CITY OF MINNETRISTA

CITY COUNCIL AGENDA ITEM

Subject: **Halstad Estates Petition for Improvement District Financing**

Prepared By: **Jasper Kruggel, City Administrator**

Meeting Date: **October 20, 2025**

Issue: Staff will provide an update to City Council about the inquiry from representatives of the Halstad Estates development regarding and improvement district and financing.

Overview: Staff have been communicating with representatives from the Halstad Estates development. Representatives have requested that City Council provide feedback related to the establishment of an improvement district, and subsequent debt issuance by the City of the development public improvements.

Issuing debt on behalf of a development for public improvements has inherent risks. If the development does not succeed, the debt will reside with the properties, potentially forcing forfeiture, and ultimately debt forgiveness by the City. In this case, the City is still the fiscal agent responsible to make these debt payments to avoid default.

Staff have been communicating with these representees and have urged them to pursue private financing for these improvements. Staff would like to engage City Council in a discussion about this inquiry and provide feedback to the Halstad Estates representatives.

**Halstad Estates has requested that we include correspondence from their representatives related to the financing request. Staff and the City Attorney have communicated with them on several occasions and are of the opinion that some of what they cite is irrelevant and that the City is under absolutely no obligation to initiate a public improvement project regardless of any petition.

Recommended City Council Action: Staff request that the City Council engage in a discussion related to the inquiry from Halstad Estates representatives about the establishment of an improvement district and issuance of debt for the development of public improvements.

Outlook

Monday City Council study session

From Robert Bauman <robert.b@squarecompanies.com>
Date Thu 10/16/2025 2:20 PM
To Jasper Kruggel <JKruggel@ci.minnetrista.mn.us>

At the request of the mayor (Lisa Whalen) please distribute the following information for the Monday night counsel workshop meeting.

Please call if you have any questions.

From: greg@gregmillerlawoffice.com <greg@gregmillerlawoffice.com>
Sent: Tuesday, October 7, 2025 12:44 PM
To: 'Sonsalla, Sarah J.' <SSonsalla@Kennedy-Graven.com>
Subject: RE: Minnetrista / Bond issue for Development

Sarah:

After receipt of your email, I have spoken with my client and their lender. There is a bit of confusion as the City Mound appears unbothered by the bond process on the adjoining parcel, and we are trying to determine what the difference is with the Minnetrista parcel. I had a conference call today with Mr. Bauman, Mr. Prokos, and Tim Long from the bank as to how to best present this. I understand that the city is not interested in this type of bond financing, but if we can cross the T's and dot the I's in the application, would the city oppose this process? It was the city officials that suggested filing the petition in a waiver process – do they want us to file a new petition? We would certainly be willing to file a new petition.

In talking with Mr. Prokos – who has done these types of bond financing programs around the country – and in reading the Minn. Stat. §429, Mr. Prokos had some specific questions in order to discern Minnetrista's basis for not being interested, as set forth in your email. The questions are as follows:

1. Under what specific statutory provision do you conclude that Chapter 429 improvements under § 429.021 do not apply to residential developments, given the absence of any exclusionary language in subdivisions 1(1)–(9) and the explicit inclusion of residential properties for related projects like energy improvements (subd. 1(22))?

2. How does the advice that the City is "not legally obligated to pursue" a petition under § 429.031 reconcile with the mandatory public hearing requirement in subd. 1(a), which is triggered by a petition meeting the 35% frontage threshold in subd. 1(f)?
3. For a petition under § 428A.08 or § 428A.12 requesting a public hearing, what authority permits the City to forgo the hearing entirely, rather than proceeding to hearing and then exercising post-hearing discretion?
4. If the petition qualifies under both chapters (as integrated by § 428A.20), why do you advise that the City has no obligation to process it under the lower-threshold special service district provisions of § 428A.08 (25% land area and tax capacity)?
5. Has the City conducted the preliminary report required by § 429.031, subd. 1(b), to assess the proposed improvements' necessity and feasibility? If not, when will it do so as part of initiating the mandatory hearing process?

My subsequent questions are; 1) Is the petition valid as submitted, or should we resubmit? 2) is the feasibility study submitted by Mr. Prokos to Jasper sufficient, and 3) are there any technical issues with the petition that require revision?

I just want to affirm that we are following the process set forth in the statute and not prejudging the financing process before it is fully set forth. To that end, I would propose a conference call at your earliest convenience that would include Mr. Prokos, wherein we can pose questions and he can answer – he is much more versed in this than I am, as he and his company have done this very successfully many times. It honestly doesn't seem very divergent to the creation of a TIF district and the administrative aspect associated with that.

Thanks,

Greg

P.S. – Rob sent the below information to further elucidate us as to the statutory process.

Statutory Framework and City's Mandatory Obligations

Minnesota Statutes Chapter 429 ("Local Improvements; Special Assessments") and Chapter 428A ("Special Service Districts; Housing Improvement Areas") provide municipalities with authority to fund and implement infrastructure improvements through special assessments or fees, explicitly including those benefiting residential properties. There is no statutory exclusion for residential developments, and both chapters expressly contemplate their application to such projects. Critically, when a valid petition is filed by affected property owners meeting the statutory thresholds, the City is required to initiate formal proceedings, including holding a public hearing. The City's discretion arises only after the hearing, in deciding whether to adopt a resolution ordering the improvement—not in ignoring or rejecting the petition outright.

1. Applicability to Residential Developments under Chapter 429: Section 429.021 grants municipalities broad authority to undertake improvements such as acquiring and improving streets (subd. 1(1)), constructing sewers and water systems (subd. 1(2) and (5)), street lighting (subd. 1(4)), parks and recreational facilities (subd. 1(6)), and flood control (subd. 1(9)), among others—all of which are routinely applied to residential areas to support housing infrastructure. No subdivision excludes residential properties; to the contrary, these improvements are designed to benefit properties of all types, including single-family homes and subdivisions. For energy improvements (a subset under subd. 1(22)), financing is even explicitly available for residential properties with five or more units, confirming residential inclusion under the chapter's general provisions.
2. Petition Process and Mandatory Hearing under § 429.031: Upon filing of a petition signed by owners of at least 35% of the frontage of abutting real property (subd. 1(f)), the City shall hold a public hearing on the proposed improvement (subd. 1(a)). This hearing requires two newspaper publications (one week apart, with the hearing at least three days after the second) and mailed notice to affected owners at least ten days prior, including an estimate of assessment impacts. A preliminary report from the city engineer or competent person must advise on necessity, cost-effectiveness, and feasibility (subd. 1(b)). Failure to comply with these notice and hearing requirements invalidates subsequent proceedings. Following the hearing, the council may adopt a resolution ordering the improvement by majority vote (if petitioned) within six months (subd. 1(f)), but the initial hearing is non-discretionary. If all abutting owners petition (subd. 3), the City may proceed without a hearing. Our client's petition exceeds the 35% threshold and proposes standard improvements under § 429.021, triggering these obligations.
3. Integration with Chapter 428A for Residential-Focused Districts: Chapter 428A complements Chapter 429 by authorizing special service districts (§§ 428A.01–.101) and housing improvement areas (§§ 428A.11–.21) tailored to residential needs, such as common area maintenance and housing infrastructure (§ 428A.14). Section 428A.20 explicitly allows special assessments in these areas "in accordance with the procedures in chapter 429," bridging the chapters for residential projects.

- Special Service Districts (§ 428A.08): No action may be taken unless a petition is filed by owners of 25% or more of the land area and 25% of the net tax capacity (or equivalent for non-tax-capacity charges) requesting a public hearing. The petition here satisfies this, mandating the hearing.
- Housing Improvement Areas (§ 428A.12): For residential-focused areas, a petition by owners of 50% or more of the housing units subject to fees requests a public hearing, which the City must hold. Post-hearing, fees may be imposed unless vetoed by a majority (§ 428A.18).

In summary, the statutes do not permit the City to decline "pursuit" of a valid petition without first fulfilling its hearing obligations. Doing so risks legal challenge, as the process ensures affected owners' input and protects against arbitrary denial. The City's lack of "interest" does not supersede these mandates, and dismissing residential applicability contravenes the statutes' plain language and intent to facilitate community-driven improvements.

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I am writing to provide you with key Minnesota statutes and legal principles supporting our position regarding the petition to form an improvement district in the City of Minnetrista. As you know, we have submitted a valid petition as property owners/developers seeking to initiate proceedings for [briefly describing the specific improvement, e.g., sewer/street/water infrastructure improvements]. The City's reluctance to proceed prompts this summary of relevant law, which underscores our rights and the City's obligations. I request that you use this information to draft a demand letter to the City Attorney or pursue appropriate legal remedies, such as a writ of mandamus, to compel compliance.

1. Property Owners' Right to Form an Improvement District and Its Definition

Under Minnesota Statutes Chapter 429, property owners have a statutory right to petition for the formation of a local improvement district to fund specific public improvements that benefit their properties. Section 429.021 explicitly grants municipal councils the power to undertake such improvements upon petition from affected property owners, including acquiring, constructing, or improving streets, sewers, water systems, and related infrastructure. An "improvement" is broadly defined in § 429.011 as any type of local enhancement authorized under § 429.021, with the "improvement district" referring to the geographic area of benefited properties subject to special assessments for the costs (§ 429.021; § 429.051). This right ensures that property owners can drive necessary infrastructure development without relying solely on general city funds, promoting efficient local growth.

2. City's Obligation to Honor the Petition and Hold a Public Hearing

Minnesota law mandates that the City honor a valid petition by initiating proceedings, including ordering a feasibility report and convening a public hearing. Under § 429.031, subd. 1, upon receipt of a petition signed by at least 25% of affected property owners (or as specified in the City's charter), the council must direct the city engineer (or qualified designee) to prepare a preliminary report on feasibility, costs, and assessments, followed by a public hearing on the proposed improvement (§ 429.031, subds. 1–2). Failure to do so violates the statutory process and deprives petitioners of due process. If the petition meets threshold requirements (e.g., proper signatures and description of the improvement per § 429.035), the City cannot summarily dismiss it without this procedural step.

3. City's Duty to Form the Improvement District If Not a Burden

The City is required to form the district and order the improvement if it is feasible and does not impose a financial burden on the general taxpayer base. Section 429.031, subd. 1, provides that after the hearing, the council must adopt a resolution ordering the improvement by a simple majority vote if initiated by petition (lowered from the four-fifths supermajority required for council-initiated projects). Costs are apportioned solely to benefited properties via special assessments (§ 429.051), ensuring no undue burden on the City or non-benefited taxpayers. Courts have interpreted this as a ministerial duty to proceed where the petition is valid and the project aligns with public interest, absent evidence of fiscal harm to the municipality (§ 429.041; see also League of Minnesota Cities guidance on strict compliance). In our case, the proposed district is fully assessable against participating properties, rendering it self-sustaining.

4. Legal Support for Developers If the City Fails to Comply

If the City refuses to comply, developers and property owners have robust remedies under Minnesota law, including a writ of mandamus to compel performance of the statutory duty. Section 586.01 authorizes mandamus to enforce "the performance of a duty [that] the law specially enjoins," such as holding the required hearing or ordering a feasible improvement (§ 429.031). Petitions for mandamus must be filed in district court within 60 days of the refusal, with the court empowered to issue alternative or peremptory writs (§ 586.02–03; Minn. R. Civ. App. P. 120). Precedent supports developers in compelling rezoning or infrastructure approvals where cities withhold discretionally required actions (e.g., St. Croix Dev., Inc. v. City of Apple Valley, 1990 WL 25073 (Minn. Ct. App. Mar. 20, 1990), ordering rezoning per petition). Developers have successfully sued cities for arbitrary refusals to approve essential development steps, obtaining writs of mandamus to force compliance. For example, in Good Value Homes, Inc. v. City of Eagan, 410 N.W.2d 345 (Minn. Ct. App. 1987), the court affirmed a peremptory writ directing the city to grant preliminary plat approval after an arbitrary denial unsupported by evidence, emphasizing that ministerial approvals cannot be withheld based on extraneous factors like neighborhood objections or prior unbinding representations. These cases illustrate the courts' willingness to intervene where cities fail to follow statutory mandates in land development processes, providing a strong basis for relief here. Additionally, affected parties may appeal any adverse council determination to district court under § 429.036 (legality of petition) or § 429.081 (assessments), seeking declaratory relief or injunctions. These tools ensure accountability without exposing petitioners to undue delay.

Additional Considerations: Separation of District Formation from City Liability

Critically, the formation and operation of the improvement district under Chapter 429 are distinct from the City's general governmental functions and fiscal responsibilities. The district functions as a self-contained assessment mechanism, with all costs (including bonds) financed exclusively through special assessments levied on benefited properties (§ 429.091, subd. 2). The City issues obligations (e.g., assessment bonds or temporary improvement bonds) payable primarily from assessment collections, crediting proceeds to a dedicated construction fund (§ 429.091, subd. 1). While bonds may technically be general obligations, the statute limits repayment to assessment revenues first, with ad valorem taxes as a secondary backstop only if assessments prove insufficient—which is avoidable through proper sizing and developer guarantees (§ 429.091, subd. 2; § 429.031, subd. 3 for contract-initiated projects). The City's role is administrative: certifying assessments, collecting them via property tax statements, and remitting to bondholders (§ 429.061). It bears no direct liability for construction risks, overruns, or bond defaults, as these are borne by the assessment fund and petitioners' undertakings. This structure insulates the City's general fund, aligning with the policy of developer-driven, non-burdensome growth.

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