

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1525

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1525

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1525

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
2		x	15.2 to 41.1
Committee Clerk Signature <i>Lauren B. Fink</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1525, a bill for an Act to amend and reenact sections 40-62-01 and subsection 1 of section 40-62-05 of the North Dakota Century Code, relating to city pedestrian mall improvements.

Rep. Donald Clark representing District 44 and prime sponsor of the bill explained the need and background for the proposed legislation. The bill was sponsored on behalf of the City of Fargo. It is intended to put into the Century Code a definition of a pedestrian mall. The city of Fargo has invested heavily in Broadway to make Broadway a more beautiful and pedestrian friendly place. Amenities have been added -- such as benches, lighting, special pavement services, angular parking, bus shelters, -- as well as infrastructures underground-- all have been rebuilt -- now that the money has been spent this build will allow for a combined maintenance district. So that maintenance can be paid for with a special assessment. Without this bill no maintenance district. The Century Code defines skyways fairly well but does not say much about pedestrian malls.

This bill will expand the definition of a pedestrian mall to include downtown streets that have a high level of pedestrian traffic.

Rep. N. Johnson (17.0) Who would be a maintenance district -- what groups or groups of people, businesses --?

Rep. Clark That would be the businesses and area directly effected by the improvement of Broadway. Similar to a special assessment district for improving a roads or anything else.

Rep. Kretschmar (17.4) Why just limited to the "central business district" of a city -- why not any city street? I would think the city fathers would want to be able to decide where they would want to use this -- I could envision a street out by NDSU may some day would be a pedestrian mall -- also how do you decide a central business district .

Rep. Clark -- that is a good thought but in Fargo's case we were were concerned about the downtown pedestrian mall.

Rep. Koppelman (18.3) Why can't any city do this now?

Rep. Clark -- Fargo felt they needed this legislation to further define the definition of a pedestrian mall that would allow them to create a special assessment district.

Rep. Scott Kelsh representing District 11 spoke in support the ability for the cities to create areas of interest --- where people congregate in large numbers in an outdoor areas -- within the city limits. Some of you may view this as a Fargo bill but I see as something any city may do in North Dakota.

Rep. Koppelman (20.2) we know the Nicolett Mall in Minnespolis -- did they do anything like this?

Rep. Kelsh - as far I know the City of Minneapolis did create as special zoning district for the Nicolett Mall.

Rep. Devlin, Chairman -- a special assessment district is going to be result of this -- are the businesses in the area going to be able to vote -- is it the majority of the properties that will vote -- how would that work?

Rep. Kelsh -- my assumption is that -- I will defer that to Dave Anderson -- President of the Fargo Downtown Community Partnership to answer that.

David Anderson -- representing the Downtown Community Partnership spoke in support of the bill. A copy of his prepared remarks is attached. Also a copy of 40-62-06 is attached.

Rep. Zaiser (27.5) as you describe this would this fit in any small town in North Dakota because it talks about main street improvements that don't fit into a renaissance zone?

David Anderson -- This is a very participatory process -- you need to determine your cost, set budgets and determine what you need to accomplish the project but in our project it was not known or we didn't anticipate the maintenance costs that would be involved in watering flower baskets, the extra snow removal for the special paving and the list goes on ---

Rep. Zaiser (29.5) if we were not to pass this you would have all those facilities and not be able to pay to take care of them?

David Anderson -- at this point that is really the catch 22.

Rep. N. Johnson (29.9) I has asked earlier about the maintenance district -- who and how do you set up a maintenance district?

David Anderson -- we take the properties that face right on the mall and the amenities that are there that are directly related to the business -- are included for the property are included in the district.

Rep. Koppelman (30.6) -- line 21 page 2 -- a skyway be open or enclosed -- is stricken -- why is that ?

David Anderson -- I can't answer that -- this came down from the Legislative Council.

Rep. Ekstrom -- I have pulled the Century Code -- do you know specifically what the City Attorney was looking at.

David Anderson -- 40-62-06 versus 40-62-03 has to do with the limitations due to the definitions of pedestrian mall. I really didn't use the City Attorney in the drafting -- I deferred to the League of cities in that process.

Robert Stein - Senior Planner for the City of Fargo appeared in support of the bill. A copy of his prepared remarks is attached.

Jerry Hjelmstad -- representing the North Dakota League of Cities rose to state that the League of Cities supports the bill. We agree with Rep. Kretschmar's observation that perhaps this should be expanded to include any city street or any street in a city.

There being no opposition and no further testimony for nor against the bill **Rep.Devlin**,

Chairman closed the hearing. (41.1).


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1525 b

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		9.3 to 12.9
Committee Clerk Signature 			

Minutes: In work session **Rep. Devlin, Chairman** opened the discussion for action on HB 1525.

Rep. Koppelman (9.4) on line 17 striking the words "central business district of" in case the city would want to have project to enhance a some where else in town. **Rep. Zaiser** and on page 2 line 5 they had suggested striking the word "primarily". **Rep. Zaiser** (after discussion) moved to strike " central business district " one line 17 and leave 'within a city' and on the second page - line 5 -- take out 'used primarily for'. **Rep. Koppelman** seconded the motion.

The motion carried on a voice vote. **Rep. Ekstrom** moved a 'Do Pass as amended' motion for HB 1525. **Rep. Koppelman** seconded the motion. On a roll call vote the motion carried 11 ayes 0 nays and 1 absent. **Rep. Ekstrom** was designated to carry HB 1525 on the floor. End of record (12.8).

March 11, 2005

House Amendments to HB 1525 - Political Subdivisions Committee 03/11/2005

Page 1, line 17, remove "the central business district of"

House Amendments to HB 1525 - Political Subdivisions Committee 03/11/2005

Page 2, line 5, overstrike "use primarily for"

Renumber accordingly

Date: March 11, 2005
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1525

House POLITICAL SUBDIVISIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Zaiser Moved Amend Koppelman

Action Taken DO Pass as Amended (cannot raise vote)

Motion Made By Rep Ekstrom Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				
Rep. Wrangham	A				

Total (Yes) 11 No 0

Absent 1

Floor Assignment Rep. Ekstrom

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 14, 2005 8:38 a.m.

Module No: HR-46-4807
Carrier: Ekstrom
Insert LC: 50841.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1525: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1525 was placed on the Sixth order on the calendar.

Page 1, line 17, remove "the central business district of"

Page 2, line 5, overstrike "use primarily for"

Renumber accordingly

2005 SENATE POLITICAL SUBDIVISIONS

HB 1525

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1525

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 24, 2005

Tape Number	Side A	Side B	Meter #
1	X		1870 - 5705
2	X		1240 - 2710
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Chairman Cook called the Senate Political Subdivisions to order. All members (6) present.

Chairman Cook opened the hearing on HB 1525 relating to city pedestrian mall improvements.

Senator Tim Flakoll, District 44, Fargo ND introduced HB 1525. (See attachment # 1)

Representative Dietrich, District 42, Grand Forks, ND, testified in support of HB 1525. I signed on to this bill with my friends in Fargo and also believing that this could effect the cities of Grand Forks, Minot, Bismarck, Jamestown and Dickinson or anyone who is going to work with a pedestrian mall.

Dave Anderson, President/CEO - Downtown Community Partnership, Fargo ND testified in Support of HB 1525 (See attachment #2)

Chairman Cook: Is all the land or soil owned by the city?

Dave Anderson: Yes that is true. The area is public property.

Senator Dever: In the absence of this bill, how would these things be financed?

Dave Anderson: What we have done in the past with the former definition, is have a maintenance district in place that the businesses cooperatively participated in. Without this bill our city commission can no longer provide us with that tool . It would be a fund raising effort where we go to the businesses and ask them to participate at what ever level they could. We believe that this is really the fair way because we can spread it by a formula across all of the property owners and businesses by their decision. This is different from the special assessment process as we work with property owners. We go out ahead of time to develop the budget and to share with them what this maintenance area actually does cost to provide. We go to the commission after those conversations have taken place.

Chairman Cook: Can anyone that once to, opt out of that special assessment district? Are there any restrictions on keeping the special assessment district only to those who have property that is affected by the mall.

Dave Anderson: What our city commission has done in the past is to include those property owners. The ability to opt out of this maintenance district would be the same as one would have to go through to opt out of any special assessment district is my understanding. The special assessment is directly to the properties that are affected. We go to those properties each year with those assessments.

Chairman Cook: Are you bonding the cost of this as you do other special assessment districts and putting the fees on there that the City of Fargo would put on a special assessment district?

Dave Anderson: No, this is direct from the beneficiary into the program and right back out into the services. There is no fee. This cost is put on the person's property tax bill and they pay it in full every year.

Senator Gary Lee: Who sets up this special assessment district if Fargo does not apply a fee.

Dave Anderson: We do that for the property owners. We as the Downtown Business Organization, representing those property owners, develop the budget and administer that. It is very much a partnership relationship that we have between our organization and the City of Fargo and it has worked pretty well.

Senator Hacker: Looking through the multi sections on these malls, I don't understand what is stopping you from doing what you want to do already. What was the need for the other sections in the bill? Why wasn't the bill just Section 3?

Dave Anderson: I was surprised as you are when I was examining the language. Our city attorney gave the interpretation that there was very specific language about traffic only being able to cross rather than circulate within the mall that made our street no longer qualify within the definition, which took it out of its eligibility for these benefits. The bill wasn't just section three because specific definition need to be provided so there would no longer be questions of whether vehicles could be allowed or not.

Jerry Hjelmstad, North Dakota League of Cities. Our support of HB 1525 is based on the fact that it does provide a little more flexibility to the city in establishing their pedestrian malls. The other change in Section 2, Line 16 was that the pedestrian mall had to narrow that street, the change was made to alter that street because some times there is a need to widen that street.

Representative Scott Kelsh, District 11, Fargo, ND testified in support of HB 1525. This bill can be used for any city in North Dakota. We are trying to develop our Fargo downtown areas.

Senator Triplett: Do you think it would be appropriate to remove that reference to central business district in the first line?

Dave Anderson: I was disappointed to see it still in there because the House of Representatives indicated that they would like it removed. I would have to agree that it should come out.

Representative Donald Clark, District 44, Northern Fargo, ND sponsored HB 1525. It is really a simple bill. The bill just enhances the definition of a pedestrian mall, particularly one that allows vehicular traffic. I think the original language was a little vague, at least vague enough for the city attorney to question the language in the original century code.

Bob Stein, Senior Planner for the City of Fargo spoke in support of HB 1525. (See attachment #3)

Senator Triplett: Would you be in agreement that it would be appropriate to remove the reference to central business district in the first section?

Bob Stein: I would not be opposed to that at all. I think it would open up other opportunities on down the road.

Bill Wocken, City Administrator for the City of Bismarck, testified in support of HB 1525. The City of Bismarck presently has a pedestrian mall that does allow vehicular traffic so this bill is not absolutely essential for us at the present time, however, looking into the future and further development of the mall and hopefully the renaissance of our downtown area similar to what Fargo is presently enjoying I think that this bill may have some very good applications. As I look at the definition of pedestrian mall, I think that is a refinement of the definition that is in keeping with the present world as what is happening in downtown areas and what is happening with malls. The City of Bismarck would like to see a Do Pass recommendation.

No further testimony for or opposed to HB 1525.

Chairman Cook closed the hearing on HB 1525.

Afternoon: March 24, 2005

Chairman Cook called the committee to order for discussion on HB 1525. All members present.

Chairman Cook : We have amendments.

Senator Triplett moved the amendments.

Senator Dever seconded the motion

Senator Triplett: some one just pointed out to me the central business district is also on Page 2 line 11 and line 22

Senator Triplett I amend my amendment to also include Page 2 Line 11 remove "the central business district" and on Line 22 "the central business district and"

Senator Dever seconded the motion to amend the amendments.

Senator Hacker: What defines central business district? Can the city only have one or can they have multiple districts? This might be a question for Jerry Hjelmstad, League of Cities.

Jerry Hjelmstad: I do have the chapter on 40-62 on pedestrian mall improvements and I don't see any definition for central business district in there It is just a commonly known area with in the city as to where their central business area is.

Senator Hacker: I intend to vote no on these amendments for two reasons, there is no definition of central business district, so there could be more than one and declassifying what these malls can be you could have the center of a block on its own in an area which isn't real populated with shops, designated as a pedestrian mall. Maybe a small block, three shops on one side and two on the other side and four out of those five business could say we want to create a pedestrian mall so we can impose an assessment because the other business doesn't keep his place up so well.

Chairman Cook: The concern Senator Hacker raises is are we creating any opportunity that would be mischievous or abusive of special business districts to happen.

Chairman Cook: I talked with Connie Sprynczynatyk and the conversation I had was maybe we could find another way of amending this bill if we were going to take central business district out

that would reduce the opportunity for mischievous or abuse of the special assessment districts from happening. We talked about having some language that changed the size and language that gave more rights to an individual to opt out. I believe she is exploring possible amendments that would solve this concern. Maybe we should wait and see what her results are.

Senator Triplett with drew her motion to amend HB 1525.

Senator Dever withdrew his motion to second the motion.

Senator Fairfield: In the definition of central business district, I am struggling a little. To me the central business district is the core, the central or important part of the city. What would happen if it were just business district and not central business district.

Senator Hacker: Maybe predominant business districts or something along those lines.

Dave Anderson: The essence of the top of page two of the bill really describes what it is that we are going after in a pedestrian mall. Everything you see here is within the public realm of that area and not on the private property. It has to be an over all public project.

Senator Triplett: Maybe we just need to leave central business district in the bill. I think most cities are going to identify by city ordinance what they mean by central business district. I think what they mean is the old part of town without regard to where it is located.

Chairman Cook ask the committee to think about it and hold the bill until tomorrow. The discussion was closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1525

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	X		0 - 302
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Chairman Cook called the Political Subdivisions Committee to order. All members (6) were present.

Chairman Cook asked the committee to go to HB 1525 for discussion and action.

Senator Triplett moved a Do Pass.

Senator Hacker seconded the motion.

Discussion:

Roll call vote: Yes 6 No 0 Absent 0

Carrier: **Senator Hacker**

Date: 3-25-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1525

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Triplett Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Hacker

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 25, 2005 10:29 a.m.

Module No: SR-55-6188
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1525, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1525 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1525

Thursday, March 10, 2005

Testimony by Dave Anderson, President/CEO – Downtown Community Partnership, Fargo, ND

Supporting HB 1525 – Defining a Pedestrian Mall under provisions of North Dakota's Century Code.

Mr. Chairman and Members of the Committee,

My name is Dave Anderson. I serve as the president of the Downtown Community Partnership in Fargo. We are a chamber of commerce-type organization, representing the interests of businesses, patrons and residents of our downtown. We also work as a contractor on behalf of downtown property and business owners to ensure that downtown is attractive, clean and well-cared-for.

That brings me to the discussion of this proposed amendment to the Century Code.

A Bit of History ...

A generation ago, downtowns and Main Streets across the country, and certainly here in North Dakota, were struggling with how to best respond to the new competition called "the mall." Many communities chose to close blocks of their downtowns and create a mall-type environment with lots of pedestrian amenities on former street space. Maintenance districts were frequently formed as a way to share the cost of maintaining the amenities and the pedestrian environment.

North Dakota's Century Code was amended at that time with a new section outlining the design requirements and uses for a pedestrian mall in North Dakota communities. Fargo built such a mall on Broadway in the early part of the 1970's ... seems like yesterday ... Vehicular traffic was limited within the ped mall to just transit vehicles and delivery /service vehicles. Other traffic was allowed to cross the pedestrian mall at intersections with other traffic-bearing streets.

The noted urban planner and author, Jane Jacobs, tried to warn us as early as 1961 that streets without vehicles would mean streets without businesses ... and since people would be where the businesses are, strictly pedestrian "preserves" would be empty. Downtowns learned that these strategies were doomed to fail. Town after town has reopened its streets and let the customers back in with their cars. It seems that the shortest distance between two points is definitely even shorter if you can park in front of the store.

Lessons Learned

Downtowns have learned through the course of that experience that excluding traffic from downtown malls doesn't work ... but downtown streets designed to allow movement of cars and parking AND that have a lot of pedestrian amenities will generate energy and excitement in downtown. The pedestrian mall as described thirty-plus years ago in the

Century Code is actually quite good ... except that today it continues to proscribe very limited vehicular traffic in the mall and thus excludes the important element of a vibrant downtown that we learned through experience and which I just described ... traffic.

Applying What We Have Learned

We have recently designed and built a new Broadway Streetscape in downtown, calling for a very pedestrian-friendly environment, which is reinforced by the straightening of Broadway's traffic lanes ... one each direction ... and the addition of angle parking on each side of the street. The angle parking creates a visual and psychological barrier between the pedestrians and the moving car traffic. Pedestrian crossings at each intersection have been shortened with the use of "bump-outs" and enhanced with the addition of planting beds, trees, seating areas, informational signs, bike racks and specialty lighting. The community's history and culture are presented on attractive columns, supplemented with mosaic panels in the sidewalks. Flower baskets and banners hang from the historic light poles. It all makes for a very interesting and vibrant pedestrian environment. Property owners and the City agreed to build this new corridor after two years of cooperative design efforts involving the citizens, city staff and elected officials. An important element of that cooperative effort was the commitment by property owners to care for the improvements through the use of a maintenance district.

What's the Problem?

Unfortunately, our city attorney has concluded that with the recent completion of these improvements, Broadway no longer functions as a pedestrian mall as suggested by the code because traffic is allowed. That determination has thus eliminated the possibility of providing the required care of these improvements through the use of a "maintenance district" which fairly and evenly distributes the costs of care and maintenance among the properties along the corridor.

What's the Solution?

The bill before you adds language to the Century Code that will clearly define a Pedestrian Mall ... something the current Code doesn't do. It also calls on the local governing body to determine what vehicular traffic will be allowed within a pedestrian mall. With these proposed additions to the Century Code in place, property owners will be able to establish a district to share the costs of caring for the improvements they've just completed.

I ask your support for the bill.

Thank you.

40-62-06. Maintenance and improvement. A pedestrian mall or skyway established pursuant to this chapter may be maintained and the cost of such maintenance may be paid by all means permitted by law for streets. The governing body may also annually cause an estimate to be made of the probable cost of the maintenance during the current fiscal year, in excess of the cost of maintenance of streets of similar length, width, and location not used as a mall, and may assess the excess cost of maintenance on properties within the improvement district; provided, that the assessments may not exceed the special benefits determined to be received by the properties from the maintenance. The assessment list approved by the governing body must be filed in the office of the city auditor, who must mail to the street address of each lot and parcel proposed to be assessed, and to any other address as may be requested in writing by the owner or occupant of a lot or parcel, a notice stating the amount proposed to be assessed upon the lot or parcel, and that any objection thereto may be made in writing filed with the city auditor on or before a specified date, not less than twenty days

after the mailing, on which date, at a time and place specified in the notice, the governing body will consider all objections. At this meeting, or any adjournment thereof, the governing body shall review all assessments and hear all persons desiring to be heard, and may amend the assessments in such manner as it determines to be just and reasonable, and may confirm the same and direct the assessment list to be filed with the county auditor, and the assessments made therein to be extended upon the tax lists of the city for the current year and collected with interest and penalties as general taxes are collected and paid over to the city auditor and placed by the auditor in a special fund to be used only for the purpose of current, reasonable and necessary expenses of the operation and maintenance of the mall or skyway.

Source: S.L. 1967, ch. 343, § 6; 1987, ch. 505, § 6.

40-62-07. Additional improvements and extensions. An established pedestrian mall or skyway may be subsequently improved or extended by proceedings taken in the same manner as for its establishment, and the improvements or extensions may thereafter be regulated and maintained as provided above.

Source: S.L. 1967, ch. 343, § 7; 1987, ch. 505, § 7.

**Testimony for the North Dakota House of Representatives
Political Subdivisions Committee
10 March 2005**

Thank you for the opportunity to express support for House Bill 1525

Existing legislation provides for the establishment of pedestrian malls; however the term "pedestrian mall" was not defined in that legislation. The lack of a definition has created confusion regarding the ability to use a special assessment district to fund maintenance in a pedestrian mall. The proposed legislation (HB 1525) would clarify the issue and further support pedestrian-friendly development in areas targeted by local governments.

Many traditional pedestrian malls do not allow automobiles to routinely travel within a defined mall area; however, this is not to say that automobile traffic is prohibited from all pedestrian malls either. The presence or absence of automobile traffic is not the determining factor in establishing a pedestrian mall. The intentional design of the street, sidewalk, intersections, and other pedestrian amenities; and the extent to which that design promotes and facilitates pedestrian activity is critical in making the designation.

The ability to construct and maintain pedestrian-friendly streets and sidewalks is severely hampered if the improvements can not be cared for in a consistent and responsible manner. And it is a simple fact that enhanced pedestrian facilities need a higher level of care in order to meet the needs and expectations of the public. They also return benefits to the community in terms of promoting a healthy life style; promoting the development

of diverse housing options in an urban environment; increasing property values due to redevelopment; and increasing the level of safety by placing more "eyes on the street".

Downtown Fargo has experienced success in stimulating Downtown redevelopment. We need to care for the public and private investment that has been made and House Bill 1525 greatly helps us to achieve that goal.

Thank you for the opportunity to express my support of this bill.

Robert C. Stein, Senior Planner

City of Fargo

HB 1525

Chairman Cook, Members of the Committee.

For the record I am Tim Flakoll, Senator for District 44. This District is an Urban district on the North side of Fargo.

I am bringing you HB 1525 on behalf of the City of Fargo. This bill is intended to put into the Century Code a definition of a pedestrian mall. The City of Fargo has invested heavily in Broadway. A lot of money has been spent to make Broadway a beautiful and pedestrian friendly place. Amenities have been added such as benches, lighting, special pavement surfaces, angular parking, bus shelters, as well as the infrastructures underground. All has been rebuilt.

Now that the money has been spent this bill will allow for the creation of a combined maintenance district so that maintenance can be paid for with a special assessment. Without this bill no maintenance district. The Century Code defines Skyways fairly well but does not say much about Pedestrian Malls. This bill will expand the definition of a pedestrian mall to include downtown, or city streets that have a high level of pedestrian traffic, and also allow some vehicular traffic.

Mr. Chairman that concluded my introduction are there any questions?

Thank you Mr. Chairman and Members of the Committee.

Tim Flakoll

Thursday, March 24, 2005

Testimony by Dave Anderson, President/CEO - Downtown Community Partnership, Fargo, ND

Supporting HB 1525 - Defining a Pedestrian Mall under provisions of North Dakota's Century Code.

Mr. Chairman and Members of the Committee,

My name is Dave Anderson. I serve as the president of the Downtown Community Partnership in Fargo. We are a chamber of commerce-type organization, representing the interests of businesses, patrons and residents of our downtown. We also work as a contractor on behalf of downtown property and business owners to ensure that downtown is attractive, clean and well-cared-for.

That brings me to the discussion of this proposed amendment to the Century Code.

A Bit of History ...

A generation ago, downtowns and Main Streets across the country, and certainly here in North Dakota, were struggling with how to best respond to the new competition called "the mall." Many communities chose to close blocks of their downtowns and create a mall-type environment with lots of pedestrian amenities on former street space. Maintenance districts were frequently formed as a way to share the cost of maintaining the amenities and the pedestrian environment.

North Dakota's Century Code was amended at that time with a new section outlining the design requirements and uses for a pedestrian mall in North Dakota communities. Fargo built such a mall on Broadway in the early part of the 1970's. Vehicular traffic, as directed by the Century Code, was limited within the pedestrian mall to just transit vehicles and delivery /service vehicles. Other traffic was allowed to cross the pedestrian mall at intersections with other traffic-bearing streets.

Downtown soon learned that these strategies were doomed to fail. Town after town has reopened its streets and let the customers back in with their cars. It seems that the shortest distance between two points is definitely even shorter if you can park in front of the store.

Lessons Learned

Downtowns across the country have learned through collective experience that excluding traffic from downtown malls doesn't work ... but downtown streets designed to allow movement of cars and parking AND that have a lot of pedestrian amenities will generate energy and excitement in downtown. The pedestrian mall as described thirty-plus years ago in the Century Code is actually quite good ... except that today it continues to proscribe very limited vehicular traffic in the mall and thus excludes the important

element of a vibrant downtown that we learned through experience and which I just described ... coexisting foot and vehicular traffic.

Applying What We Have Learned

We have recently designed and built a new Broadway Streetscape in downtown, calling for a very pedestrian-friendly environment, which is reinforced by the straightening of Broadway's traffic lanes ... one each direction ... and the addition of angle parking on each side of the street. The angle parking creates a visual and psychological barrier between the pedestrians and the moving car traffic. Pedestrian crossings at each intersection have been shortened with the use of "bump-outs" and enhanced with the addition of planting beds, trees, seating areas, informational signs, bike racks and specialty lighting. The community's history and culture are presented on attractive columns, supplemented with mosaic panels in the sidewalks. Flower baskets and banners hang from the historic light poles. It all makes for a very interesting and vibrant pedestrian environment. Property owners and the City agreed to build this new corridor after two years of cooperative design efforts involving the citizens, city staff and elected officials. An important element of that cooperative effort was the commitment by property owners to care for the improvements through the use of a maintenance district.

What's the Problem?

Unfortunately, our city attorney has concluded that with the recent completion of these improvements, Broadway no longer functions as a pedestrian mall as suggested by the code because traffic is allowed. That determination has thus eliminated the possibility of providing the required care of these improvements through the use of a "maintenance district" which fairly and evenly distributes the costs of care and maintenance among the properties along the corridor.

What's the Solution?

The bill before you adds language to the Century Code that will clearly define a Pedestrian Mall ... something the current Code doesn't do. It also calls on the local governing body to determine what vehicular traffic will be allowed within a pedestrian mall. With these proposed additions to the Century Code in place, property owners will be able to establish a district to share the costs of caring for the improvements they've just completed.

In a broader, statewide sense ... the bill will convert a portion of the Century Code which currently doesn't serve a single North Dakota Community ... into a Main Street revitalization tool that will serve any North Dakota community that chooses to use it.

I respectfully ask your support for the bill.

Thank you.

**Testimony for the North Dakota Senate
Political Subdivisions Committee
24 March 2005**

Thank you for the opportunity to express support for House Bill 1525

Existing legislation provides for the establishment of pedestrian malls; however the term "pedestrian mall" was not defined in that legislation. The lack of a definition has created confusion regarding the ability to use a special assessment district to fund maintenance in a pedestrian mall. The proposed legislation (HB 1525) would clarify the issue and further support pedestrian-friendly development in areas targeted by local governments.

Many traditional pedestrian malls do not allow automobiles to travel within a defined mall area; however this is not to say that automobile traffic is prohibited from all pedestrian malls either. The presence or absence of automobile traffic is not the determining factor in establishing a pedestrian mall. The intentional design of the street, sidewalk, intersections, and other pedestrian amenities; and the extent to which that design promotes and facilitates pedestrian activity is critical in making the designation.

The ability to construct and maintain pedestrian-friendly streets and sidewalks is severely hampered if the improvements can not be cared for in a consistent and responsible manner. It is a simple fact that enhanced pedestrian facilities need a higher level of care in order to meet the needs and expectations of the public. They also return benefits to the community in terms of promoting a healthy life style; promoting the development of

diverse housing options in an urban environment; increasing property values due to redevelopment; and increasing the level of safety by placing more "eyes on the street".

Downtown Fargo has experienced success in stimulating Downtown redevelopment. The Renaissance Zone program was critical in that success; however the sizable investment in public improvements on Broadway was also a key factor in stimulating private investment. Now we need to maintain the public and private investment that has been made. House Bill 1525 greatly helps us to achieve that goal.

Thank you for the opportunity to express my support of this bill.

Robert C. Stein, Senior Planner

City of Fargo

Proposed Amendments to Engrossed HB 1525

March 24, 2005

Page 1, line 11, overstrike "within its"

Page 1, line 12, overstrike "central business district:

Page 1, line 13, overstrike "within its central business"

Page 1, line 14, overstrike "district"

Page 2, line 11, overstrike "the central business district and"

Page 2, line 22, overstrike "the central business district and"

Renumber accordingly