


## TRANSIT & PARKING COMMISSION COVER SHEET

<b>AGENDA ITEM</b> D.1	<b>MEETING DATE</b> 8/9/05
<b>ITEM</b> PPIC TDM PLAN	
<b>ID Number</b> N/A	<b>Council report back due date:</b> N/A
<b>OTHER REFERRALS AND ACTIONS TAKEN TO DATE:</b> (Asterisk indicates lead agency.) – N/A	
<p><b>STAFF DISCUSSION OF ITEM:</b></p> <p>At its 5/10/05 meeting, the TPC referred the approval of Physician's Plus TDM plan to a future meeting. This was to provide for further review of the lease by the City Attorney's office and some other additional information from staff.</p> <p>Attached you will find the opinion of the City Attorney's office.</p> <p>Additional information was also requested of staff, including a review of the plan by the Metropolitan Planning Organization. Rideshare Coordinator, Ward Paxton undertook this review which is attached.</p> <p>Much of the discussion has centered on single occupant vehicle use. Reducing single vehicle occupancy use while important should not be seen as the singular goal of a successful TDM plan—reducing time of day traffic congestion and parking impact are also important considerations.</p> <p>Previously PPIC had reported its 2004 single occupant vehicle use in the 86 percent range. This metric of use was from a single point in time—not an average. It also was based on an assumption by PPIC that non-responders to the survey were assumed to be single occupant vehicle users.</p> <p>Contrary data exists in PPIC's own survey undertaken in January 2005. This survey provides much greater detail as to trip making and considers travel across several days of the week. It also provides a more realistic picture of trip modes than other surveys, e.g., taken by Fiore Co., which reflects their employees trip making in the more pleasant times of the year (spring versus winter).</p> <p>Considering this data, we find the PPIC's single occupant vehicle mode usage has been overstated. The new analyses are provided in Table 1.</p>	
<b>FISCAL IMPLICATIONS:</b>	
<p><b>MATERIALS PRESENTED WITH ITEM:</b></p> <ul style="list-style-type: none"> <li>• City Attorney Opinion</li> <li>• Table 1</li> <li>• RideShare Coordinator Comparison</li> <li>• PPIC Letter</li> </ul>	
<p><b>STAFF RECOMMENDATION/RATIONALE:</b></p> <p>Approval. Staff recommends PPIC continue with their current TDM program. Staff is also pleased to report that PPIC has recently implemented a formal Emergency Ride Home program (See attached memo from PPIC). This new aspect of their program should provide further incentive for employee multi-modal use.</p>	
<b>PREPARED BY:</b> David C. Dryer, City Traffic Engineer	<b>SIGNED:</b> 

CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511

Date: July 20, 2005

**MEMORANDUM**

TO: ✓ David C. Dryer, City Traffic Engineer

FROM: Anne Zellhoefer, Assistant City Attorney *AZ*

RE: **LEASE BETWEEN CITY OF MADISON AND NORTH SQUARE ASSOCIATES, LLP FOR STATE STREET CAPITOL RAMP PARKING STALLS**

JUL 21 2005  
CITY OF MADISON

You asked whether the Transportation and Parking Commission (TPC) can unilaterally terminate the above captioned lease (the Parking Lease) and what role the Common Council would have in the process.

Background. In 1998 the City entered into the Parking Lease with North Square Associates, LLP for the purpose of providing long term parking to a downtown employer. The Parking Lease concerns sixty (60) parking stalls in the State Street Capitol Ramp. The Lessee, North Square Associates, LLP, may make the leased stalls available only to employees of Physicians Plus Insurance Corporation (PPIC), which rents office space from North Square. The Parking Lease has an initial term of ten (10) years which is to be automatically renewed at the end of the initial term for one additional five (5) year term, provided the office lease is still in effect and subject to the City's right to terminate.

Right to Terminate. There are four conditions under which the City may terminate the Parking Lease; only one of those conditions is germane to your question. Section 12 of the Parking Lease provides:

12. Termination.

- A. The Lessor shall have the right, at its sole option, to terminate this Lease and to re-enter and take possession of the Leased Premises after providing Lessee with sixty (60) days written notice under the following conditions:

\* \* \*

- (3) The Lessee defaults under any other substantial term or condition of this Lease.

Lessor's written notice to Lessee shall specify the event giving rise to Lessor's right to terminate. The termination shall not be effective if, within the sixty (60) day period to cure, the event giving rise to the right to terminate is no longer continuing or ceases to exist.

Earlier this year several members of the TPC expressed the desire to terminate the Parking Lease due to PPIC's perceived inability to reduce its employees' single occupancy vehicle trips. The legal question is whether this inability of PPIC to reduce the number of solo parkers constitutes a default of a "substantial term or condition" of the Parking Lease which would justify termination. My opinion is that it is not, because the number of occupants in PPIC parkers' vehicles is not a term or condition of the Parking Lease. The Parking Lease does not limit the stalls' use to vehicles which carry two or more people, nor does it address the issue of solo drivers at all. The Parking Lease requires the lessee to obtain a Transportation Demand Management Plan (TDM Plan) from PPIC and to submit it to and receive approval of it, from the TPC. Section 13 of the Parking Lease reads as follows:

13. Special Conditions.

Lessee shall, upon the request of Lessor, submit to, and receive approval from, the Transit and Parking Commission (TPC) of PPIC's Transportation Demand Management Plan. Lessee shall obtain from PPIC or its corporate affiliates or successors in interest updated, approvable Plans, and shall submit such Plans to the TPC over the term of this Lease at the request of the Lessor. PPIC's initial Transportation Demand Management Plan shall be submitted to the TPC within six months of PPIC's first day of occupancy under the Office Lease. The TPC shall approve such Plan(s) provided it meets or exceeds the customary terms, conditions, and provisions established for such plans for other businesses located in the Central Business District.

The TPC's approval of any PPIC TDM Plan is conditioned solely on whether a Plan's terms compare favorably with other businesses' TDM Plans, and not on whether PPIC's TDM Plan achieves a certain outcome.

Lease Enforcement. The Parking Lease designates the City's Parking Manager, or his designee, as the City's official representative for the enforcement of all Lease provisions, with authority to administer the Lease on behalf of the City. It would, therefore, be appropriate for the Parking Manager to sign any right to cure notices sent on behalf of the City. The Parking Manager may wish to seek the recommendation of the TPC and the approval of the Council before sending right to cure notices involving breaches other than

non-payment of rent. Since the Parking Lease was approved by Council resolution and executed by the Mayor and Clerk, it would be customary and appropriate for the Council to formally act on whether or not to terminate the Lease for cause. The TPC, pursuant to Section 3.51(4)(a), MGO, should make its recommendation to the Council on any lease terminations.

Right to Cure. In any instance when the City desires to terminate the Parking Lease, North Square must be given written notice of such default, and sixty (60) days in which to cure. If the default is cured or ceases to exist before the sixty (60) day right to cure period expires, the Parking Lease stays in effect.

Please call if you have any further questions.

AZ:sob



FROM WARD PAXTON, MPD Rideshare COORD.

### Comparison of PP and Network 222 TDM Programs

The Network 222 program is different in that it is being implemented by the building owner/manager, which doesn't directly employ most of the employees. The large number of very small tenants also makes the TDM program more difficult to implement. The program is strong in terms of the survey work/analysis and planned ongoing educational activities (web site, kiosk, promoting programs) and the fact that a staff person is assigned to manage the program. Ward Paxton is scheduled to do an on-site ride-matching program in July 2005. It is weak in terms of financial incentives (35% have free parking, only 1 tenant has parking cash out program). Perhaps the tenants' use of parking spaces or priority for them could be tied to implementation of financial incentive and other TDM activities (ERH, etc). Another recommendation is to tabulate the survey data in a way to calculate average vehicle occupancy in order to set goals for the program and verify progress in future years.

The PP program includes just about every educational/promotional activity included in the Network 222 plan (flextime policy, employee orientation, info. on-site, bike lockers/showers), PLUS other things (e.g., informal ERH program) AND financial incentives (free bus pass, parking cash out of \$60). Recommendations include: (1) Updating the survey, which doesn't even mention financial incentives (parking cash out, etc.) in the question on incentives; (2) Strengthening the financial incentive by charging something for parking and/or further increasing the cash out so it is closer to the value of the parking (\$100+/mo.); and (3) implementing a formal ERH program allowing employees to use a taxi rather than getting a ride from an employee.

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August 2, 2005

Carl Durocher, Chairperson  
City Transit & Parking Commission  
Madison Municipal Building  
215 Martin Luther King, Jr. Blvd., Suite 100  
PO Box 2986  
Madison, WI 53701

RE: Transportation Demand Management Program

Dear Chairperson Durocher:

At the May meeting of the City Transit and Parking Commission, some Commission members questioned the commitment of Physician Plus Insurance Corporation to its Transportation Demand Management Program (TDMP) and suggested that the parking lease between the City and North Square Associates, LLP (our landlord) for 60 parking stalls located at the State Street Capitol Ramp should be terminated.

Shelly Rufer, who oversees our TDMP, and I will be attending the Commission's meeting on Tuesday, August 9, to address the concerns of the Commission. However, we would like to respond in advance to some of the issues reflected in the minutes of the Commission's May 10 meeting.

As an initial matter, I believe it is important to note the historical context of the parking lease. When Physicians Plus was deciding in the late 1990s where to establish its new offices, the availability of parking for our employees was critical to our decision to remain in downtown Madison and to enter into a long-term lease for our offices at 22 East Mifflin. The City understood that and entered into the long-term parking lease with North Square Associates. The City did, however, require that Physicians Plus make meaningful effort to promote transportation alternatives to single occupancy vehicles (SOV), and a point system was established to measure Physicians Plus' efforts.

Keep in mind, Physicians Plus paid the equivalent of approximately \$90,000 in City of Madison real and personal property taxes in 2004. In addition, Physicians Plus employs approximately 130 individuals who indirectly contribute to the local and business tax base through their lunch hour and after-work patronage of vendors, delicatessens, restaurants, markets and stores in the downtown and surrounding area.

Physicians Plus has always taken its obligation to promote alternate transportation seriously. Moreover, our efforts have been successful. As recently calculated by City

staff, the use of SOV by Physicians Plus employees is 73%. Our 27% non-SOV rate is significantly better than EPA's Best Workplaces for Commuters performance level of at least 14% of employees not driving alone to work.

The long-term parking lease makes employee participation in alternate transportation a voluntary matter, and Physicians Plus actively promotes employee participation. Physicians Plus has routinely implemented virtually all incentives recommended by the Commission and City staff. Our most recent efforts include the adoption of a formal Emergency Ride Home Program and having Ward Paxton from Rideshare again come to our offices (on July 12 and 13) to share information with employees on alternate transportation options for commuters.

Other on-going efforts under our TDMP include the following:

- a. We have an on-site transportation coordinator.
- b. In order to reduce congestion, we support a corporate-wide Flextime Policy that allows employees to choose variable work times in addition to working compressed workweeks. That flextime policy is utilized by 59 employees or 46% of our workforce. As a result of participation in compressed work weeks, we calculate 52 employee days per month that employees are not driving to work.
- c. The company provides free bus passes available on-site to all individuals who elect not to use a parking space. In addition to a free bus pass, bus riding employees receive a taxable cash incentive of \$21.00 per month. Transit maps and schedules are also readily available.
- d. We pay a taxable cash incentive of \$60 per month to those employees who do not use a parking space. These employees may van pool, car pool, bike, or walk to work.
- e. Bike racks are available behind our building for those individuals choosing to bike to work.
- f. We have locker and shower facilities available to all employees.
- g. We have an area set up in a high traffic area of our company to promote alternate transportation that is continuously updated.
- h. Employees who need an emergency ride are able to send out a mass e-mail to all employees requesting assistance. To date, co-workers have been available to meet the needs of all employees needing an emergency ride.
- i. In addition to highlighting incentives of alternate transportation in our recruiting packets, new employees are oriented on their first day of work as to the alternate transportation options.
- j. Our Intranet is set up with links to various alternate transportation sites, including Bike to Work Week and Rideshare.
- k. Periodic reminders regarding alternate transportation are placed in our Company's newsletter.
- l. We target recruiting for some of our positions to UW students who may already be using alternate transportation.

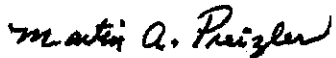


- m. Although we have not set up a formal telecommuting program, a number of our employees are allowed to work from home from time to time to work on critical projects.
- n. We have designated a "Bike to Work Week" coordinator and have participated in the city's "Bike to Work Week" activities on an annual basis since 2000. Incentives include bonus casual days while biking to work.
- o. We encourage employees to walk and have made pedometers available for employees to purchase at a discounted rate.

Considering the current SOV culture, Physicians Plus' success in reducing SOV usage by its employees to 73% is significant and, we think, should be applauded. Furthermore, under the point system that was established for our long-term lease, a minimum of 140 points is required to be eligible for long-term parking lease consideration from the City. Applying the point system, Physicians Plus clearly exceeds that requirement.

Physicians Plus recognizes the value of supporting alternate modes of transportation, and it is our desire to work with the City Transit and Parking Commission on this initiative. However, we feel that some of the comments made at the Commission's May meeting are inaccurate and counterproductive and that threats to terminate the parking lease are inconsistent with the parking lease that was critical to Physicians Plus' decision to move to 22 East Mifflin Street in 1998.

Sincerely,



Martin A. Preizler  
President & CEO

cc:

David Dryer  
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# Emergency Ride Home Program

## Physicians Plus Insurance Corporation Policy

Document Number: 0209-PO-CORP-0020-HR

Revision #: Rev1-4

Accountable Department: Human Resources

Date Last Updated: 08/03/2005

Author: Rufer, Shelly

Status: Approved

### Owner/Author

**Accountable**

Department: Human Resources

**Document**

Owner: Director of Human Resources

Author: Rufer, Shelly

Contributing Authors: Nordenberg, Jon (Boardman Law Firm)  
HR Committee

Typist: Rufer, Shelly

### Policy Description

**Policy:** The Physicians Plus Emergency Ride Home Program provides employees who get to work by alternative modes of transportation (bus, vanpool, carpool, bike or walk) with a reliable ride home in emergency situations. This incentive is designed to encourage employees to get to work using alternative modes of transportation by eliminating concerns over being stranded without a way home from work.

This benefit can be used by regular full-time and part-time employees. The employee must use an alternative mode of transportation to get to work that day. The employee must have a true emergency that prevents him/her from traveling home by that alternative mode of transportation, and transportation with a co-worker is not available or reasonable under the circumstances.

A true emergency includes the following:

- The employee or an immediate family member suffers from an illness or severe crisis that requires the employee to get to a destination as soon as possible or leave work at a time when the employee's alternative mode of transportation is not available or not feasible (e.g. walking or biking to work but being too ill to bike or walk home or needing to pick up a sick child).
- The employee is required to work unscheduled overtime, and because the employee must remain at work his/her alternative mode of transportation is not available or not feasible (e.g. biking to work, but having to work until after dark and not being able to bike home for safety reasons such as a lack of bike lights).
- The employee's ridesharing driver has to stay late or leave early (i.e. the employee's ride is unexpectedly not available)

Employees using this benefit may make reasonable side trips on the way home that are necessary because of the emergency (i.e. picking up a sick child at daycare/school).

Each employee may use the Emergency Ride Home benefit up to twice in any calendar month, but not more than six times in one calendar year. The employee will be

reimbursed for the reasonable cost of transportation from work. Reimbursement cannot exceed \$55 per use. Reimbursement requests without a receipt cannot be honored.

This program cannot be used for:

- Personal errands
- Pre-planned medical or dental appointments
- Business related travel
- In place of an ambulance
- Non-emergency side trips on the way home
- Planned or non-required overtime

Any inappropriate use of this program will be at the Employee's expense, may jeopardize future eligibility for the benefit, and may lead to discipline. If you need to use the Emergency Ride Home benefit, follow the following steps:

- 1) Contact a member of the Human Resource Department to call the taxi and make payment arrangements for you.
- 2) If a member of Human Resources is not available:
  - a. Call Badger Cab at 256-5566 or Madison Taxi at 255-8294 (East) or 257-8294 (West).
  - b. Pay for the services and request a receipt.
  - c. Complete the "Request for ERH Reimbursement" form and submit along with the receipt to Human Resources for reimbursement (gratuity is not reimbursable).

Responsibility: Human Resources

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### Requirements

Consequences: Employee dissatisfaction  
Loss of Parking in the State Street Capitol Ramp

Approvals: HR needs to approve requests for reimbursement for any Emergency Ride Home expenses incurred by the employee.

Relevant Knowledge: Emergency Ride Home Options

Notes: 05/27/05 This policy was developed to formalize an emergency ride home program as the result of an employee survey identifying an emergency ride home program as being very important and at the recommendation of the City Transit & Parking Commission.

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### Authorization History

Sign-off Approvals: **Shelly Rufer**  
Director Human Resources  
shelly.rufer@pplusic.com

**Martin A. Preizler**  
President and CEO  
martin.preizler@pplusic.com

**Sign-Off Approvals**

The author of this policy assures that it is consistent with the organizations philosophy and strategic direction.

Shelly Rufer, Director of HR

Print Name & Title

Shelly Rufer

Signature

8/3/05  
Date

After you have approved this document, please sign and date below.

Shelly Rufer Date 8/3/05  
Shelly Rufer, Director Human Resources

Martin A. Preizler Date 8/3/05  
Martin A. Preizler, President and CEO