as follows:

a) Lands deemed unbuildable by virtue of laws, lawful regulations, or economic analysis relating to soil characteristics and/or lying within the flood plain of major drainage channels and/or wetlands.

b) Drainage basins (defined by public easements) and major drainage ditch easements such as Sand Creek, Coon Creek, Pleasure Creek, Spring Brook, and Rice Creek.

c) All right-of-way of U.S. and State highways, County roads, and City streets.

d) All City owned property that is maintained and operated out of the City's General Fund Budget.

e) Railroad right-of-ways and other major transportation right-of-ways (i.e., rapid transit).

6. Methods of Assessment

Past practice in Blaine reflects use of three methods of assessments. Any of the three methods or combination of methods may be used for a particular project.

The special assessment method and policies summarized herein cannot be considered as all-inclusive; unusual circumstances may at times justify special considerations. Also, any fixed cost data and rates may be adjusted from year to year by the ENR Construction Index. Decisions to assess costs will be evaluated against costs to administer.

a) ***Area Method:*** The area to be assessed is the total land area, including easements, in acres of a property lying within a utility service district or project area, and including rights-of-way within a plat, but otherwise excluding those areas as described under "Properties Not Assessed". The types of improvements generally assessed on this basis are:

- Sanitary Sewer Trunk/Subtrunk:
  - Residential: Sanitary Sewer 10" and larger or 12' depth or greater.
  - Commercial/Industrial: Sanitary Sewer 12" and larger or 12' depth and greater.

- Sewer Lift Stations and Forcemains

- Storm Drainage

If the City Council elects to assess a particular improvement on the basis of acreage, the acreage assessment shall be calculated as follows:

i. The Assessment Cost of the improvement shall be divided by the total assessable acreage for the improvement, as determined under this policy. The quotient of this shall be the Calculated Assessment Rate.

ii. The Calculated Assessment Rate shall then be multiplied by each parcel's total assessable acreage and the product will be each parcel's assessment for the improvement.

b) ***Unit Method (Lot, Building Site):*** Unit is a building site or lot in a residential, commercial, or industrial zone that cannot be further subdivided, i.e., in single family, zoned R-1, the minimum lot is 80' x 125'. The types of improvements generally assessed on this basis are lateral water, lateral sanitary sewer, street and storm drainage improvements for individual subdivisions of residential, industrial, and commercial properties.

Equivalent Unit/Lot: Parcels larger than the minimum allowable unit/lot will be assessed a cost equivalent to the whole number of minimum allowable lots they would yield if subdivided. The location of principal buildings on parcels shall be factored into the determination of equivalent units.

If the City Council elects to assess a particular improvement on the basis of the unit method, the unit/lot assessment shall be calculated as follows:

i. The Assessment Cost of the improvement shall be divided by the total front footage for the improvement, as determined under this policy. The quotient of this shall be the Calculated Assessment Rate.

ii. The Calculated Assessment Rate shall be multiplied by the total assessable footage for the improvement and the resulting product will be the Total Assessment.

iii. The Total Assessment will then be divided by the number of assessable lots/units and the quotient will be the lot/unit assessment for each lot/unit.

iv. All properties of a similar nature on an improvement project will be grouped together for purposes of calculating assessments using the Unit Method. As such there may be differing unit assessments on an improvement project based on the different property types present.

c) ***Front Footage Method:*** Lateral water, lateral sanitary sewer, street, and storm drainage improvements for subdivision of residential, industrial, and commercial properties may be assessed on the front footage (width) of the parcel. In addition, corner Industrial and Commercial properties, multi-family residential properties of 5 units/acre or greater density (i.e. apartments), and manufactured home parks will be assessed for any improvement on each side abutting the property. A 150 foot corner lot credit will be given on the long side of the property. This method would generally be utilized when the lot unit basis is determined to be inappropriate.

i. Generally the front footage of the parcel is considered the lot width at the right of way line with the exception of irregularly shaped lots. Irregularly shaped lots will be considered on an individual basis. Such lots will be measured and assessed on their average width, with the lot width at the set back line taken into consideration where appropriate.

ii. The Assessment Cost of the improvement shall be divided by the total front footage for the improvement, as determined under this policy. The quotient of this shall be the Calculated Assessment Rate.

iii. The Calculated Assessment Rate shall be multiplied by the assessable footage for each individual parcel and the resulting product will be the parcel's assessment.

7. Methods of Assessment for Street Improvement Projects

For the purposes of this policy, Street Improvement Projects are defined as improvement projects to repair, replace, or upgrade existing City streets and the associated infrastructure such as associated storm water treatment systems. Street Improvement Projects do not include construction of new streets, sanitary sewer, water main, or trunk utility projects. The four types of Street Improvements Projects and a general description of work involved are as follows:

Complete Reconstruction – includes installation of new storm sewer, grade changes, major subgrade and base corrections, installation of curb and gutter and installation of new bituminous pavement.

Partial Reconstruction – includes repair and minor upgrades to existing storm sewer, subgrade and base corrections, replacement of damaged curb and gutter and installation of new bituminous pavement.

Bituminous Replacement – includes removal or in place full depth recycling of existing pavement, minor base corrections, replacement of damaged curb and gutter (generally less than 15% of the total curb and gutter) and installation of new bituminous pavement.

Bituminous Overlay – includes milling of existing bituminous pavement surface, localized minor pothole and base layer repair and installation of new bituminous pavement.

Street Improvement Projects will be assessed based on the methods of assessment identified under **Section III.6 - Methods of Assessment** with the following exceptions:

a) The Assessment Cost shall be thirty five percent (35%) of the total cost of the improvement project for projects identified as Complete Reconstruction and Partial Reconstruction for all benefitting properties unless otherwise specified below.

   i. For multi-family residential properties with greater than 5 units/acre density, manufactured home parks and commercial/industrial properties the Assessment Cost shall be one half (50%) of the total cost of the improvement project for projects identified as Complete Reconstruction and Partial Reconstruction.

   ii. All single family residential properties along Municipal State Aid streets, collector streets and county roads will be assessed for thirty five percent (35%) of the total cost of the project minus oversizing costs. Oversizing costs are defined as costs incurred in excess of what would be required for a City standard 29-foot wide residential roadway.

   iii. Bituminous overlay projects will be assessed a flat rate of $500 per residential lot unit for parcels zoned single family residential. Parcels larger than the minimum allowable unit/lot will be assessed a cost equivalent to the whole number of minimum allowable lots they would yield if subdivided. The location of principal buildings on parcels shall be factored into the determination of equivalent units. An assessment rate of $10 per front foot will be used for all multi-family residential properties with greater than 5 units/acre density, manufactured home parks, commercial/industrial properties and properties not zoned single family residential. The rates are based on 2011 construction costs and will be indexed for inflation as identified in **Section III.4 – Indexes** and published yearly as an Exhibit to this Policy.

iv. Bituminous Replacement projects will be assessed a flat rate of $1,400 per residential lot unit for parcels zoned single family residential. Parcels larger than the minimum allowable unit/lot will be assessed a cost equivalent to the whole number of minimum allowable lots they would yield if subdivided. The location of principal buildings on parcels shall be factored into the determination of equivalent units. An assessment rate of $27 per front foot will be used for all multi-family residential properties with greater than 5 units/acre density, manufactured home parks, commercial/industrial properties and properties not zoned single family residential. The rates are based on 2019 construction costs and will be indexed for inflation as identified in **Section III.4 – Indexes** and published yearly as an Exhibit to this Policy.

8. Assessment Cost

The assessment cost is the total cost of the improvement project and includes the following:

a) ***Contract Cost:*** Amount paid to contractors for constructing the improvement.

b) ***Financing Costs:*** Amounts paid for bond counsel, bond sales costs, and interest, starting with payment to the contractor until the assessment roll is approved by the City Council. The interest rate will be set by the Finance Director.

c) ***Other Costs:*** Project costs such as advertising, administration, engineering, legal, and right-of-way acquisition.

9. Assessment Deferrals:

Minnesota State Law, Chapter 435 provides a municipality the authority to defer special assessments for homestead property under certain hardship criteria.

a) A determination by the Council allows a property owner who is a senior citizen, a person with permanent total disability or in active military service to defer special assessments if the property owners meet the criteria as established by Council resolution.

IV. PROCEDURES RELATING TO APPORTIONMENT

1. Sanitary Sewer Trunk

Sanitary sewer trunk costs are apportioned throughout the gross area that is served by the trunk facility (see Area Method in Section III.6). The costs are uniformly apportioned to each parcel in proportion to parcel area. In a residential plat, the gross area of the plat is multiplied by the assessment cost/acre and that amount divided by the number of unit/lots and equivalent unit/lots in the plat.

2. Sanitary Sewer Lateral

Sanitary sewer lateral costs are apportioned to the properties served by the lateral sanitary sewer by dividing the assessment cost by the front footage of the benefiting properties or by dividing the assessment cost by the number of benefiting unit/lots (including equivalent unit/lots).

Where lateral service is also provided by a trunk, the properties so served are assessed a "typical" lateral cost similar to other properties served by a lateral. Credit for such "typical" lateral assessments shall be deducted from the cost of the sanitary sewer trunk.

3. Water Main Trunk, Source, and Storage

Water main trunk, source, storage, and oversizing costs are paid from the Utility Fund. The Utility Fund receives moneys collected from connection charges called Water Access Charges (WAC) levied whenever a building is connected to the City water system. The rate of the WAC is established by the City Council.

4. Water Lateral

Water lateral costs are apportioned to the properties served by the lateral water main by dividing the assessment costs by the front footage of the benefiting properties or by dividing the assessment cost by the number of benefiting unit/lots (including equivalent unit/lots).

Where lateral service is provided by a trunk, the properties so served are assessed a "typical" lateral cost similar to other properties served by a lateral.

> NOTE: Reconstruction of sanitary sewer and water main utility systems is to be paid by the Utility Fund, however, should funds not be sufficient, the above procedures would be utilized.

5. Storm Drainage Area Improvements

New or reconstructed storm drainage area improvement costs are apportioned throughout the gross area that is served by the storm drainage improvement. The costs are uniformly apportioned to each parcel in proportion to parcel area. In a residential plat, the gross area of the plat is multiplied by the assessment cost/acre and that amount divided by the number of unit/lots and equivalent unit/lots in the plat.

6. Streets

a) New street costs are apportioned to the properties served by the street improvement by dividing the entire cost of the street improvement by the front footage of the benefiting properties (including equivalent unit/lots) or by dividing the cost of the street improvement by the number of benefiting unit/lots (including equivalent unit/lots).

b) Reconstructed street costs for projects are apportioned to the properties served by the street improvement as defined in **Section III.7.**

c) Residential zoned properties are considered to be served by a street, and thus eligible for being assessed for an improvement project based on the following qualifications:

- The property has a driveway connection to the street.
- If multiple driveways connect to multiple streets, the address of the property will determine which street serves the property for assessment eligibility purposes.

d) Commercial and Industrial zoned properties, multi-family residential properties with greater than 5 units/acre density and manufactured home parks are considered served by a street, and thus eligible for assessment based on the following qualifications:

- The property has frontage abutting the street.
- The property has a driveway connection to a street.
- Corner lots will be assessed for each street abutting the property. A 150 foot corner lot credit will be given on the long side of the property when assessed on the long side.

e) The life expectancies of various street pavement procedures differ. If an additional improvement is needed to a street that has had a previously assessed street improvement, the new assessments shall be prorated by the percentage of years the previous improvement has lasted when compared to the life expectancies shown below.

PAVEMENT PROCEDURE	EXPECTED LIFE (YEARS)
Complete Reconstruction	20
Partial Reconstruction	20
Bituminous Replacement	15
Bituminous Overlay	10

7. Sidewalks and Trails

The costs of sidewalks and trails constructed along Municipal State Aid streets, county highways, or state highways shall be paid from Municipal State Aid Funds or other funding source. The cost of all other sidewalks and trails may be assessed against the benefiting property on a unit/lot basis or front footage basis. Costs for repair or replacement of existing sidewalks or trails as a part of a street improvement project will be included as a part of the street improvement project assessment.

EXHIBIT I

SPECIAL ASSESSMENT PAYMENT OPTIONS

1. Payment in full to the City of Blaine within thirty (30) days from the date the assessment roll is approved.

2. Partial prepayment in the amount of at least ten percent (10%) of the total assessment made to the City of Blaine within thirty (30) days from the date the assessment roll is approved.

3. Payment with tax statement to the Anoka County Treasurer in annual installments extending over a period of years determined at the assessment hearing with interest on the unpaid balance at the rate adopted at the assessment hearing.

4. Payment prior to November 15 of any year to the City of Blaine of the remaining principal after payment of the current installment, with no further interest charged on the remaining principal.

EXHIBIT II

1990 TYPICAL ASSESSMENT RATES

1.	Residential Street	$1,834 / Lot
2.	Commercial/Industrial Street	$39.18 / Front Foot
3.	Sanitary Trunk	$1,500 / Acre
4.	Sanitary Lateral	$1,769 / Lot
5.	Sanitary Service 4 inch	$343 / Lot
	Sanitary Service 6 inch	$604 / Lot
6.	Water Lateral	$1,560 / Lot
7.	Water Service 1-inch	$422 / Lot
	Water Service 2-inch	$891 / Lot
	Water Service 6-inch	$1,316 / Lot
8.	Storm Sewer	$2,648 / Lot

EXHIBIT III

RESOLUTION NO. 78-28
Resolution Authorizing Deferrals of Special Assessments for Certain Senior Citizens

EXHIBIT III

CITY OF BLAINE

RESOLUTION NO. 78-28

A RESOLUTION AUTHORIZING DEFERRALS OF SPECIAL ASSESSMENTS FOR CERTAIN SENIOR CITIZENS

WHEREAS, Minnesota Statutes authorize cities to defer special assessment payments for certain senior citizens, and

WHEREAS, said deferment of assessments may be permitted at the discretion of the City Council, and

WHEREAS, the City Council of the City of Blaine finds and determines that deferral of special assessments for certain senior citizens is in the public interest, and

WHEREAS, it is necessary and proper that the City Council set forth its general policies and guidelines for granting said deferrals of special assessments for senior citizens;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Blaine does endorse the principle of deferment of special assessments for senior citizens where the payment of said special assessments constitute a hardship.

BE IT FURTHER RESOLVED that the City Council's policy and procedures for granting said senior citizen special assessment deferments shall be based upon the following factors:

1. The property must be homestead property.

2. The owner must be at least 65 years of age or older and in the case of husband and wife, one member must meet this age requirement.

3. The owner will make application for deferred payments on forms prescribed by the Anoka County Auditor and will make application to the City of Blaine on forms provided by the City.

4. The application for said deferral should be made at the time the project is authorized and in all cases it must be made before the final assessment rolls are approved by the City Council.

5. The City Council will consider each application on an individual basis; however, the Council's general policy is to grant senior citizen hardship special assessment deferrals when the annual payment for the special assessment exceeds 2% of the adjusted gross income of the owner as determined by the most recent Federal income tax.

6. The deferral will be terminated when any of the following happen:

   a. The death of the owner, provided that the surviving spouse is not otherwise eligible for the benefits.

   b. The sale, transfer or subdivision of the property or any part thereof.

   c. Loss of homestead status.

   d. The City Council determines that the further deferments are not in the public interest.

7. The City Manager has the responsibility and authority to administer and interpret this Resolution within the guidelines set forth herein.

PASSED by the City Council of the City of Blaine this 2nd, day of March, 1978.

Leo Anderson

Leo Anderson
President Pro Tem

Attest:

Joyce Twistol

Joyce Twistol
City Clerk

EXHIBIT IV

RESOLUTION NO. 91-53
Resolution Approving Public Improvement
Special Assessment Policies

REVISED 10.3

CITY OF BLAINE

RESOLUTION NO. 91-53

RESOLUTION APPROVING PUBLIC IMPROVEMENT
SPECIAL ASSESSMENT POLICIES

WHEREAS, the City Council is cognizant of the need for a written policy to determine special assessments of city improvements, and

WHEREAS, the City Council has directed a policy be written to provide for uniform and consistent assessments to properties, and

WHEREAS, it is the overriding policy of the City Council, to be more completely expressed through adoption of the Blaine 2010 Comprehensive Plan, that development and growth of the City shall occur in a logical, planned process managed by the City Council for the benefit of the entire community, rather than driven by the economic interests of a few, and

WHEREAS, the City Council, within such overriding policy, determines generally that non-contiguous development of land by developers, popularly known as "leapfrogging," shall be discouraged, subject to reasonable examination of any alleged extenuating circumstances.

NOW, THEREFORE, BE IT RESOLVED, in the context of the foregoing, that the Blaine City Council hereby adopts the Special Assessment Manual entitled "Public Improvement Special Assessment Policies" dated May 2, 1991.

PASSED by the Blaine City Council this 2nd day of May, 1991.

Elwyn Tinklenberg, Mayor

ATTEST:

Joyce Twistol, CMC, City Clerk

Council Action 91-175

EXHIBIT V

RESOLUTION NO. 95-28
Resolution Amending Special Assessment Policy

CITY OF BLAINE

RESOLUTION NO. 95-28

RESOLUTION AMENDING SPECIAL ASSESSMENT POLICY

WHEREAS, the City Council on May 2, 1991 adopted and on September 5, 1991 amended a special assessment policy in order to standardize procedures for determining special assessments for City Council authorized public improvement projects; and

WHEREAS, following considerable study the City Council throughout early 1994 determined to modify and amend the adopted special assessment policy for residentially zoned properties abutting certain existing streets referred to as the "street framework system" located in the area bounded by Interstate 35W on the east, 85th Avenue on the south, Metropolitan Airport property on the west, and 95th Avenue on the north; and

WHEREAS, the "street framework system" consists of the following existing and proposed streets:

a. 95th Avenue from Xylite Street to I-35W frontage road
b. 93rd Avenue from MAC property to I-35W frontage road
c. 91st Avenue from MAC property to Flanders Street
d. Xylite Street from 85th Avenue to 95th Avenue (except industrial property westerly of Xylite Street)
e. Bataan Street from 90th Lane to 95th Avenue
f. Flanders Street from 91st Avenue to 95th Avenue
g. Jamestown Street from 93rd Avenue to 95th Avenue
h. Coral Sea Street from 85th Avenue to Judicial Ditch 1
i. Edison Street form 85th Avenue to Judicial Ditch 1
j. 89th Avenue/Flanders Street from Xylite Street to 91st Avenue
k. Zumbrota Street from 90th Lane to 91st Avenue l.
90th Lane from Zumbrota Street to Bataan Street; and

WHEREAS, the Council has determined that it is in the public interest to subsidize the costs of sanitary sewer trunk and lateral and services, watermain lateral and services, storm sewer and drainage systems including requirements for storage and quality control, and street surface improvements for residential lot units abutting the "street framework system".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Blaine to amend the adopted special assessment policy as follows:

1. The cost of public improvements for residential lot units abutting the "street framework system" shall be subsidized to the extent that the total assessment for public improvements serving each such lot unit shall be set at $11,000 in calendar year 1994 and indexed annually thereafter based on the Construction Price Index.

2. A non-subdividable property abutting the "street framework system" will be assessed no more than 1.3 lot units. lf, as a result of purchase of additional land, razing of structures, or other circumstance, an additional lot or lots are created, such newly created lots will be assessed at the indexed special assessment rate.

3. Residentially zoned properties abutting the "street framework system" having land in excess of that required for a minimum lot size per city ordinance (except such properties in the SE ¼ of the NW ¼ of Section 34 and the N ½ of the SW ¼ of Section 34) will not be assessed indexed trunk sanitary sewer charges or indexed storm sewer charges until such excess land is further subdivided.

4. Any previously assessed lot unit abutting the "street framework system" needed for public access to the interior of the "street framework system" shall be reimbursed at the indexed special assessment rate in effect at the time such lot unit is conveyed for public purposes.

PASSED by the City Council of the City of Blaine this 2nd day of February, 1995.

Elwyn Tinklenberg, Mayor

ATTEST:

Joyce Twistol, CMC, City Clerk

Council Action: 95-39

EXHIBIT VI

RESOLUTION NO. 10-88
Resolution Amending Special Assessment Policy

CITY OF BLAINE

RESOLUTION NO. 10-88

AMENDING PUBLIC IMPROVEMENT
SPECIAL ASSESSMENT POLICY

WHEREAS, on May 2, 1991, City Council approved Resolution No. 91-53 adopting a Public Improvement Special Assessment Policy in order to standardize procedures for determining special assessments for City Council authorized public improvement projects; and

WHEREAS, subsequent amendments were adopted in September 1991, February 1995 and April 1999 which were incorporated into the adopted policy; and

WHEREAS, the City Council has determined that it is in the public interest to implement a Pavement Management Policy to maintain City streets in a cost-efficient manner and provide the public with functional, safe and efficient travel; and

WHEREAS, three public open house meetings were held to receive citizen feedback on the Pavement Management Program, Pavement Management Policy and revised Special Assessment Policy; and

WHEREAS, the implementation of a Pavement Management Policy will require changes and updates to the existing Public Improvement Special Assessment Policy.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Blaine to amend the adopted Public Improvement Special Assessment Policy as follows:

1. The Assessment Cost shall be one-fourth (25%) of the total cost of the improvement project for projects identified as Complete Reconstruction, Partial Reconstruction and Bituminous Replacement for all benefitting properties unless otherwise specified below.

    a. For Multi-family residential properties with greater than 5 units/acre density, manufactured home parks and commercial/industrial properties the Assessment Cost shall be one-half (50%) of the total cost of the improvement project for projects identified as Complete Reconstruction, Partial Reconstruction and Bituminous Replacement.

    b. All single family residential properties along Municipal State Aid streets, collector streets and county roads will be assessed for one-fourth (25%) of the total cost of the project minus oversizing costs. Oversizing costs, which are costs incurred in excess of what is required for a City standard 29-foot wide residential roadway, will not be assessed to single family residential properties.

c. Bituminous overlay projects will be assessed a flat rate of $500 per residential lot unit for parcels zoned residential and a rate of $10 per front foot for all properties not zoned residential. The rates are based on 2011 construction and will be indexed yearly for inflation as defined in the Special Assessment Policy.

PASSED by the City Council of the City of Blaine this 7th day October, 2010,

ATTEST:

Tom Ryan, Mayor

Jane M. Cross, CMC, City Clerk

COUNCIL ACTION: 10-245

EXHIBIT VII

RESOLUTION NO. 12-057
Resolution Amending Special Assessment Policy

City of Blaine
Anoka County, Minnesota

10801 Town Square Dr.
Blaine MN 55449

Signature Copy

Resolution: RES 12-057

File Number: RES 12-057

AMENDING PUBLIC IMPROVEMENT SPECIAL ASSESSMENT POLICY

WHEREAS, on May 2, 1991, City Council approved Resolution No. 91-53 adopting a Public Improvement Special Assessment Policy in order to standardize procedures for determining special assessments for City Council authorized public improvement projects; and

WHEREAS, subsequent amendments were adopted in September 1991, February 1995, April 1999, and October 2010 which were incorporated into the adopted policy; and

WHEREAS, the City Council has determined that it is in the public interest to operate a Pavement Management Policy to maintain City streets in a cost-efficient manner and provide the public with functional, safe and efficient travel; and

WHEREAS, the continued operation of a Pavement Management Policy requires changes and updates to the existing Public Improvement Special Assessment Policy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Blaine to amend the adopted Public Improvement Special Assessment Policy as follows:

1. Remove "Most State and County owned properties and Metropolitan Airports Commission Properties" from Section III.5 **-** Properties Not Assessed.

2. Add "All City owned property that is maintained and operated out of the City's General Fund Budget" to Section III.5 - Properties Not Assessed.

3. Delete Section III.9.b relating to assessment deferrals for Non-Petitioning Parcels Outside of the Development Area.

PASSED by the City Council of the City of Blaine this 3rd day of May, 2012.

Signed by Tom Ryan
Tom Ryan, Mayor

Date 5-3-12

Attest by Jane M. Cross
Jane M. Cross

Date 5-3-12

EXHIBIT VIII

RESOLUTION NO. 19-09
Resolution Amending Special Assessment Policy

WHEREAS, on May 2, 1991, City Council approved Resolution No. 91-53 adopting a Public Improvement Special Assessment Policy in order to standardize procedures for determining special assessments for City Council authorized public improvement projects; and

WHEREAS, subsequent amendments were adopted in September 1991, February 1995, April 1999, October 2010, May 2012 and August 2012 which were incorporated into the adopted policy; and

WHEREAS, the City Council has determined that it is in the public interest to operate a Pavement Management Policy to maintain City streets in a cost-efficient manner and provide the public with functional, safe and efficient travel; and

WHEREAS, the continued operation of a Pavement Management Policy requires changes and updates to the existing Public Improvement Special Assessment Policy.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Blaine to amend the adopted Public Improvement Special Assessment Policy as follows:

1. Adjust the assessment rate to 35% for single family residential properties on all reconstruction projects.
2. Adjust the term of the assessments for reconstruction projects to 15 years.
3. Establish a flat rate assessment of $1,400.00 per lot for single family residential and $27.00 per front foot for commercial/industrial/high density residential properties for bituminous replacement projects for the 2019 construction year and then index for inflation yearly.
4. Adopt the proposed language changes to the Special Assessment Policy.

PASSED by the City Council of the City of Blaine this 24th day of January, 2019.

EXHIBIT IX

RESOLUTION NO. 19-126
Resolution Amending Special Assessment Policy

Blaine City Hall
10801 Town Sq Dr NE
Blaine MN 55449

File Number: RES 19-126

AMENDING RESOLUTION 78-28 - A RESOLUTION AUTHORIZING DEFERRALS OF SPECIAL ASSESSMENTS

WHEREAS, Minnesota Statutes authorize cities to defer special assessment payments for certain persons retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments; and

WHEREAS, Minnesota Statutes authorize cities to defer special assessment payments for certain persons who are a members of the Minnesota National Guard or other military reserves who are ordered into active military service, as defined in section 190.05, subdivision 5b or 5c, as stated in the person's military orders; and

WHEREAS, said deferment of assessments may be permitted at the discretion of the City Council; and

WHEREAS, the City Council of the City of Blaine finds and determines that deferral of special assessments for certain persons with permanent and total disabilities and certain persons ordered into active military service is in the public interest; and

WHEREAS, it is necessary and proper that the City Council set forth its general policies and guidelines for granting said defer-rals of special assessments; and

WHEREAS, a Resolution Authorizing Deferrals of Special Assessments for Certain Senior Citizens, Resolution No. 78-28 was adopted by the City Council on March 2, 1978 and amended by the City Council with Resolution 12-112 on August 16, 2012; and

WHEREAS, the City Council finds it necessary to amend the Resolution Authorizing Deferrals of Special Assessments for Certain Senior Citizens, Resolution No. 78-28, to add special assessment deferments for certain persons with permanent and total disabilities and certain persons ordered into active military service is in the public interest;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Blaine does endorse the principle of deferment of special assessments for certain senior citizens, certain persons with permanent and total disabilities and certain persons ordered into active military service where the payment of said special assessments constitute a hardship.

BE IT FURTHER RESOLVED that the City Council's policy and procedures for granting said special assessment deferments shall be based upon the following factors:

1. The property must be homestead property.
2. The owner must be at least 65 years of age or older and in the case of husband and wife, one member must meet this age requirement.
3. The owner must be retired by a permanent and total disability at the time of levy. A permanent and total disability is defined as a condition which is permanent by nature and which totally incapacitates the person from working at an occupation that affords the person an income.
4. The owner must be a member of the Minnesota National Guard or other military reserves who is ordered into in active military service as defined in Minnesota Statutes section 190.05, subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make payments.
5. The owner will make application for deferred payments on forms prescribed by the Anoka County Auditor and will make application to the City of Blaine on forms provided by the City.
6. The application for said deferral should be made at the time the project is authorized and in all cases it must be made before the final assessment rolls are approved by the City Council.
7. The City Council will consider each application on an individual basis; however, the Council's general policy is to grant hardship special assessment deferrals when the annual payment for the special assessment exceeds 2% of the adjusted gross income of the owner as determined by the most recent Federal income tax or when an owner of unplatted property is 70 years of age or older.
8. The deferral will be terminated when any of the following happen:
   a. The death of the owner provided that the surviving spouse is not otherwise eligible for the benefits.
   b. The sale, transfer or subdivision of the property or any part thereof.
   c. Loss of homestead status.
   d. The City Council determines that the further deferments are not in the public interest.
9. The City Manager has the responsibility and authority to administer and interpret this Resolution within the guidelines set forth herein.

PASSED by the City Council of the City of Blaine this 5th day of August, 2019.

Signed by ______________________ **Date** 8-5-19
Tom Ryan, Mayor

Attest by ______________________ **Date** 8-5-19
Catherine Sorensen, CMC, City Clerk

Special Assessment Policy Part 2

Workshop Discussion
June 20, 2023

Special Assessment Policy

- Policy first developed in 1991
- Major revision with implementation of Pavement Management Program in 2010.
- Last revised in 2018

Four Types of Road Improvements:

- Bituminous Overlay
- Bituminous Replacement
- Partial Reconstruction
- Full Reconstruction

Assessment Policy Review:

- Bituminous Overlay
  - 1-1/2 – 2 inch layer of new pavement on existing pavement

Assessment Policy Review:

Bituminous Replacement

- Reclaim existing pavement, curb & gutter spot repair, new pavement

Assessment Policy Review:

Partial Reconstruction

- Remove & replace pavement, significant curb & gutter repair, minor storm sewer work

Assessment Policy Review:

- Full Reconstruction
  - Remove & replace pavement, profile changes, install curb & gutter and storm sewer

2023 Bituminous Overlay Rates:

- Single Family Residential
  - $696 per lot
    - Assessment period: 5 years (~$13/mo @4%)

- Commercial/Industrial/High Density Residential
  - $13.91 per front foot
    - Assessment period: 5 years

2023 Bituminous Replacement Rates

- Single Family Residential
  - **$1,543** per lot for Bituminous Replacement
- Commercial/Industrial/High Density Residential
  - **$29.75 per front foot** for Bituminous Replacement

Assessment periods: 5 years

Reconstruction(s):

- Single Family Residential
  - 35% of project costs assessed to benefitting properties for reconstruction projects
- Commercial/Industrial/High Density Residential
  - 50% of project costs assessed to benefitting properties for reconstruction projects

Assessment periods: 15 years

Review Special Assessment Policy:

- Impacts of Increase/Decrease of the assessed percentage for Partial or Full Reconstructs to:
  - 25%,30%,35%,40% for Single Family parcels

Assessment periods: 10, 15 years

Assessment Comparison for a Single-Family Residential Neighborhood.

RECONSTRUCTIONS

	Full Reconstruct	
	Cost	$ 3,149,660
Review 25% Assessable	Assessment per Lot	$ 3,149
	Assessed Portion	$ 582,467
	City Portion	$ 2,567,192
Review 30% Assessable	Assessment per Lot	$ 3,778
	Assessed Portion	$ 699,003
	City Portion	$ 2,450,656

	Full Reconstruct	
	Cost	$ 3,149,660
Current 35% Assessable	**Assessment per Lot**	**$ 4,408**
	Assessed Portion	**$ 815,508**
	City Portion	**$ 2,334,152**
Review 40% Assessable	Assessment per Lot	$ 5,038
	Assessed Portion	$ 931,947
	City Portion	$ 2,217,713

Assessment Comparison for Single-Family Residential Neighborhood

RECONSTRUCTIONS

25% Cost Share Monthly Payment		
Typical Assess	10yr @ 4%	15yr @ 4%
$3,149	$32.27	$23.26

30% Cost Share Monthly Payment		
Typical Assess	10 yr @ 4%	15 yr @ 4%
$3,778	$38.71	$27.91

35% Cost Share Monthly Payment		
Typical Assess	10yr @ 4%	15yr @ 4%
$4,408	$45.16	$32.56

40% Cost Share Monthly Payment		
Typical Assess	10yr @ 4%	15yr @ 4%
$5,038	$51.62	$37.21

Flat Rate for Reconstruction Projects:

Year	Project 1	Project 2	Project 3	Average
2019	$4,078	$5,855	$2,985	$4,306
2020	$2,432	$4,310	$4,354	$3,699
2021	$2,409	$3,507	$4,310	$3,409
2022	$7,125	$5,258	$4,408	$5,597

Levy Impacts for Reconstruction Projects:

- SINCE 2019:
  - Total bonds issued ~ $18.4MM
  - Average annual amount assessed ~ $4.6MM (25%)
  - Average annual assessment levy ~ $306,000
  - Cumulative amount assessed ~ $1,225,000
- Cumulative affect after 15 years ~ $4.5MM

Absent other funding source, debt service levy would increase$4.5 million over next 15 years

Summary of Assessment Policy Review:

- Changes to Assessment Period
- Adjust Assessment Rates for Reconstruction Projects.
- Set a Flat Rate, Indexed to Inflation, for Reconstruction Projects.
- Levy Impacts for Reconstruction Projects.

City of Blaine
Staff Report

File Number: 2023-554

Agenda Date	Status
November 13, 2023	
In Control	**File Type**
City Council	Workshop Item

New Business - Sheila Sellman, City Planner

Agenda Item # 2.4

Northtown Area Zoning Discussion

Background

At the September 6 and 11, 2023 Council workshops, the Council discussed creating a new zoning district for the Northtown area. At these meetings, the council reviewed uses and discussed performance standards for the district. Staff has drafted a mixed use district for the council to review and provide feedback and direction on.

The intent of the mixed-use district is to promote development and redevelopment that encourages mixed-uses that combine new or existing retail development with a variety of housing, offices, retail or other complementary uses, and to create a mix of land uses, and at the same time protect the interest of surrounding properties, in the following ways:

a. By establishing a mixed-use land use pattern and neighborhood design that is consistent with the vision, goals, and policies of the Blaine Comprehensive Plan.
b. By creating cohesive, yet diverse, neighborhoods with increased economic and cultural opportunities, contributing to greater livability and a healthier local economy
c. By providing for mixed-use development(s) that are carefully planned to promote efficient use of land, parking, and open space.
d. By creating attractive neighborhoods that promote pedestrian-friendly, human interaction, safety and livability.

As proposed, the development procedure will be as follows:

- All new buildings and additions require site plan approval through the Planning Commission and City Council.
- A development agreement is required as part of the development approval and shall address, at a minimum, approved site and building design criteria, approved sign locations and design

criteria, construction phasing, parking, cash escrow and/or letter of credit for construction of on-site and off-site improvements generated by the development.

The council discussed setbacks for multi-family residential next to single-family residential. Staff proposes the following and would like feedback and direction.

<u>Apartment Building Setbacks</u>

- Adjacent to single-family residential: 100 feet
- Across the right-of-way from single-family residential: 50 feet
- Along County Road 10 minimum setback of 20 feet with a maximum setback of 50 feet
- Adjacent or across the right-of-way from commercial not along county road 10:
    - Front yard 30 feet
    - Side yard 20 feet
    - rear yard 20 feet

<u>Apartment Parking Setbacks</u>
No parking shall be located in the front yard along County Road 10.

- Front yard 20 feet, if adjacent to single family residential the setback shall be 50 feet
- Rear and side yard 20 feet
- Fire lane may be located within parking setback

<u>Building Height</u>

- Adjacent to single-family residential maximum of three stories over parking (40 feet above grade)
- Not adjacent to single-family residential maximum five residential stories over parking (60 feet above grade)

As proposed, this draft ordinance lists specific performance standards for specific uses and has specific performance standards for the mall property. Staff is seeking feedback on the draft ordinance and direction if the council would like to start the process. As done in the past, staff will send a detailed letter on the process and changes to all the affected property owners and offer to meet to discuss the proposed changes. The draft ordinance and rezoning could go to the Planning Commission in January 2024 and first and second readings in February 2024.

Staff Recommendation

Staff requests feedback on the draft ordinance and direction to proceed to complete the draft and start the process.

Questions for Council

1) Do you agree with the uses proposed?
2) Do you agree with the development standards proposed?

Attachment List

1. Draft Ordinance

Mixed Use District (MU)

Intent

The intent of the mixed-use district is to promote development and redevelopment that encourages mixed-uses that combine new or existing retail development with a variety of housing, offices, retail or other complementary uses. To create a mix of land uses and at the same time protect the interest of surrounding properties in the following ways:

(a) By establishing a mixed-use land use pattern and neighborhood design that is consistent with the vision, goals, and policies of the Blaine Comprehensive Plan.
(b) By creating cohesive, yet diverse, neighborhoods with increased economic and cultural opportunities, contributing to greater livability and a healthier local economy
(c) By providing for mixed-use development(s) that are carefully planned to promote efficient use of land, parking, and open space.
(d) By creating attractive neighborhoods that promote pedestrian friendly, human interaction, safety and livability.

Development Procedure

All new buildings and additions require site plan approval through the planning commission and city council.

A development agreement is required as part of the development approval and shall address, at a minimum, approved site and building design criteria, approved sign locations and design criteria, construction phasing, parking, cash escrow and/or letter of credit for construction of on-site and off-site improvements generated by the development.

Permitted Uses

(a) Attached townhomes with a minimum of three units
(b) Bakery
(c) Brew Pubs
(d) Candy or ice cream shops
(e) Coffee shop
(f) Delicatessen stores
(g) Dry cleaning and laundry
(h) General retail
(i) Medical Cannabis Dispensary
(j) Personal services, including massage, hair salons and similar business.

(k) Personalized instructional services and fitness centers, total floor area limited to 4,000 square feet.
(l) Portrait/art studio/Museum
(m) Professional offices, not including medical
(n) Repair Services (cell phone, clothing, bicycle, shoes) – Not including automotive repair.
(o) Restaurants (both sit down and quick service)

Conditional Uses

(a) Animal hospitals/veterinary clinic
(b) Assisted living and/or memory care facility.
(c) Banks
(d) Brewer tap room as associated with and on the same site as a licensed brewery.
(e) Buildings over 50 feet in height
(f) Charter schools without outdoor recreation space (not including playground equipment which is limited to 5,000 square feet).
(g) Day Care Facilities
(h) Event Centers and Banquet Facilities
(i) Farmers Market
(j) Gasoline service station, not including a car wash.
(k) Hospitals and medical clinics/office
(l) Hotels, not including motels
(m) Indoor Amusement and Recreation, not including fitness
(n) Licensed cocktail room with and on the same site as a licensed distillery/micro distillery or winery.
(o) Liquor Stores
(p) Movie or Live Theatres
(q) Multi-family residential (apartment style)
(r) Outdoor dining
(s) Personalized instructional services and fitness centers, over 4,000 square feet.
(t) Places of Worship
(u) Private social clubs
(v) Public buildings or facilities, not including schools.
(w) Restaurants with live entertainment (music, etc.)
(x) Two (2) or more buildings on same lot.
(y) Zero lot line split with shared access and/or parking

Prohibited Uses

(a) Auto sales—Indoor or outdoor sales.
(b) Automobile repair.
(c) Car washes.
(d) Outdoor storage.
(e) Pawn shops.
(f) Self-storage/mini storage.
(g) Tobacco/vape shop.
(h) Any uses not listed as permitted, or conditional.

Performance Standards Residential

<u>Multi-family (Apartment) must be consistent with comprehensive plan land use designation</u>

a) Building Setbacks
   1. Adjacent to single-family residential 100 feet
   2. Across the right-of-way from single-family residential 50 feet
   3. Along County Road 10 minimum setback of 20 feet with a maximum of 50 feet
   4. Adjacent or across the right-of-way from commercial not along county road 10
   5. Front yard 30 feet
   6. Side yard 20
   7. Rear yard 20 feet

b) Parking Setbacks

No parking lot shall be located in the front yard along County Road 10
   1. Front yard 20 feet, if adjacent to single-family residential the setback shall be 50 feet
   2. Rear yard 20 feet
   3. Side yard 20 feet
   4. Fire lane may be located within the setback

c) Building Height
   1. Adjacent to single-family residential maximum of three stories over parking (40 feet above grade)
   2. Maximum 5 residential stories over parking (60 feet above grade)

Multifamily (Apartments): Each residential development shall provide private recreational uses for project residents. This area shall be for active or passive recreational uses suited to the needs of the residents of the project including, but not limited to, swimming pools, trails, nature areas, picnic areas, tot lots. Projects with 50 units or less must provide at least one amenity. Projects with more than 50 units must provide at least two amenities.

<u>Multi-family (Attached Townhomes) must be consistent with comprehensive plan land use designation</u>

a) Building Setbacks
    1. Front yard: 30 feet
    2. Rear yard: 30 feet
    3. Corner Side yard: 20 feet
    4. Side yard adjacent to single-family residential or commercial: 30 feet

b) Parking setbacks
    1. Guest parking: 20 feet
    2. Drive aisles: 20 feet

c) Building Height
    1. Minimum of two stories, except that a height of one story is permitted for up to 10 percent of the units in a development
    2. Maximum of three stories

Architectural control residential

(1) [Exterior wall finishes.] At least 50 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation.
    (a) Brick.
    (b) Natural or cultured stone.
    (c) Glass.
    (d) Stucco or EIFS.
    (e) Cementous siding.
    (f) Architectural metal.
    (g) Integrally colored rock faced block.
    (h) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels, or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.

(i) Building articulation elements shall be provided at a maximum average spacing of 40 feet.
(j) Flat roof lines are encouraged along County Road 10. Apartments
(k) Apartments Façade articulation for any building over two-stories shall be provided through any of the following elements:
    1. A projecting bay, entry vestibule, or recess extending from the ground level through the second floor.
    2. A ground-level recess.
    3. A change in the rhythm of windows at the ground level and second floor, combined with a change of parapet height or material.
(l) All buildings shall provide ground floor windows along, parks, plazas or other public outdoor spaces. Darkly tinted windows or windows that block two-way visibility are prohibited.

(2) Awnings.
(a) An awning may project over the public sidewalk provided that it is at least eight feet above grade and does not project more then two-thirds the width of the public sidewalk as measured from the building.
(b) Awnings must be constructed of durable, water repellent material such as canvas or metal. Plastic or fiberglass are not permitted.
(c) Backlit or illuminated awnings are not permitted.
(d) Retractable or fixed awnings may be used.
(e) Awnings shall not extend across multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings located beneath.
(f) Awning colors and materials shall complement the building façade.
(g) Signage on awnings is permitted on the end panel or valance only. Lettering size shall be proportional to the space available as approved by the zoning administrator.
(h) Awnings and canopies deteriorate over time; regular maintenance and replacement is required. If material shows signs of wear, including, but not limited to, fraying, fading, or physical damage to the awning.
(i) Awnings should be part of the site plan review and receive approval. Any encroachments over public right-of-way shall be approved by the city council prior to construction.

Performance Standards Commercial
(1) Building setbacks:
(a) Adjacent to single-family residential: 50 feet

(b) Along County Road 10 minimum setback of 20 feet with a maximum of 50 feet
(c) Front yard: 30 feet
(d) Side yard: 20
(e) Rear yard: 20 feet

(2) Parking setbacks:
(a) No parking lot shall be located in the front yard along County Road 10
(b) Front yard: 20 feet
(c) Rear yard 10 feet, if adjacent to single family residential 25 feet
(d) Side yard 10 feet, if adjacent to single family residential 25 feet
(e) Fire lane may be located within the setback

(3) [Exterior wall finishes.] At least 100 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation.
(a) Brick.
(b) Natural or cultured stone.
(c) Glass.
(d) Stucco or EIFS.
(e) Cementous siding.
(f) Architectural metal.
(g) Integrally colored rock faced block.
(h) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels, or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
(i) Building articulation elements shall be provided at a maximum average spacing of 40 feet.

(4) Building height: buildings exceeding three stories or 50 feet in height, whichever is less, must obtain a conditional use permit.

<u>Mall Performance Standards</u>
The Mall property consists of land north of Sanburnol Drive to east of University Avenue south of County Road 10 and west of Jefferson Street.

Building Setbacks:

1. Along County Road 10 minimum setback of 20 feet with a maximum of 50 feet
2. Along Sanburnol Drive: 30 Feet
3. Along County 10: 20 feet
4. Along University Avenue: 20 feet
5. Along Jefferson Street: 20

Parking Setbacks

1. No parking lot shall be located in the front yard along County Road 10
2. Along Sanburnaol Drive: 15 feet
3. Along County Road 10 side and rear yard: 10 feet
4. Along University Avenue: 10 feet
5. Along Jefferson Street: 10 feet

[Exterior wall finishes.] At least 100 percent of all exterior wall finishes on any building shall be comprised of a combination of at least three of the following materials with all materials present on each elevation.

(a) Brick.
(b) Natural or cultured stone.
(c) Glass.
(d) Stucco or EIFS.
(e) Cementous siding.
(f) Architectural metal.
(g) Integrally colored rock faced block.
(h) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels, or other comparable or superior materials as approved by the zoning administrator. All materials subject to zoning administrator approval.
(i) Building articulation elements shall be provided at a maximum average spacing of 40 feet.

Building height: buildings exceeding three stories or 50 feet in height, whichever is less, must obtain a conditional use permit.

<u>Hospitals:</u>

1. shall not be adjacent to low density residential areas;

2. shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;
3. shall not have emergency vehicle access adjacent to or located across a street from any single-family residential use; and
4. may be required to submit a detailed parking analysis. Additional parking may be required based on this analysis.

<u>Heliports:</u>

1. shall conform to all applicable federal aviation administration and Minnesota department of transportation regulations;
2. shall establish and utilize approach and departure routes over non-residential areas to the maximum extent possible;
3. shall have hours of operation limited to 7:00 a.m. to 9:00 p.m., inclusive, excluding emergencies;
4. shall not be located within 500 feet of residential areas;
5. shall be provided with a dust free landing pad; and
6. shall be fenced or otherwise secured to prevent unauthorized access.

<u>Theaters:</u>

1. theaters located within shopping centers or otherwise utilizing joint parking arrangement shall submit an analysis of parking demand versus availability for review and approval by the city. Additional parking may be required based on this analysis if available parking does not meet the expected demand;
2. theaters located within existing structures may be required to install appropriate building modifications to provide adequate pedestrian and vehicle access; and
3. interior and free standing theaters shall only be permitted when it can be demonstrated that vehicular ingress and egress may be accomplished without inducing undue traffic problems on area roadways.

<u>Fast food restaurants:</u>

1. If located in a retail multiple tenant center must conform to the architecture of a specific center.

<u>Personalized instructional services and fitness centers and accessory uses within the building on property:</u>

1. shall have any active outdoor use areas screened from residential views;

2. shall submit a detailed parking demand analysis. Additional parking may be required based on this analysis.
3. Outside display is allowed provided the following standards are met:
   (a) Outside display area is limited to a maximum of thirty percent (30%) of the width of a building frontage and is not to exceed a total of one hundred fifty (150) square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings larger than 40,000 square feet. Building frontage is defined as the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this ordinance a frontage must contain a public or customer entrance or exit and no space is allowed more than two (2) frontages.
   (b) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than fifty (50) inches.
   (c) Outside display shall not exceed a height of sixty (60) inches.
   (d) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three (3) machines or cabinets per frontage.
   (e) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six (36) inches is the minimum width required to maintain pedestrian access.
   (f) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
   (g) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
   (h) Products shall be able to be sold from the display.

Traffic impact studies:
A traffic impact study prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following:
1. any development which exceeds 25,000 square feet of gross floor area;
2. expansion of existing development which exceeds 10 percent of gross floor area and the total gross floor area is 25,000 square feet or greater.

Refuse Enclosure:

Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards when feasible. Refuse facilities may be located in the front yard subject to approval of the Zoning Administrator. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

<u>Screening:</u>
On a lot adjacent to single family residential, there shall be an opaque screen made up of trees and/or berms and a six-foot-high solid fence constructed of maintenance free materials

City of Blaine
Staff Report

File Number: 2023-561

Agenda Date	Status
November 13, 2023	

In Control	File Type
City Council	Workshop Item

New Business - Erik Thorvig, Community Development Director

Agenda Item # 2.5

105th Avenue Redevelopment Project Updates

Background

Staff, developer, and Baker Tilly will be present to provide updates on the following:

1. General development project updates including project schedule, work currently being completed by the developer, and the master plan.
2. Presentation from Baker Tilly on project financing.
3. Upcoming actions and schedule.

Staff Recommendation

Questions for Council

Attachment List

None