



MEETING OF THE BOARD OF CITY COMMISSIONERS

8/5/2025 - Minutes

CALL TO ORDER

SPECIAL MEETING OF THE BISMARCK BOARD OF CITY COMMISSIONERS & THE BURLEIGH COUNTY COMMISSION

AGENDA

1. Call to Order

The Board of City Commissioners and Burleigh County Commission met on August 5, 2025, at 4:00 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. City Commissioners Connelly, Cleary, Risch, Zenker, and Mayor Schmitz were present. County Commissioners Bakken, Woodcox, Schwab, and Chair Bitner were present. County Commissioner Munson attended the meeting via Teams.

2. Extraterritorial Area (ETA)

A. Presentation by Ben Ehreth, Community Development Director, and Gabe Schell, City Engineer.

1. History and Purpose of the ETA
2. Existing ETA Agreements
3. North Dakota Century Code Regulations
4. Negotiated Boundary
5. Jurisdictional Authority in the ETA
6. Stormwater
7. Comparison of City and County Building Codes and Zoning Codes
8. Population Projections

City Community Development Director Ben Ehreth and City Engineer Gabe Schell provided a presentation regarding the history and purpose of the ETA.

- [ETA Presentation](#)

3. Public Comment Relating to the ETA

The following individuals addressed the Commissioners during public comment:

- **Jim Koch:** Expressed frustration about inconsistent enforcement of regulations regarding keeping chickens. He lives in Country Creek Fifth Estate and was told by the city that chickens are not allowed at his address. However, he knows of people closer to the city who do have chickens, which he finds unfair. He feels that law-abiding residents like himself are penalized, while others break the rules without consequence. He also mentioned issues like junk-filled yards, and questioned why regulations exist if they're not enforced. He acknowledged the confusion between city and county jurisdictions, especially regarding the enforcement of ordinances in the Extra-Territorial Area (ETA), and urged clarity and fairness in regulation enforcement.
- **Tyson Austin:** Expressed frustration with the current restrictions limiting him to 3,200 square feet of accessory buildings. He lives in the ETA on 4.6 acres. He explained that with his land size and rural use—including having horses, chickens, a large garden, and plans for a greenhouse and pavilion—this limit is overly restrictive. He contrasted this with Burleigh County's more generous limit of about 8,000 sq ft, and noted that his area is not even planned for annexation in the next 40 years, so rural standards should apply. He described how these restrictions prevent him from pursuing personal and business-related improvements, like building a greenhouse or pavilion, and storing equipment like a skid steer. He also pointed out the unfairness that someone on a smaller lot can build the same structures he is limited to, which he finds illogical and stifling, especially given his long-term plans and investment in the property.
- **Dennis Wetzel:** Lives in the ETA and a designated flood hazard area, shared his ongoing frustrations with building restrictions. He originally wanted to expand his detached garage but has faced multiple ordinance and flood map changes over the years. He emphasized that people move to the county to enjoy more flexibility, like larger accessory buildings, and questioned why ETA residents are treated differently than other county residents. Wetzel argued that areas like this, specifically the Faulkner Addition, aren't viable for city growth due to limited available lots and floodway restrictions. He suggested that Faulkner Addition could be removed from the ETA without affecting future city expansion, as development in that area is highly unlikely.
- **Travis Jensen:** Voiced strong frustration with city governance, especially around regulation and representation. He criticized the city commission for voting 3-2 against holding a meeting to hear from ETA residents, arguing that it shows they don't want input from those affected. He praised the county commissioners for being accessible, responsive, and engaged, especially during crises like the 2011 flood. Jensen accused the city of applying rules inconsistently—specifically referencing the Misty Waters area, where he claims rule-breaking was later legitimized by changing ordinances to suit the situation. He feels the city only enforces accountability or provides notice to ETA residents when it's convenient for them. He also criticized building regulations in the ETA, such as requirements for pouring concrete for sheds or barns, questioning the logic behind them. Jensen feels restricted by officials he can't vote for and who seem unwilling to listen. He ended by saying he regrets buying property in the ETA and, out of frustration, will stop asking for permission and act independently—citing his own chickens and ducks as an example—hoping the city applies the same leniency shown to others.
- **Robert Field:** Expressed strong opposition to how residents in the ETA are regulated without representation. He finds it fundamentally unjust that people in the ETA cannot vote for city officials, yet are still subject to city rules, calling it “tyrannical” and likening it to taxation without representation. He pointed out the absurdity of strict regulations, such as being limited to 10 chickens or not being allowed a steer on a 16-acre property,

highlighting inconsistencies and what he views as overreach. He argued that rules in the ETA are not only unreasonable but also unenforced or inconsistently applied, and he resents being regulated by people who aren't accountable to ETA residents. Field also discussed law enforcement confusion in the ETA, with both Bismarck and Lincoln police showing up at different times, but no clear jurisdiction. He believes services from the city are minimal or nonexistent, and questions the value he receives from Burleigh County taxes on properties within Bismarck city limits. Mr. Field mentioned consulting an attorney about potentially challenging the lack of voting rights as a federal issue but hasn't decided whether to pursue it. Ultimately, he criticized both governance and taxation practices, arguing that they are unfair and disconnected from the realities of rural living in the ETA.

- **Karen Martineso:** Expressed concern about the lack of representation for ETA residents under city jurisdiction. She questioned why the area doesn't have joint jurisdiction between the city and county, which would typically apply in a standard 2-mile buffer outside city limits. She suggested that, if nothing else can change, implementing joint jurisdiction would at least provide ETA residents with some representation from the county in the decision-making process.
- **Gerald Kuntz:** emphasized his concern that residents like him are regulated by the city but cannot vote for or run for city offices. He reiterated this point to ensure that city officials fully understand the lack of representation ETA residents face.
- **Michael Connelly:** Expressed frustration that he was denied the opportunity to add a relevant topic, greenfield assessments and abeyance agreements, to the meeting agenda, as he feels it has a direct connection to the ongoing ETA discussion. He emphasized that this practice has been in place for 48 years, with discussions dating back as far as 1929, and questioned why it was being excluded from the current conversation under the argument that it would exist regardless of the ETA. Connelly cited a recent example of a property near the Burleigh tree where a failed septic system led to annexation and a \$57,000 greenfield assessment, underscoring the real financial impact on residents near the city's edge. He pointed out that these types of assessments can vary widely and should be clearly explained with real-life examples to help the public understand potential consequences. He also mentioned that some city agreements require residents to commit to future annexation or infrastructure costs if they want to build certain structures—another issue that affects residents without their full awareness. Connell urged the city to bring more transparency to these processes and include these financial implications in future discussions. He concluded by stating that ETA residents deserve honest communication and representation, even if they can't vote for city officials, and encouraged the commission to "take another swing" at addressing these concerns directly and publicly.
 - [Connelly Written Statement](#)

4. Discussion and Next Steps

Both Commission's provided input into the ETA discussion. A central concern raised by county commissioners and residents was the issue of "taxation without representation," as the approximately 12,500 ETA residents are subject to city regulations but cannot vote in city elections. Residents expressed frustration over burdensome permitting requirements, costly assessments, and a lack of voice in decisions that directly impact their properties. County Commissioner Schwab and Chair Bitner advocated for reducing or even eliminating the ETA, arguing that its original purpose has become outdated now that Burleigh County has its own planning and zoning authority. City officials, while acknowledging room for improvement,

emphasized the importance of managing orderly growth and infrastructure, particularly near sensitive areas like the airport. Ideas such as shrinking the ETA based on actual growth projections, forming a joint city–county zoning department, and grandfathering existing rural properties to prevent retroactive rules were discussed. Chair Bitner claimed that past mistakes regarding stormwater planning and infrastructure costs, amounting to over \$5.5 million, have caused distrust between the two governments. Although no decisions were finalized, both sides agreed to move forward with a working group to explore practical solutions, increase public input opportunities, and return for further discussion with concrete proposals.

5. Adjourn

There being no further business to discuss, the meeting adjourned at 6:04 PM.