



Agenda

DATE 7/10/13 TIME 11:42

by Joe Lujan

[Signature]

**MAYOR'S COMMITTEE ON DISABILITY
THURSDAY, JULY 18, 2013
10:00 A.M.
GENOVEVA CHAVEZ COMMUNITY CENTER
3221 RODEO RD.
CLASSROOM 1**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. APPROVAL OF MINUTES: JUNE 20, 2013
5. PUBLIC COMMENTS (15 MIN. TOTAL)
6. OLD BUSINESS
 - a) MCD SUB-COMMITTEE REPORTS
 - b) AUTOMATIC DOOR OPENER UPDATE – JOE LUJAN
 - c) ASSISTIVE LISTENING DEVICE FOR CITY COUNCIL CHAMBERS – JOE LUJAN
7. NEW BUSINESS
 - a) TRANSITION PLAN BARRIER ASSESSMENT PROGRESS REPORT CONTINUED – JOE LUJAN
 - b) UPDATED NEW MEXICO LEGISLATION FOR SERVICE ANIMALS – DEE MARTINEZ
 - c) INCLUSION SOLUTIONS, ACCESSIBILITY OPTIONS FOR ASSISTANCE – PATRICK HUGHES/JOE LUJAN
 - d) TRANSITION PLAN INQUIRY TO CITY MANAGER – DAVE MCQUARIE
8. ITEMS FROM MEMBERS AND STAFF (3 MINUTES)
9. ADJOURN

NEXT MEETING, AUGUST 15, 2013

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 438-4382 and/or Joe Lujan, ADA Coordinator/Liaison, at 955-4021 if you are unable to attend.**

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CITY OF SANTA FE
MAYOR'S COMMITTEE ON DISABILITY**

JULY 18, 2013

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MINUTES OF THE
MAYOR'S COMMITTEE ON DISABILITY
SANTA FE, NEW MEXICO

July 18, 2013

A scheduled meeting of the Mayor's Committee on Disability was called to order by Marcia Bowman, Chair on this date at approximately 10:00 a.m. at Genoveva Chavez Community Center, 3221 Rodeo Road, Classroom 1, Santa Fe, New Mexico.

Roll call indicated a quorum as follows:

Members Present:

Marcia Bowman, Chair
Roberta Hunt, Vice Chair
Mary McGinnis
E. Meriam Jawhar
Dr. Charles Maynard (arrived later)
Dave McQuarie
Ron Ortiz Dinkel (arrived later)
Nancy Pieters

Members Excused:

Members Absent

Staff Present:

Joe Lujan, ADA Coordinator

Others Present:

Dee Martinez, Governors Committee on Disability (GCD)
John Block, Deputy Director, GCD
Nat Dean, Assistance animals advocate
Drew Thompson, student
Charmaine Clair, Stenographer

APPROVAL OF AGENDA:

The agenda was approved by consensus as published.

APPROVAL OF MINUTES: June 20, 2013

On the Approval of Minutes: "*Chair Boyer* said that Jan Boyer is only the second person with EMS... Chair *Boyer* should have been Chair Bowman.

Page 2, first paragraph: the Mall *wants* the center..." was asked to be changed to: the mall has not yet indicated they want the center.

Page 3, 2nd paragraph: Under New Business: Mr. Lujan's statement "the Mary Ester Gonzalez Senior Center manual door openers, *which are not allowed* for City facilities..." Mr. McQuarie wanted to clarify: he said automatic door openers are not mandatory but they are allowed.

Page 4, Mr. McQuarie said that Mr. Lujan's statement that "he could get the information, but the amount is based on the cost estimate by the consultant and is *padded*" should be changed. He said the word "padded" is usually associated with an illegal action.

Page 5, paragraph 4: "He said the convention center was not listed because it was a new facility and the facility had been reviewed by the Governor's Commission on Disability and the MCD and the facility had been inspected for a certificate of occupancy" was clarified: *The new facility had been inspected for a certificate of occupancy as well as having been reviewed by the Governor's Commission on Disability and the MCD.*

Page 6, paragraph 7, "Mr. McQuarie said... such as "Ashbaugh was run down and *concentration* was mainly on the north side was corrected to read: such as "Ashbaugh was run down and construction was mainly on the north side...

Same page, paragraph 8: "He said of the 8 million dollars, the parks would be a lot more or a lot less, because the BAS was done on what was *needed*." Mr. McQuarie asked that the sentence be removed. He said the sentence isn't correct.

Page 7, 7th paragraph: Mr. McQuarie asked to restate: "Mr. McQuarie said he was the one who filed the complaint and it was against the public right of way, not the Transition Plan." He changed the sentence to: "Mr. McQuarie was the one who filed the complaint and the public right-of-way was noncompliant."

The next paragraph: "Mr. Lujan continued to explain that the *FHA* (Federal Highway Administration) was corrected to FHWA..."

Ms. Pieters moved to approve the Minutes of June 20, 2013 as amended. Ms. Hunt seconded the motion and it passed by unanimous voice vote.

PUBLIC COMMENTS-There was none.

OLD BUSINESS

a) MCD Sub-Committee Reports

◦ Media

Chair Bowman said there was a question of whether a Media Subcommittee had been appointed (referring to the June meeting minutes.) She said the subcommittee was appointed and the information was in the minutes of that meeting.

Chair Bowman said Susan Abod is close to completing her film and needs a person to do close captioning. She said Ms. Martinez was contacted and has forwarded the request to Lisa McNibbon, but there has been no response yet.

Ms. Jawhar said the Santa Fe Community College Film Department might be interested and do the captioning as a public service and experience for their students.

◦ Transportation

Ms. McGinnis said she has been appointed to the ADA Subcommittee. She hasn't had time to meet with Annette Granillo who handles the follow-up on Santa Fe Ride's response to issues that were identified.

Ms. McGinnis said the July TAB meeting was canceled. She asked Ms. Bleck if there should be a meeting with Ms. Granillo prior to the August TAB meeting, but she hasn't heard yet. She said the good news is that Santa Fe Ride has not curtailed their services; but the e-mails to people or having the call takers identify themselves has not been implemented yet.

Ms. Pieters asked if call takers could be provided a script.

Ms. McGinnis said a call taker would read back the call if asked, but do not *offer* to read the call back. She said it would be helpful if call takers identified themselves and offered to read information back and let the customer decide. She would e-mail Ms. Bleck about those two items.

- Plan Review

Mr. McQuarie said in the packet are two reviews (John Griego and Patrick Smith Parks) done the same day. He said on both, the barrier assessments have never been done and they are old parks and access should be improved on certain items.

- b) Automatic Door Opener Update- Joe Lujan

Mr. Lujan said the preliminary estimate for the automatic door openers is \$22,400 for material for the eight facilities (10 door openers); each automatic door opener is \$2200 (double for the double doors.) The cost estimate to run power to the doors would come soon and would need to go to bid. MCD recommended \$40,000 be used and should be below that and would return to the MCD if more. He said an added cost could be the doors security issues and types of locks and alarm systems, but the project manager does not anticipate that would be a big deal.

He said initially the automatic door openers started with the water company that has double doors and he took it upon himself to look at other facilities that do not have automatic door openers.

Mr. McQuarie said originally there were 12 buildings to be addressed and that was reduced to eight. He asked Mr. Lujan which doors he was talking about.

Mr. Lujan said originally there were 10 buildings and two were removed; one was the GCC and the door openers were installed out of their budget. The other was Market Station above REI at the Railyard where City offices would go in and the automatic door openers would be incorporated with improvements.

- c) Assistive Listening Device/ City Council Chambers-Joe Lujan

Mr. Lujan said the total for the device is \$1,681.45 and the requisition approval he was sure, would be approved the following day.

Mr. Ortiz Dinkel entered the meeting at this time.

Mr. McQuarie said the Committee needs to know the detail on the signage; the black on silver is not readily visible and is nothing more than advertising and does not give any information. He said that needs to be replaced. He asked what the Loop notification sign said and if the sign includes Braille.

Mr. Lujan explained the estimate includes one Loop notification sign and he could check if in Braille. He said he would work with Mr. McQuarie to accommodate his request if he wants another sign with more information.

NEW BUSINESS

a) Transition Plan Barrier Assessment Progress Report (Continued) - Joe Lujan

Mr. Lujan said the members could tell from the minutes that the Committee had a lengthy discussion on his report. He offered to gladly run a copy for any member and explained that the report shows what has been addressed in the parks and is tied to a cost estimate. He is going through the list to tie individual cost estimates, but that is not completed.

He gave Ashbaugh Park as an example: there is a Barrier Assessment Survey (BAS) and the memo he received from staff and a cost estimate from the consultant shows the City spent \$48,000 in accessibility improvements to bring the Park into compliance. He said all of that is in the file for Ashbaugh Park.

Mr. Lujan said Calle Lorca South Ridge Park is another park and is \$46,100 and the totals are in the Transition Plan. He said it would take a while for him to get all of the totals on, but if someone wants to see what was checked off they could see that in the aerial survey, the BAS, the Project Managers Report and the MCD Report Plan Review.

He said the cost estimate by the consultant is separate from the Parks Improvement Budget, which is greater. The budget for Ashbaugh Park was \$497,000, but the total cost of the accessibility improvements is \$48,090 for the project. He said everything in the project and the BAS was addressed and \$48,000 may have been used out of the \$497,000 total.

Mr. Lujan explained that the Transition Plan lists priority and severity of the barriers and many of the barriers are usable. The absolute barriers are high priority/severity one and have to be addressed first.

He said the allocation of monies and funding for the projects come from POSAC (Parks Open Space Advisory Commission) who recommends the high use parks they want to see addressed. He said there might be three phases to the development of a project in some cases, because there are limited funds for all of the parks in Santa Fe, but anything altered must be brought into ADA compliance.

Mr. Lujan stressed that the MCD is not an oversight committee; the Committee is an *advisory* committee, not an approving authority.

Mr. McQuarie said the report is not a standalone report; it is just a one page listing. He said the report said "Completed Parks" and he visited six of those parks and four are *not* complete according to the Barrier Assessment Plan Review. He said skipping down the report to "Parks that Need Update" the GCC Park is listed. The construction is finished, but access is incomplete and is specifically mentioned in the Plan Review Report.

Mr. McQuarie said he wanted to register his complaint that he considers the "report" incomplete. He said the report does not show anything.

Chair Bowman said any report is incomplete because things are continually updated; other Committee members agreed.

Mr. Lujan asked members whether they understood what he had just talked about. Most Committee members spoke up to say they understood: Ms. McGinnis added that the Transition Plan is a living document and small things get done and there would always be ongoing.

Mr. Lujan addressed Mr. McQuarie to say that he understood his point that the report is incomplete. He asked if anyone other than Mr. McQuarie wanted to request a packet; there were no others. He said he would make a copy of the full report and take to Mr. McQuarie.

Mr. McQuarie said to him, a report is always put out together and not in separate parts.

Chair Bowman asked Mr. McQuarie if he would consider the report complete once he has the remainder of the documents. Mr. McQuarie replied "not as long as the report said things are 'complete' because it is not complete."

b) Updated New Mexico Legislation For Service Animals- Dee Martinez

Ms. Martinez introduced John Block, the Deputy Director of GCD (Governors Committee on Disability) and Nat Dean and Tommy (her service animal.) Ms. Martinez said Ms. Dean helped to get information out and the legislation passed.

Ms. Martinez asked the MCD members to consider these questions:

- Have you ever heard of a service animal; have you ever heard of an *assistance* animal; is there a difference between service animals and assistance animals
- Can a service animal be trained by the owner
- Can pigs or ferrets be service animals in New Mexico
- Can the service animal be without a leash
- Do service dogs need to be a certain breed and size; could a service dog go to work with the person
- Is there a way to know if a dog is a service dog
- Is it a violation to misrepresent an animal as a service animal

Ms. Martinez presented information in a PowerPoint show and reviewed key points. A summary follows:

- The New Mexico *Assistance Animal Act* has been amended to read the *Service Animal Act*; to mirror the ADA. An assistance animal is different than a service animal. The passage of Senate Bill 320 in the 2013 Legislative session changed and the Service Animal Act now recognizes *only* dogs and miniature horses less than 100 pounds.
- Miniature horses fall under a different category and are more for "reasonable accommodation" where a person needs help with things such as balance. A miniature horse is stronger and has a stronger back and could live 30 years. Service dogs could be replaced 5-8 times during a person's life at a cost of about \$20,000 each.
- A service animal is a dog or miniature horse that is individually trained to do work or perform a task for a person with a disability and a service animal is covered under the ADA. *Emotional support animals* are not trained and are not covered under the ADA.

- Service dogs perform tasks such as: guiding the blind, alerting a deaf person, pulling a wheel chair, pushing a button, calming a person with PTSD during an anxiety attack, holding a person in a safe position, etc.
- Service animals are allowed in businesses, nonprofit, state/local government facilities, health care facilities, clinics, cafeterias, exam rooms, housing and airplanes/airport; anywhere public. "No dogs allowed" does not apply to service animals with the exception of a burn unit/ operating rooms or sterile environments that must be maintained. Allergies or fear of dogs cannot be used as a reason to exclude a service animal in a public place. Service animals could accompany their owner in a classroom or work setting as a "reasonable accommodation" and are not limited to the definitions used under Title II or Title III.
- Service dogs must be harnessed, leashed or tethered unless the device interferes with their work (although the harness etc. does not have to state this is a service animal.)
- A person cannot be charged extra for a service animal, isolated or charged for a pet deposit; although the owner is responsible for clean up after their animals.
- The Service Animal Act prohibits a person from knowingly misrepresenting an animal as a service animal and allows criminal penalties. Violations of the Service Animal Act if found guilty, are a misdemeanor and could have fines of no more than \$1000 and a year in jail or both.
- A proprietor can ask only: is the animal a service animal and what tasks does the animal perform.
- The State/federal law does not mandate that a service animal wear anything stating it is a service dog and ID papers do not have to be carried. The only way to tell a service animal is if the animal misbehaves; a service animal is trained to be by their owner's side and they do not jump, bark, smell for food, grab something, etc.
- A proprietor has a right to call police and file a complaint if an animal misbehaves. A person could be asked to remove their dog from the premises, although the person could return.

Mr. Lujan said the area is so gray and confrontational and if the animal was identified as a service animal half of the problems wouldn't happen. He asked if the State has considered requiring a cape, leash, harness etc. that identifies the dog as a service dog.

Ms. Martinez said the GCD mirrors the ADA and does not require identification. She noted that the GCD website has a printable card that people could carry that states the animal is a service animal, but that is not a certification.

Ms. Dean added the card is not legally required but often solves a lot of problems. She said a registry has been looked at for simple registration, but administratively there are many things to consider.

Ms. Martinez talked about fraud and people who order service animal jackets or ID cards on the Internet and that some websites charge for ID cards. She said one idea looked at is the use of driver's licenses to indicate service animals.

Ms. Hunt said because there is no way to prove an animal is a service animal; police officers would never charge someone, even though the statute allows. She said New Mexico hasn't gone above the ADA to require an ID, which is unfortunate because a misdemeanor or thousand dollar fine is an empty threat.

Ms. Hunt said public education has to be done and a public service approach is to play to the individuals' awareness and insight that this law is not just so people could bring their dog into a restaurant. She said she would hope the GCD could do public service announcements.

Ms. Martinez said GCD puts out articles within the State and does public awareness at restaurant and hotel associations. She would be talking to the police convention in Albuquerque about service animals and the GCD would have a whole day session for the Southwest Conference on Disability at the Hotel Albuquerque.

Mr. Block said Senator Wirth's bill that allows dogs in outside eating areas only compounds and further confuses the problem.

Ms. Dean stressed that there is a lot of opposition and important that people show up, make comments and work with legislators. She said making laws goes in baby steps and the law that provides the greatest accommodation would trump another law. She said if the State required the [service] dog to have a vest and ADA said a vest was not required; the State law would trump the federal law.

Ms. Martinez thanked the Committee for inviting her and left her contact number. She offered to do training or provide information if needed. She said she could speak another time about assistance animals and the differences between them and service animals.

c) Inclusion Solutions, Accessibility Options For Assistance Patrick Hughes/Joe Lujan

Mr. Lujan said he was contacted by Patrick Hughes, owner of Inclusions Equals Solutions. Mr. Hughes recently visited Santa Fe and his business provides options in accessibility in noncompliant businesses. He said Mr. Hughes would join the meeting via teleconference and has a PowerPoint presentation to describe his products. The information is included in the Committee packet.

Mr. Hughes thanked the Committee for their time. He said he applauded the Mayor that he still has a Committee, because many cities have disbanded them.

Mr. Hughes said he has worked on physical accessibility for about 15 years. He gave the history on how he developed his business through his relationship with an autistic friend. He said his business progressed when meeting others in the community with access issues. He proactively looks for a solution other than a lawsuit, to assist businesses and people with practical, reasonable approaches to access. His company is currently working to make gas stations, retail, polling sites and drive-through businesses more accessible.

Mr. Hughes said his invention of the Big Bell and the portable ramp is a readily achievable solution to the alternative fix of a \$40,000 cost of renovation and the products are easily installed and cost-effective.

He said he educates people with sticker campaigns and marketing. He showed examples of static stickers with messages that some companies use on their windows and doors.

Ms. McGinnis explained she is blind and had been listening closely to the presentation. She suggested Mr. Hughes talk about the message on the static stickers in the future. She said she had no idea there were messages until a friend told her what the stickers say.

Ms. McGinnis asked the cost of the Big Bell and portable ramp.

Mr. Hughes explained that the static stickers are mostly used by larger retail chains and he thought they were widely abused. He gave an example of BP (British Petroleum) with a \$53 million lawsuit settlement. He said the lawyers got most of the money and the solution to the inaccessibility issues at the gas pump was to put a sticker up "honk for service" and provide training.

He said costs for the low end Big Bell is \$99 and a longer range bell a little over 200 dollars and both are wireless. The touchpad for the bell is on the outside of the building and the receiver inside, like a doorbell. The ramps range in price from \$150- \$350 depending on size.

Mr. Hughes provided his e-mail address: phughes@inclusionsolutions.com and toll-free number: 866 -222-5487. He said he was flying soon to Washington to meet with Congresswoman Tammy Duckworth, who is also interested in solving the problem of accessibility, particularly on military bases.

Mr. Lujan thanked Mr. Hughes and Felix from IT that made the meeting possible.

d) Transition Plan Inquiry to the City Manager – Dave McQuarie

Chair Bowman said there is a Transition Plan inquiry to the City Manager and her understanding was that the Committee chose not to pursue the issue. She confirmed with Mr. McQuarie that he sent the letter on his own. She said she wasn't sure what part the Committee needs to play.

Mr. McQuarie said he sent the letter in April because by State law, the budget for the City must be prepared in full by May 30 and "he was trying to give the City Manager a couple of months to respond." He said he listed some of the legal reasons why this [the letter] had to be responded to.

He said he found out that the letter had "disappeared" and no one had a copy and [staff] started to call around to find out who did. He said because this is an "ADA issue" Mr. Lujan was called, but he was not aware of the letter. He said he purposely did not send Mr. Lujan a copy because the City relies on Mr. Lujan to do everything with ADA, but this deals with the monies; this deals with the City Manager.

Mr. McQuarie quoted the Department of Justice (DOJ) rules in his letter: "the head of the municipality or his designee at the department level." He said Mr. Lujan called him to ask for a copy and he advised Mr. Lujan that the letter was not mailed because it was passed out at the City Council meeting. He had watched the clerk hand a copy to everyone at the meeting. He said it is entered into the record and that is better than certified mail.

He said Mr. Lujan "attempted" to answer the letter, which is ridiculous, because it states in the letter that "a written response, in a timely manner, should be addressed to the Governing Body." Mr. McQuarie said they responded to him, but "in his estimation the response is just 'lip smack'."

Mr. McQuarie said he had asked the dollar amount that is being requested and then the City asked Mr. Lujan to answer; Mr. Lujan doesn't know the dollar amount. He said the City just gave general "BS" answers and of the five questions posed, "three are talking about nothing and don't really answer the questions." He said "that's okay; at least I got my point across."

Mr. McQuarie said the reason he did this is because on page 7, paragraph 6 of the May minutes specifically said: "Mr. McQuarie should speak to the administrators." He said he has heard that over and over again for seven years from Mr. Lujan. He said he didn't call because "I know for a fact that when I call they [the City staff] ignore him or put him on hold and I am still on hold for calls I made three and four years ago and why I resort to letters."

Chair Bowman said she could appreciate Mr. McQuarie's point, but wasn't sure the MCD needs to do anything in response.

Mr. McQuarie said he asked Mr. Lujan to put this on the agenda "to keep the Committee abreast that there are ADA issues that somebody is trying to do something about."

ITEMS FROM MEMBERS AND STAFF

Mr. Ortiz Dinkel said regarding the presentation; that shows that reasonable accommodations really don't cost a lot of money. He thought there are a lot of businesses that would be open to hearing that.

Ms. Jawar suggested the products be presented to the Santa Fe Chamber of Commerce.

Mr. Lujan said that is a possibility; however he would have to ask. He said the City has policies against the recommendation of, or sponsoring of, a product. He added there might be a way that the members, as disability advocates, could do that if the Committee couldn't. He would check if the MCD could sponsor a program for awareness or visiting a business.

Ms. McGinnis suggested members could mention the information as a resource when giving a presentation to City Council, in addition to addressing the product individually. She said in the past members have written letters to the editor on accommodations.

Drew Thompson, student, suggested someone could do a *needs* assessment of the downtown area to establish if a small business is interested in the product. He said Mr. Hughes should be the person to send someone to sell the product, since it is his product.

Mr. McQuarie said a statement was made last month about the parks bond issue and whether parks are addressing everything. He said the "Opinions" page of the *New Mexican* last Sunday said an audit is being called on the bond monies and that bond monies require an audit "before it terminated."

Mr. McQuarie said he would wait and see, "but they are going from the aspect of upgrading the parks and landscaping etc. He said "it behooves the Committee or anyone else interested in accessibility, to be involved and to make sure if there is an audit that their voice is heard."

Mr. McQuarie said he also wanted to bring up that he noticed the agenda had three agenda items that members did not get any paperwork. He said he was under the assumption under the new public meetings law that is a requirement, especially since there is a dollar amount. He called the City Attorney and learned that is not a requirement, but was told that is "good government to keep people informed and is why you would do it."

Mr. McQuarie said about five years ago a member got a motion passed that all items on the agenda be accompanied by a written synopsis of the subject, so people would know what it was about.

Mr. McQuarie said he wants to re-introduce that at the next meeting. He asked to have an agenda Action item for the adoption of documentation for all agenda items.

Ms. McGinnis said this would be her last Grief to Laughter class because she is retiring from New Vistas in August. She would do other things in the community and promote her private practice in counseling. She said the class needs six people and currently has only four. Classes are free and grief and loss is discussed in an upbeat way and people can learn and support each other. The class starts Thursday, July 25th from 2 to 4 at the Solace Treatment Center, 6601 Valentine Way.

NEXT MEETING: July 18, 2013

ADJOURNMENT

Having completed the agenda and with no further business, the meeting adjourned at 12:03 p.m.

Approved by:

Marcia Bowman, Chair

Rebeka Hunt, Vice Chair

Submitted by:

Charmaine Clair

Charmaine Clair, Stenographer