



# Agenda

CITY CLERK'S OFFICE

DATE 8/3/16 TIME 11:21a

SERVED BY David Chapman

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**MAYOR'S COMMITTEE ON DISABILITY  
THURSDAY, AUGUST 18, 2016  
10:00 A.M.  
CITY COUNCIL CHAMBERS  
200 LINCOLN AVENUE, SANTA FE, N.M.**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. APPROVAL OF MINUTES: FOR THE JULY 21, 2016 MEETING
5. PUBLIC COMMENTS (15 MIN. TOTAL)
6. NEW BUSINESS
  - a) SERVICE ANIMALS – NAT DEAN
7. OLD BUSINESS
  - a) MCD SUB-COMMITTEE REPORTS
8. INTEGRATED PEST MANAGEMENT UPDATE – MICHAEL WIRTZ & JULIE TAMBOURINE
9. PROW TRANSITION PLAN UPDATE – DAVID A. CHAPMAN
10. NCRTD AND SFT FEASIBILITY STUDY UPDATE – DAVID A. CHAPMAN

ITEMS FROM MEMBERS AND STAFF (3 MINUTES)

11. ADJOURN

NEXT MEETING SEPTEMBER 15, 2016

**PERSONS WITH DISABILITIES IN NEED OF ACCOMMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 955-6520, FIVE (5) WORKING DAYS PRIOR TO MEETING DATE.**

**THIS IS A FRAGRANCE FREE MEETING**

**\*\*Please notify Marcia Bowman, Chair at (505)577-6167 and/or David A. Chapman, ADA Coordinator/Liaison, at (505)955-2012 if you are unable to attend.**

**SUMMARY OF ACTION  
MAYOR'S COMMITTEE ON DISABILITY  
CITY COUNCIL CHAMBERS  
200 LINCOLN AVENUE, SANTA FE, NM  
THURSDAY, AUGUST 18, 2016, 10:00 AM**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b>CALL TO ORDER</b>		<b>1</b>
<b>ROLL CALL</b>	<b>QUORUM</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>APPROVED</b>	<b>1</b>
<b>APPROVAL OF MINUTES JULY 21, 2016</b>	<b>APPROVED</b>	<b>2</b>
<b>PUBLIC COMMENTS</b>	<b>INFORAMTION/DISCUSSION</b>	<b>2</b>
<b><u>NEW BUSINESS</u></b>		
<b>SERVICE ANIMALS</b>	<b>INFORMATION/DISCUSSION</b>	<b>2</b>
<b><u>OLD BUSINESS</u></b>		
<b>MCD SUBCOMMITTEE REPORTS</b>	<b>INFORMATION/DISCUSSION</b>	<b>2-4</b>
<b>INTEGRATED PEST MANAGEMENT UPDATE</b>	<b>INFORMATION/DISCUSSION</b>	<b>4-7</b>
<b>PROW TRANSITION PLAN UPDATE</b>	<b>INFORMATION/DISCUSSION</b>	<b>7</b>
<b>NCRTD AND SFT FEASIBILITY STUDY UPDATE</b>	<b>INFORMATION/DISCUSSION</b>	<b>7</b>
<b>ITEMS FROM MEMBERS AND STAFF</b>	<b>INFORMATION/DISCUSSION</b>	<b>7-8</b>

**NEXT MEETING**

**SEPTEMBER 15, 2016**

**8**

**ADJOURN**

**ADJOURNED**

**8**

**MAYOR'S COMMITTEE ON DISABILITY  
CITY COUNCIL CHAMBERS  
200 LINCOLN AVENUE, SANTA FE, NM  
THURSDAY, AUGUST 18, 2016, 10:00 AM**

**1. CALL TO ORDER**

The meeting of the Mayor's Committee on Disability was called to order by Marcia Bowman, Chair, at 10:00 am, at the City Council Chambers, 200 Lincoln Avenue, Santa Fe, NM.

**2. ROLL CALL**

**MEMBERS PRESENT**

Marcia Bowman, Chair  
Aurore Bleck, Vice Chair  
Dave McQuarie  
Michael Wirtz  
Julie Tambourine  
Coby Livingstone  
Meriam Jawhar  
Nancy Pieters

**MEMBERS ABSENT**

Mary McGinnis, Excused  
Merian Jawhar, Excused

**OTHERS PRESENT**

Robert Francis  
Nat Dean, Disability Concerns Consultant  
David Chapman, Staff Liaison  
Elizabeth Martin, Stenographer

**3. APPROVAL OF AGENDA**

**MOTION** A motion was made by Dave McQuarie, seconded by Nancy Pieters, to approve the agenda as presented.

**VOTE** The motion passed unanimously by voice vote.

**4. APPROVAL OF MINUTES  
JULY 21, 2016**

Ms. Bleck said on page 1 she is Ms, not Mr.; Aurore is misspelled in members present; on the bottom of page 2, it should say on that day they were putting on a roof; on page 3 the word should be effected ; on page 7 under transit, 2<sup>nd</sup> paragraph is should say Ms. Bleck said they are having staffing issues; in the last paragraph is the medical marijuana application is the same and on page 8 it should say the excessive smoke is affecting her health.

Ms. Tambourine asked the stenographer if she would look for and quote what Rob Carter said about deed restrictions at the Railyard in a previous meeting. On page 10 to clarify her dogs were alerting her, they are usually calm; on page 9 near the bottom it should be Deputy Chief and on page 12, Mr. Wirtz said A-1 storage has been pesticide free as well.

**MOTION** A motion was made by Mr. McQuarie, seconded by Ms. Livingstone, to approve the minutes as amended.

**VOTE** The motion passed unanimously by voice vote.

**5. PUBLIC COMMENTS**

Mr. Francis said he is happy to be at the meeting and to be able to participate.

Mr. Chapman gave him information to apply to be a member of the Committee.

**6. NEW BUSINESS**

**A. SERVICE ANIMALS**

Ms. Dean gave a presentation regarding service animals and the ADA. Her presentation is attached herewith to these minutes as Exhibit "1".

**7. OLD BUSINESS**

**A. MCD SUBCOMMITTEE REPORTS**

**TRANSPORTATION**

Ms. Bleck reported that the Transportation Advisory Board did not have quorum in July. The Mayor appointed a new member and reappointed the rest of us.

Chair Bowman said that is encouraging.

Mr. McQuarie said at your next meeting please report that the City did develop plans for shelters at the station and they were reviewed. He sent a letter to Mr. Pino advising him that they had to be done. They cannot be in Phase 2.

### **PLAN REVIEW**

Mr. Chapman passed out a memo regarding the Sheridan project. The memo is attached herewith to these minutes as Exhibit "2".

Mr. McQuarie reported that they had a meeting on the new shelter on 2<sup>nd</sup> street. The first remark he made was he asked Mr. Champan not to sign the plans as accepted because they were incomplete. There was nothing said or shown about the temporary facilities. If it is not done he will have to go to ADA regulations and ask the DOJ for assistance. Overall the plans that were updated for the shelter were inclusive; however, he wishes to bring out that on the first page he brought up eleven items and none of them were specifically included. He got them to change that. They have to resubmit when they get revised issues covered. Since the contractor nor the designer wanted to do anything about that temporary facility the city employees are going to do something. We need to see those plans and get them approved. He has certain questions about accessibility. Overall he gave them a date of October 3<sup>rd</sup> to resubmit.

Mr. McQuarie asked Chair Bowman if she had sent a letter to the Mayor about the status of our Committee.

Chair Bowman said yes she did.

Mr. Chapman handed out her letter which is incorporated herewith in these minutes as Exhibit "3".

Mr. McQuarie said when you do get a response please let us know.

Chair Bowman said there has been no response so far but she will let the Committee know when she received one.

Mr. McQuarie said we will give them thirty days. That is standard business practice.

Ms. Livingstone asked why wouldn't they change things or do something temporary.

Mr. McQuarie said the local designer said they would do that in Phase 2. He told him they had to do it at the same time. Now they know they need a temporary facility.

Unless they close the buses down they need a temporary facility that is ADA accessible.

Ms. Livingstone asked is it costing too much.

Ms. Bleck asked is it specifically not ADA accessible.

Mr. McQuarie said the temporary shelter must be accessible or they must close the service down completely.

Ms. Bleck asked is Alameda not accessible.

Mr. McQuarie said he can't say yet.

Mr. Chapman said David brought up an excellent point. They said we are going to have an alternate place and he asked for the plans. They are developing those now and will provide those. David wanted the overhang taken from the Sheridan place to provide shelter. There was reluctance.

Ms. Livingstone asked what is the reluctance

Mr. Champan said reluctance may have been too strong a word, there is hesitancy. Cost and other things are the reasons. Transit is going to pursue the avenues to get with the Historical Board. That report will be ready by our next meeting.

## **MEDIA**

Ms. Tambourine said next month we will discuss the October event. She asked for assistance in putting together what the Board would like to be said.

Chair Bowman said she is not sure we know at this time. On line you can find the current theme.

Ms. Tambourine said the help needed is getting what to say, she can get it out.

Ms. Pieters said let's put it on the agenda for the next meeting.

## **8. INTEGRATED PEST MANAGEMENT UPDATE**

Mr. Wirtz said last week members from the Coalition for Alternatives to Pesticides met with the Mayor, Mr. Carter, Mr. Thompson, Mr. Lucero and the City Attorney. David and Julie were there as well. One of the things that he mentioned at

the meeting was that we invited Victor to talk to us in April and he presented the Ordinance to us. He mentioned education was a big part of the Ordinance and it was his job to educate the public and people using the City owned properties.

Mr. Wirtz mentioned that the medians were bad and asked what was he going to do about that. Councilor Trujillo wants to gut the Ordinance. In the last few days he has seen people out in the medians mowing and weeding. It is City staff. Victor said he has been and will continue to work with businesses and others who have adopted a median.

Mr. Wirtz said we finally got to the point where all future applications on City owned properties, any kind of application of a pesticide must go through Mr. Lucero, who is IPM Coordinator. Victor is developing a plan for each individual business park, median and others. The Mayor has asked Dr. McCampbell to review the plan and to meet quarterly with the Mayor's staff. That is a plus. Ann McCampbell seemed to feel fairly confident in the Mayor and his backing of the Ordinance. Mr. Wirtz has reservations about the staff. He thinks the Mayor is going one direction but the staff is doing their own thing. The other thing Julie brought up is public access to the records regarding the application of pesticides. The Mayor made it clear that the records are available and he wants to make it as transparent as possible. There was a woman there from Albuquerque from the beekeepers. She presented a proposal to the City of Albuquerque to make Albuquerque a Bee Friendly City. The Mayor said that sounds good, let's see what we can do to be a Bee Friendly City. That made the bee people very happy.

Ms. Tambourine said the Mayor said he wants all documents available. He also said he wants to meet with her and she is going to do that. Thanks to Dave and our Chair for trying to get the documents. The documents are still not available. Not only are the documents requested unavailable but she has heard from concerned people including a doctor that the City is not disclosing documents. Have you, Chair Bowman, received a response to your request.

Chair Bowman said you have what we received that included what Victor told us he applied.

Mr. Champan said it is key for you to meet with the Mayor.

Chair Bowman said one of the City officials told her he would give her the documents. It was discussed that there had been a meeting with Victor and the Railyard folks and the contractor at one of our previous meetings. They will not disclose those documents. She brought up to the Mayor and that the City is required to disclose those. It has been months since then. She has a document that says the Railyard used Roundup but she does not know where they put it.

Chair Bowman said we are trying to get the information. We believe that they



must provide that information.

Ms. Tambourine said on the MS Data Sheet the Roundup we know was put down at the Railyard says it has a half life of 174 days. We are still in that period. We are in the active stage and we don't know where it was put down.

Chair Bowman said she suggests that Ms. Tambourine meet with the Mayor and maybe he can get the information.

Ms. Tambourine said the City is being advised by the City Attorney. Is this why this information is being withheld.

Mr. Wirtz said also at the meeting he reported on before, an individual was there who works for the schools and apparently she is working with Victor and the schools to, over time, reduce and/or eliminate toxic chemicals used in the schools.

Ms. Tambourine said she wanted to specially thank Michael and the work he is doing. At these quarterly meetings that are going to happen now, it would be great if he could list the people from the sign up sheet and also indicate that you are on the Disability Board on the sign in sheet. She has people who are concerned because some people on the Coalition are not sharing the information they have. The Santa Fe Coalition for Alternatives to Pesticides. She is sharing her feedback. They don't feel that the Coalition necessarily represents all their issues. Michael is Chair of that group. If you, Michael, have any information you can give her in hard copy about pesticides applied that would be great. People are scared.

Ms. Tambourine said Michael mentioned at our last Disability Board meeting that the meeting with the Mayor was closed and others said the same thing. People were upset because they want their voice heard. That was resolved at the meeting. The Mayor made it a point to say that the meetings are never closed and the public is welcome and now we are going to have Town Halls. The more public we can get the better chance we have of educating people. She has had concerns from Veterans as well. Her greatest concern is she is hearing a disconnect between us and the City because we are being told we can get information but we are not getting it. It appears there may be a conflict in what Victor said about boric acid being used at the Genoveva Chavez Center and she recalls that a City official said there are other chemicals being used at Genoveva. If these inconsistencies are true we are talking about poisons and peoples health. She was told by an MD that he knows for a fact that pesticides are begin used.

Mr. Chapman said Mike did a great job reporting. The Mayor described the mechanisms of how the City is going to control the licensing of companies doing weed control for the City and the review of such. Robert Rodarte is under instructions to contact Victor when someone is hired to do weed control to get that released. He felt optimistic. The very important part is the Mayor's insistence that he wants this to be

transparent and have a greater communication and outreach to organizations from Victor and we agreed to meet quarterly. Very positive things. It went well.

Ms. Tambourine said the Mayor offered to call Richard at the Railyard for her. She said she wants to work together and he said he was going to call him. She will meet with the Mayor. She is getting documents from Mike before the meeting so that she has concrete things to present.

#### **9. PROW TRANSITION PLAN UPDATE**

Mr. Chapman said the effort is going well. The contractor is approaching 400 sites that they have inspected.

#### **10. NCRTD AND SFT FEASIBILITY STUDY UPDATE**

Mr. Chapman said he sent the press release to everyone. It says the contractor has been selected and it is underway.

#### **11. ITEMS FROM MEMBERS AND STAFF**

Ms. Bleck said as a person who used to depend on public transportation and has a pet, she used to take her pet to the Vet on public transportation and would hate to see that avenue closed off.

Mr. Wirtz said he used the word handicapped at the last meeting and he apologizes.

Ms. Livingstone said she wants to highlight Mary's launch of her book of poems. She will be on the radio, KSFR 101.1. She does a fantastic job on the radio.

Ms. Tambourine said there is good news with the Santa Fe Community College. You can ask if the animal is a service animal or a pet then you can ask what tasks the animal can do. The disabled person does not have to answer the second question. There have been a lot of people who have dropped out of the Community College due to harassment and questions. They continue to have in their guidelines that there has to be a vest. She has had to drop out twice. She is homeless right now. It has interrupted her education. She is working with Disability Services to try one more time and is asking for the vest language to be removed. If not, there are several present and past students that want this litigated. She believes we will see policies change shortly.

Mr. McQuarie said on Monday we are supposed to meet on the plan review. He is interested in what transpired when they dropped the one item and would like to see what the sign looks like. Please contact Michelle Martinez and remind her that he would like to attend the walk through. In the memo, item 2 section E, please strike the

tow away text and add international symbol of accessibility and the Santa Fe Trails phone number.

Mr. Champan said he has Santa Risa Park to put on the agenda for the next meeting and will ask Jason Cluck and Richard Thompson to attend to talk about that. He submitted a request to HR to be put on their orientation agenda so that when new employees are coming on board he can talk about etiquette.

Ms. Tambourine said she finds this committee invaluable.

Chair Bowman said she has with her two students from Duke University, Kirsten McCoy and Sara Regan. She is putting her house on the market on the 29<sup>th</sup> of this month and is anticipating leaving mid January. They will be retiring to Equador or Panama.

Ms. Livingstone asked who will take your place at St. Vincents.

Chair Bowman said she has no idea.

Chair Bowman said Aurore is Vice Chair and can replace her as Chair here.

**12. NEXT MEETING: SEPTEMBER 15, 2016**

**13. ADJOURN**

The meeting adjourned at 12:10 pm.

  
\_\_\_\_\_  
Marcia Bowman, Chair

  
\_\_\_\_\_  
Elizabeth Martin, Stenographer



## Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication *ADA Revised Requirements: Service Animals*.

### DEFINITION OF SERVICE ANIMAL

**Q1. What is a service animal?**

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

**Q2. What does "do work or perform tasks" mean?**

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

**Q3. Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?**

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

**Q4. If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?**

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

**Q5. Does the ADA require service animals to be professionally trained?**

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

**Q6. Are service animals-in-training considered service animals under the ADA?**

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

### GENERAL RULES

**Q7. What questions can a covered entity's employees ask to determine if a dog is a service animal?**

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

**Q8. Do service animals have to wear a vest or patch or special harness identifying them as service animals?**

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

**Q9. Who is responsible for the care and supervision of a service animal?**

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

**Q10:** Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

**Q11:** Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

**Q12:** Can hotels charge a cleaning fee for guests who have service animals?

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

**Q13:** Can people bring more than one service animal into a public place?

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

**Q14:** Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

**Q15:** What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog's care before taking such steps.

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**Q16:** Must a service animal be allowed to ride in an ambulance with its handler?

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

## CERTIFICATION AND REGISTRATION

**Q17:** Does the ADA require that service animals be certified as service animals?

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

**Q18:** My city requires all dogs to be vaccinated. Does this apply to my service animal?

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

**Q19:** My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A: Yes. Service animals are subject to local dog licensing and registration requirements.

**Q20:** My city requires me to register my dog as a service animal. Is this legal under the ADA?

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

**Q21:** My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

4

EXAMPLE

## BREEDS

**Q223** Can service animals be any breed of dog?

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

**Q238** Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

**Q241** If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

## EXCLUSION OF SERVICE ANIMALS

**Q251** When can service animals be excluded?

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

**Q261** When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

**Q271** What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

**Q281** What can my staff do when a service animal is being disruptive?

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

**Q291** Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A: No, the dog must be under the handler's control at all times.

**Q301** What happens if a person thinks a covered entity's staff has discriminated against him or her?

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

## MISCELLANEOUS

**Q311** Are stores required to allow service animals to be placed in a shopping cart?

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

**Q32]Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?**

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

**Q33]Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?**

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

**Q34]Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?**

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

**Q35]Do apartments, mobile home parks, and other residential properties have to comply with the ADA?**

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

**Q36]Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?**

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

**Q37]Do commercial airlines have to comply with the ADA?**

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

For more information about the ADA, please visit our website or call our toll-free number.

**ADA Website**

[www.ADA.gov](http://www.ADA.gov)

To receive e-mail notifications when new ADA information is available, visit the ADA Website's home page and click the link near the bottom of the right-hand column.

**ADA Information Line**

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time)  
to speak with an ADA Specialist. Calls are confidential.

For people with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged.

July 20, 2015

# MEMO

DATE: August 15, 2016  
TO: Governing Body  
FROM: Dave McQuarie, MCD Plan Review Sub-Committee Chair  
RE: Downtown Transit Center – Sheridan, CIP Project # 669, 99% construction documents

As per Resolution 2006-151, the above referenced project was reviewed by myself, Chair of the MCD Plan Review Sub-Committee, Nancy Pieters, MCD Plan Review Sub-Committee member, Mary MacDonald, Project Manager, Tyler Ashton, P.E., Civil Engineer with Wilson & Company, Faith Okuma, Principal, AICP, LEED AP, RLA with Surroundings, David Pfeifer, Facilities Division Director, Thomas Martinez, Transit Director, Robert Montoya, Project Administrator, Casey Padilla, Transit Specialist and David A. Chapman, ADA Coordinator/MCD Staff Liaison on August 15, 2016. Plan comments are as follows:

1. Need plans for alternative bus stop. In accordance with ADA, the alternative bus stop must be accessible. It is requested that these plans be submitted to the Mayor's Committee on Disability by October 3, 2016.
2. Replace current Sheet C-522 with the "blow-up" Sheet provided at the review.
  - A. Detectable warnings shall extend to the edge of the platform.
  - B. Detectable warnings shall not be installed on driveway flares.
  - C. Detectable warnings shall be of contrasting color with surroundings.
  - D. Omit the two accessible route signs.
  - E. Show locations of mandatory bus signage R7-105. You probably need three to five of them. Transit to provide template for sign which will include: Santa Fe Trails logo, bus silhouette, no parking symbol, bus stop text and tow away text.
3. The distance between the floor of the shelter and the roof the shelter cannot be less than 80 inches.
4. It is recommended on Sheet C-102 that the crossing at the corner of Palace Avenue and Sheridan Avenue be at an angle or skewed to the existing driveway or alleyway.
5. On Sheet C-521 please add sign face R7-105.
6. On Sheet L-803, verify height of lettering as per ADA 2010 manual.
7. Please provide bench details on Sheet A-200.

If you have any questions, please **call me at 471-5785** as I do not have internet access.

Thank you.

Cc: Governing Body  
MCD  
John Romero, Traffic Engineering Division Director  
David Catanach, Streets & Drainage Division Director  
Mary MacDonald, Project Manager  
Robert Montoya, Project Administrator  
David Pfeifer, Facilities Director  
Thomas Martinez, Transit Director  
Casey Padilla, Transit Specialist  
Tyler Ashton, Wilson & Company  
Faith Okuma, Surroundings  
Oscar Rodriguez, Finance Director

EXHIBIT 2



# MEMO

**DATE:** August 15, 2016

**TO:** Thomas Martinez, Transportation Department Director

**FROM:** David A. Chapman, Grant Administrator-Writer / ADA Coordinator

**RE:** Downtown Transit Center – Sheridan, CIP Project # 669, 99% Construction Documents

As per Resolution 2006-151, the above referenced project was reviewed by Dave McQuarie, Chairman of the Mayor's Committee on Disability (MCD) Plan Review Sub-Committee, Nancy Pieters, MCD Plan Review Sub-Committee member, Mary MacDonald, Project Manager, Tyler Ashton, P.E., Civil Engineer with Wilson & Company, Faith Okuma, Principal, AICP, LEED AP, RLA with Surroundings, David Pfeifer, Facilities Division Director, Thomas Martinez, Transportation Director, Robert Montoya, Project Administrator, Casey Padilla, Transit Specialist and David A. Chapman, ADA Coordinator/MCD Staff Liaison on August 15, 2016.

The Mayor's Committee on Disability Plan Review Sub-Committee respectfully submits the following request and recommendations:

1. The MCD requests that plans for the alternative bus stop for the Sheridan Downtown Transit Center project be submitted to the MCD by October 3, 2016.
2. Relocation bus stop signages at Sheridan Avenue on both east and west side entrances are needed. As a suggestion, this signage could be attached to the barricades.
3. Recommend that the existing overhang structure at Sheridan Avenue be relocated to the alternative bus stop location on West Alameda.

Thank you,

**Cc: MCD**  
Casey Padilla, Transit Specialist  
Oscar Rodriguez, Finance Director

August 3, 2016

Honorable Mayor Gonzales,

In 1985, the then City Council recognized that the disabled community of Santa Fe was being underserved. Thus, they created the Mayor's Committee on Disability (MCD). This committee was assigned various duties, one of which is covered in Section 3, Item (4) of Resolution 2006-151, the resolution which created this committee. This states:

(4) The chairman shall appoint a subcommittee to review and comment on preliminary plans of the following types of city public works projects:

- A. Any new building
- B. Any building repair or remodeling that costs more than \$25,000
- C. Any new park or recreational facility
- D. Any improvement to a park or recreational facility that costs more than \$25,000
- E. Any new pedestrian structure that costs more than \$10,000

For some time, the committee received plans on a regular basis to review. More recently, however, we have received very few, and it is our perception that comments made are often disregarded. It is important for staff to understand that plan review from the perspective of the disabled is, in fact, mandatory under this Resolution. Please remind the staff of this requirement.

Let me elucidate a few of the items which we feel have not been adequately followed up on or addressed:

1. In 2011, the Governing Body reviewed and approved a partial transition plan. However, most of the current buildings, i.e. City Hall, the City Complex on Siringo Road, complexes on Siler Road, etc., have not been addressed as yet. Under this 2011 barrier review, other city properties were also to be reviewed by city staff. These would include the Santa Fe Convention Center, the Railyard complex, all trails, etc. David McQuarie, a member of the MCD, did send a letter (attached) to Brian Snyder, City Manager, in June 24, 2015, regarding this, and has received no response. These must be addressed, based on the U.S. Department of Justice Legal Directive, 28 CFR 35.150(a), which states: "A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities."

2. An ADA grievance was filed in 2014, also by Mr. McQuarie, regarding the City's non-compliance with mandatory curb ramps, and, as of the current date, no updates on the actions required have been received from Mr. Snyder, and the 2014 Curb Ramp Project remains non-compliant.

3. There is concern about the failure to properly install curb ramps at the County Courthouse and intersection on Montezuma/Agua Fria, etc., and all of the 2015 intersections on Siringo Road. These should be completed at the same time as the overlays, per the Kinney v. Yerusalim court decree of 1993, which cites 28 CFR 35.150(b)(1): "Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway." In addition, there is discussion of whether or not resurfacing a street is an "alteration, with the

Court affirming "Whether resurfacing a street constitutes an "alteration" is thus dependent on whether resurfacing affects the usability of the street. We think that it does." The Court additionally states: "...Alterations present an immediate opportunity to provide for accessibility. We can only conclude that Congress and the DOJ made the determination that when a public entity decides to engage in new construction or to make alterations it is not an undue burden to require it to provide for accessibility at that time."

4. Recently, a decision was made by the Governing Body to decriminalize disabled space parking. It would have been appropriate to consult with the MCD and ask for comment before taking this action. That is what we are here for!

We do appreciate the recognition by the Governing Body of the disabled community,

Marcia D. Bowman, P.T.  
Chair, Mayor's Committee on Disability

Att: 6/24/15 Letter to Brian Snyder

2997 Calle Cerrada  
Santa Fe, NM 87505-5393  
June 24, 2015

Mr. Brian K. Snyder, PE  
Santa Fe City Manager  
City of Santa Fe  
PO Box 909  
Santa Fe, NM 87504-0909

The Americans with Disabilities Act (ADA), mandates that each municipality maintain a comprehensive and up-to-date Transition Plan of all programs. Thus, the Governing Body adopted resolution 2011-72.

The current 2011 Transition Plan update is and always has been incomplete. When the RFP was drafted, it was with the understanding that it would be limited due to funding availability at the time. Therefore, only a sampling of public programs would be included for the chosen consultant to review. It was further understood that staff would then complete the required barrier assessment survey utilizing the consultant's previous reviews as guidelines. Thus in preparation for this action, the consultant interviewed various City Departments in-order to assess needs and offer training.

The consultant reminded the staff that the City will continue to plan for a biannual "ADA Transition Planning Budget." This budget will be in addition to and separate from funds required for Programs.

It is the US DOJ's view that compliance with 28 CFR 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for public programs, would in most cases not result in undue financial and administrative burdens on the City. In determining whether financial and administrative burdens are undue, all City resources available for use in the funding and operation of the said service, program, or activity should be considered. The burden of proving that compliance with paragraph (a) of 28 CFR 35.150 would fundamentally alter the nature of a service, program, or activity would result in undue financial and administrative burdens rests with the City.

The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The intention is that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions. Thus as required by the US DOJ, you, Mr. Snyder, are identified as the official representative for the implementation and should be able to seek/acquire funding for barrier mitigation work over the City's Transition planning period. As such, please respond in writing, to the following enumerated issues.

First, when is the proposed target date as to when the staff will complete the 2011 Transition Plan update? Note: It is ludicrous for one individual to be expected to conduct surveys for all department- i.e.: Fire, Police, Land Use, Public Works, etc. Also high public volume programs- i.e.: all trails, the Convention Center, bus stops, Railyard etc. must be included.

Second, what is the dollar amount being requested as proposed budgets and items for the 2011/2012, 2012/2013, 2013/2014 and 2014/2015 Transition Plans? Are there going to be any restrictions? If so what are they?

Third, when is the required annual progress report on barrier mitigation to be submitted City Council be made public?

Fourth, will the City accessibility sites be audited for compatibility by persons of disability? It is suggested that these audits be subject to verification by non-staff personnel.

Fifth, if the time period of the Transition Plan is longer than one year, identify the mitigation goals for each incomplete program on an annual basis.

Your written response, in a timely manner, thirty days, should be transmitted to the Governing Body. I request a copy of this response be transmitted to the Mayor's Committee on Disability (MCD).

If you have questions, please contact me at (505) 471-5785 as I do not have email.

Thank you,



Dave McQuarie  
MCD Member

cc: Governing Body  
MCD Members