

**PROCEEDINGS OF THE  
TECHNICAL ADVISORY COMMITTEE  
Wednesday, January 12, 2005 – 1:30 p.m.  
Grand Forks City Hall Conference Room A-102**

**CALL TO ORDER**

Earl Haugen, Chairman, called the January 12<sup>th</sup>, 2005, meeting of the Technical Advisory Committee to order at 1:35 p.m.

**CALL OF ROLL**

On a Call of Roll the following members were present: Ryan Brooks, EGF Planning; Kent Ehrenstrom, MNDOT-Bemidji; Richard Onstad, GF County Engineer; Mark Johnson, FHWA-Bismark (via conference call); Paul Benning, NDDOT-Bismarck (via conference call); Cindy Voigt (Proxy for Dan Jonasson), GF Engineering; and Dennis Potter, GF Planning.

Staff present were: Earl Haugen, GF/EGF MPO Executive Director; Lane Magnuson, GF/EGF MPO Planner, Senior; Mark Engel, GF/EGF MPO Intern; and Peggy McNelis, GF/EGF MPO Executive Assistant.

**DETERMINATION OF A QUORUM**

A quorum was present.

**APPROVAL OF MINUTES**

*Moved by Brooks, seconded by Potter, to approve the December 8<sup>th</sup>, 2004, minutes of the Technical Advisory Committee. Motion carried unanimously.*

**MATTER OF REMAINING PROJECTS FOR 2006-2008 T.I.P.**

Haugen reported that he did distribute two documents, one concerning NDDOT's response to the City of Grand Forks' request for Regional Funds for their 42<sup>nd</sup> Street/DeMers Avenue Grade Separation project, and the other concerning transit projects. He added that he did forward both of these documents to Mr. Benning and Mr. Johnson, and that he feels that both of these issues can be dealt with under this agenda item.

Haugen commented that the MPO, in January, receives the remaining Minnesota programs that they run through their ATP. He stated that there is a list of six available programs, however they have not received any project requests for any of those programs from Minnesota, therefore, no action needs to be taken.

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Haugen pointed out that they do have some transit requests from Grand Forks and East Grand Forks. He referred to information included in the packet, and explained that it discusses how we address the requests for funding. He then referred to the copy of the e-mail he received from Roger Foster, which was just distributed, and commented that it appears that Mr. Foster has taken some issue with the language used in the staff report concerning what to do with these requests in terms of consistency with our plan.

Foster reported that the only thing he has issue with is the tone, basically, of the staff report to the MPO Executive Policy Board. He explained that the tone appears as though, just in reading it; and he pointed out a couple of words included in the bottom paragraph, whereby it reads: “Therefore, the projects are forwarded with knowledge that efforts will be made to implement the recommendations, for example the combination of Senior Rider and Dial-A-Ride into one demand response service. We trust that action will be taken prior to the MPO having to adopt a final TIP, typically in August.”. He said that it seems to him that it sounds different than what was presented to the City Council by Todd Fieland. He added that Mr. Fieland basically said that these recommendations, not just one, would be looked at, and if found to be something that the City wants to do, then they will be considered, not that we will implement them, and the staff report’s tone to the MPO Executive Policy Board members sounds like we are marching to the dummer of the MPO, when that really is not the case as we are really going to implement the idea of studying this. He said that it sounds like we are telling our City Council one thing, that we are going to look at these issues and consider them, and in the staff report it sounds almost demanding, so we need to look at how we are presenting that to them.

Haugen responded that the timing issue, as we worked up the recommendations, is a factor, as a decision needs to be made by July of this year as to how we are going forward with this, so that, in conjunction with the final T.I.P. needing to be done by August, requires that we come to some kind of resolution on the recommendations, so if it was heavy handed, it was that way due to the fact that we only have six months to review these recommendations to determine if we are going to implement them, and if we aren’t, then new recommendations will be needed to show how we are still going to be a viable service.

Foster stated, again, that his concern involves the word “implement”. He added that he thinks when you implement recommendations, that is something that is not at the department level; and they need to do the field work, the ground work, to make things happen, so when you adopt a recommendation, it should be done after a lot of groundwork has been done to see, in-fact; and in this particular case, again, where the Senior Rider is used as an example, there are a lot of things that need to be considered, and one, just off the top of his head would be that if Senior Rider were to combine with Dial-A-Ride, if we get into that business, how would we have oversight over subscription riders of the Senior Rider program not taking priority over paratransit riders, because if that happens we would then be violating ADA policy, so, again, his concern is that we are saying that we are going to implement something, and we haven’t gotten there yet, we haven’t really looked at all of the mechanics as to what it will take to do this one particular recommendation, which was used as an example in the staff report. He added that, again, he understands that we have to have a plan, and he appreciates the fact that the MPO is required to set forth a plan, and he appreciates the work the MPO does, but, again, he doesn’t think we want

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to set a tone in this staff report to the Executive Policy Board, that we are, in-fact, going to implement something before we have really done a mechanical study as to whether or not it can be done.

Haugen responded that the recommendation is to study, within the next six months, if we can combine the two services. Foster said that he would then submit to him, that that should be stated in the staff report, to include the word “study” instead of “implement”.

***Moved by Potter, seconded by Foster, to: 1) strike the word “implement” and insert the word “study”; and 2) to put a period after the word “recommendations”, and remove the remaining text.***

Potter explained that he is making this motion because he agrees with the points that were just discussed, changing the word “implement” to the word “study”, and that he would place a period right after the word “recommendations” because the rest of that sentence spells out one specific item and he doesn’t think we need to call out one specific item in the recommendation, and, secondly, the last sentence is redundant as City Staff knows what the timeline is, so he doesn’t see a need to have a redundant statement in there. Haugen responded that if the decision is that we are not going to carry Senior Service, then the request will be changed prior to that, but right now the request is to have Senior Service continue on the three years of the T.I.P., so that is why we need knowledge of what will be carried on the next three years, by that time-frame. Potter stated that if staff knows that, and the City Council knows that, and things have to be change then we will change them. Foster added that, regarding the T.I.P., irregardless of whether or not the City keeps their current method of running the Senior Rider, or it combines with Dial-A-Ride, we still have to pay for it, we still have to account for the monies that are going to go toward it, and it won’t affect the T.I.P. whatsoever, and if it is absorbed by another entity, it still has to be paid for, and it is still debatable as to how much more it will cost, so he wouldn’t see where it would change the T.I.P. at all. Brooks responded that we now have Senior Rider shown separately right now in the T.I.P., and there is a possibility, as we go through this process, that it may go away by combining with Dial-A-Ride, which would affect the T.I.P., even by 2006 in that it may completely drop out, so there are some ways that it could affect the T.I.P., and some of the recommendations that are going forward, as well as implementations of the study. He added that, although we are still working on this, it will hopefully be addressed by July, as the final T.I.P. is due in August. Potter commented that we could then do the changes in August. He added that he still doesn’t feel we need to say this in there as all of the staff is well aware of that, and he assumes that Mr. Foster is aware of that. Foster responded that he is very much aware of that.

Brooks asked for clarification on the motion.

Haugen reiterated that the motion involves the third sentence in the staff report, under the Transit heading, with the following changes: “Therefore, the projects are forwarded with the knowledge that efforts will be made to ~~implement~~ **study** the recommendations, ~~for example the combination of Senior Rider and DAR into one demand response service.~~”

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Foster asked if the motion didn't include striking the last sentence as well. Haugen responded that, to his recollection, that was not included in the motion. Potter said that it was his intention to strike that sentence as well.

Haugen asked if that was a friendly amendment to the motion. Potter accepted.

Brooks asked, don't we want to implement the recommendations, we don't know what the recommendations are going to be, but we do want to implement the recommendations come the final T.I.P., but we are inserting the word "study" of the recommendations, and that is really what will have been done by that time. Foster responded that he thinks they have already implemented the recommendations when Todd Fieland stood before the City Council, and the City Council approved the TDP, those were the recommendations, and we have implemented them, and now we are, one by one, going to study those recommendations, so that has already been done.

***Motion carried with Brooks voting Nay.***

Ehrenstrom reported that he gave Mr. Brooks some figures, which they will discuss tomorrow over the phone, in order to do some minor tweaking of those figures. Brooks added that the figures are accurate, but it sounds like our State share, Federal share, and Local share will be toggled back and forth about \$5,000, but some tweaking is necessary.

Haugen commented that we have had a revision approved, so he would assume that another revision could be part of the overall approval, the State numbers as tweaked by MNDOT and East Grand Forks.

***Moved by Potter, seconded by Foster, to recommend the MPO Executive Policy Board approve the FY 2006-2008 Project Application (Transit & MN Programs), subject to the above amendment, and to include MNDOT and East Grand Forks' tweaking of State numbers, as being consistent with the Long Range Transportation Plan, and give it High Priority Ranking. Motion carried unanimously.***

Haugen reported that the second item under this agenda item concerns the 42<sup>nd</sup> Street/DeMers Avenue Grade Separation, and Regional Funding requests, on which some very good discussion occurred at the last Technical Advisory Committee meeting. He pointed out that there has been an exchange of letters between the City of Grand Forks and the NDDOT, which were distributed earlier.

Haugen reminded the Committee that they had a four step process, as part of the approval at the December Meeting. He stated that the first step involved a letter of request be sent to the NDDOT, which was done, and of which a copy was included in the information he distributed. He then referred to the second letter that was distributed, which was a response to the first letter, and asked that Mr. Benning explain what it says.

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Benning explained that the NDDOT did respond back to the City's letter of request, and he does apologize for the timeliness, as they did get it out on Monday, however, because he wasn't sure everyone would get it in time, he did fax it to the MPO as well. He said that they did review the City's request for Regional Funds, however, at this time they cannot commit any Regional Funds, and gave three reasons for this in the letter. He pointed out that the first reason is that this project is not included in the NDDOT's Long Range Plan; the second reason is the uncertainty as to whether or not there would really be any benefit to doing the project, as far as it being a regional project; and the third reason is that they feel the current schedule being proposed for the project is quite aggressive, and that they aren't sure the City would even be able to meet it's 2007 construction date for a railroad separation considering the fact that you would have to work through the railroad, and you would have 4-F issues on possibly one side of the project, and UND issues on the west side. He commented that the letter was sent to Al Grasser, and copied to Federal Highway, the Grand Forks District, and the MPO.

Potter asked if Mr. Benning could expand on the UND issues. Benning responded that he isn't sure if the City will need to take any property from UND, however, if that is necessary you have to take into consideration that this is a City project and UND may not be willing to sell that property. He added that the question has also come up as to whether or not we can use eminent domain on State property, if the State can actually use eminent domain on other State property. Potter said that those are good issues. Benning stated that, if anyone could answer that question, he would be glad to hear it because that is one issue they are kind of scratching their heads on, as they can use eminent domain on other projects throughout the State, but he doesn't know if they can use it on State property. Potter commented that he doesn't know that either, and he isn't sure he wants to get into a court fight to find out.

Haugen stated that he has a couple of questions on the first reason. He pointed out that the second sentence states that no regional urban funds have been identified or are available for this project in 2007 as requested, and as he recalls the discussion from the last Technical Advisory Committee meeting, no specific year was requested, so he would like to know if that would make a difference in his answer. Mr. Benning responded that the City is under contract with KLJ, with a 2006 bid opening, which could only apply to a 2007 construction period. Potter asked what would happen if the City advanced funded the project. Benning responded that they could advance fund it, that you have an advanced fund for your Urban Roads Funds, but they don't see there really being a need for it, even in the future, so if you advance fund it, they would reimburse for the next three years. Haugen asked, again, then if the letter would change if the request were for 2008, 2009, or 2010 funds. Benning responded it would not.

Haugen referred to the second reason given in the letter, where it talks about the level of service from the MPO's Long Range Transportation Plan. Benning commented that in the Long Range Transportation Plan you indicate that DeMers Avenue currently operates at an acceptable level of service. Haugen agreed that it operated at a Level of Service C in 2000, but their forecasts for 2025 indicate that it will operate at an unacceptable level of service, which is why they implemented several options, one being the grade separation, and the other an overpass on 17<sup>th</sup>, and once they would be done, then, yes, it would still operate at an acceptable level of service. He asked if Mr. Benning was suggesting that even if these other projects are not completed it

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would still operate at an acceptable level of service, or is that still an open question. Benning asked what it was that Mr. Haugen was asking. Haugen responded that when the MPO's Long Range Plan states that DeMers will operate at an acceptable level of service, that is considering the completion of the underpass and the 17<sup>th</sup> Avenue overpass, as well as a couple of other projects, and their impact on that crossing. Benning commented that when the State did the 42<sup>nd</sup> Project a couple of years ago, on which they used federal monies, they had a 20-year projection, to the Year 2019, and they would not have used federal funds if they wouldn't have been able to maintain a Level of Service C once it was constructed to the three-lane roadway it currently is. Haugen stated that he doesn't know if the level of service is acceptable, unless these projects are completed, therefore he still feels the second reason is debatable.

Potter stated that the letter is what it is.

Haugen said, getting back to the four-step process, what action, if any, is being asked for as a result of the first two steps having taken place. Benning responded that the third and fourth options involved what would be done if the answer were yes, or if the answer were no, and the answer is no. He said that because the response is no, they are asking that Option 5-a be removed from the City' project submittal list. Haugen asked if this action was necessary today, or is it something that could take place at the February meeting. Benning responded that February would be fine.

Brooks asked if there was a chance that the City might want to include this project in the Illustrative Project list. Voigt responded that she doesn't know what the point would be if there isn't any Regional funds available, they have their answer already. Brooks said he asked in the event the City might want to try for an earmark. Potter asked if Ms. Voigt had talked to Mr. Grasser about this letter, and if she knew if he even had the time to review it as he knows that he was in Bismarck. Voigt responded that she has not talked to Mr. Grasser about the letter.

***Moved by Potter, seconded by Brooks, to table this item to the February 10<sup>th</sup>, 2005, Technical Advisory Committee meeting. Motion carried unanimously.***

Benning asked if Minnesota was going to do a T.I.P. or a S.T.I.P. this go-around. Haugen responded that the last item in the packet is a letter concerning this very issue. He explained that Minnesota is not going to go through a 2005-2007 S.T.I.P. process, but they will do a 2006-2008 S.T.I.P. He added that the letter indicates that their 2005-2007 T.I.P. is essentially good, and adopted at the State level, and in our particular MPO area, there is no need to do amendments for the differences between a 2004-2006 and a 2005-2007, however other MPO's throughout the State will need to do so. Haugen pointed out that in our MPO area, officially, we have an adopted T.I.P., by both States, but only by the feds for North Dakota for 2005-2007. He added that they still have a 2004-2006 T.I.P./S.T.I.P. on the Minnesota side that is in effect, and if they any amendments that need to be done, that would be the document they would be amending until August, at which time a new 2006-2008 T.I.P.

Information only.

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**MATTER OF RFP FOR 42<sup>ND</sup> STREET TRAFFIC MANAGEMENT PLAN**

Haugen referred to the staff report, and the draft RFP, which were included in the packet. He explained that this was identified, in the MPO's Annual Work Program, to be completed by 2005, and, as the staff report points out, ATAC was originally supposed to assist us with this, however, they have since looked at their work load and determined that they would not be able to do so, therefore we need to through the consultant process.

Haugen explained that this project involves looking at two different timetables, one is during the interim construction of the Hotel/Entertainment complex on 42<sup>nd</sup> Street, which proposes to heavily impact the north parking lot; and the second is after construction has been completed, to develop a management plan for 42<sup>nd</sup> Street.

Benning referred to page 6 of the document, Item E, basis of award, and commented that with the RFP you are requesting a consultant to come in and tell you how they are going to do the work, at which time you discuss the budgeted amount, and he isn't sure if you can judge them 20% on the last selection criteria item, cost of services to be performed. He added that he hopes that we aren't doing that, because you may have one consultant come in and throw a price of \$100,000, an another with \$101,000, and he can't believe you would score 20% of the project based on one consultant versus the other over \$1,000. He said that he would recommend that that item be removed. Haugen responded that this is something that was discussed several years ago to get included in the RFP's, and it has been used for the last three or four years. He added that this follows the State of Minnesota's selection process, and, from his perspective it has worked well, lowering our costs considerably, and he doesn't think we have gotten less quality work because of it.

Haugen reported that they do qualifications selection prior to opening up the cost bid, and if you would read through the information, you will see that they don't open the cost estimates until the very last item, after the committee has ranked all of the other criteria, so he hopes that insulates it from being the only criteria for selection. Magnuson commented that this is pro-rated, so, on a scale of one-to-ten, if someone came in at \$1,000 under, one wouldn't get a ten and the other a five, but instead one would get a nine and one would get a ten.

Benning asked if the consultants were being asked for the wages, or are they being asked for a lump sum cost. Haugen responded that they typically give a breakdown of the costs by task, such as travel expenses, etc.. Benning asked if this follows the Brooks Act. Haugen responded that this was discussed several years ago, and it was determined that it does follow the Brooks Act since this is a planning activity, which is exempt. Benning stated that in the Brooks Act, whether it is a planning or engineering activity is immaterial. He said that he thinks if you follow the Brooks Act, you can't ask for a breakdown in cost. Haugen suggested that Mr. Benning could look in the Federal Register and find that it specifically exempts planning activities from the Brooks Act. He added, again, that this was all discussed some time ago. He asked if Mr. Benning recalled this discussion. Benning responded that they discussed a lot of things over the past few years, and off the top of his head he does not recall this discussion. He

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added that this question has come up before with the other MPO's, which is why it caught his eye at this time.

Haugen reported that the State of Minnesota, for all of their RFP's, do use this process, including for engineering. He added that there is something in the Brooks Act that states that if State Law allows this, and Minnesota Law does, so they use it. Benning stated that he thinks that this hits the nail on the head, Minnesota Law allows this, and North Dakota's Law may be a little different. Haugen commented that he was actually referring to Minnesota's engineering consultants, not their planning consultants, which both States allow.

*Moved by Potter, seconded by Brooks, to approve the Request for Proposals for the 42<sup>nd</sup> Street Traffic Management Plan Update as submitted. Motion carried unanimously.*

**MATTER OF RFP FOR GRAND FORKS EXTRATERRITORIAL LAND USE PLAN**

Magnuson referred to the staff report, and went over it briefly. He pointed out that the MPO included updating the Grand Forks Land Use Plan in their 2005 Annual Work Program. He explained that the first step is to determine where the future growth areas for the City should be located, and also to designate a land use category to them. He stated that the RFP incorporates the 32<sup>nd</sup> Avenue Corridor Study, as they are looking at the important corridors throughout the area.

Magnuson went on to explain that the MPO has worked with the Grand Forks Land Use Subcommittee in the development of this RFP. He pointed out that Appendix C includes a map that illustrates the future landuses, which will serve as a guide for the consultant. He referred to the map, and went over it briefly.

Magnuson commented that a complete timeframe for the entire study is included in the RFP, and that a five member committee consisting of two City staff, to Land Use Subcommittee members, and one MPO member will forward their recommendation on which proposal they feel is the better one to the MPO Executive Policy Board for final approval.

Magnuson reported that the Grand Forks Land Use Subcommittee recommended approval of this RFP at their January 4<sup>th</sup>, 2005, meeting.

*Moved by Brooks, seconded by Potter, to approve the Request for Proposal (RFP) document, for the Solicitation of the 2035 Grand Forks Extraterritorial Land Use Plan Study, as submitted. Motion carried unanimously.*

**OTHER BUSINESS**

None.

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**ADJOURNMENT**

*Moved by Brooks, seconded by Foster, to adjourn the January 12, 2005, meeting of the Technical Advisory Committee. Motion carried unanimously.*

Respectfully submitted by,

Peggy McNelis  
Executive Assistant