



# Agenda

CITY CLERK'S OFFICE

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## MAYOR'S COMMITTEE ON DISABILITY

THURSDAY, SEPTEMBER 19, 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: JULY 18, 2013 & (AUGUST 15, 2013, NO QUORUM)
5. PUBLIC COMMENTS (15 MIN. TOTAL)
6. OLD BUSINESS
  - a) MCD SUB-COMMITTEE REPORTS
  - b) ASSISTIVE LISTENING DEVICE SIGNAGE FOR CITY COUNCIL CHAMBERS – DAVE MCQUARIE
7. NEW BUSINESS
  - a) MCD AGENDA FORMAT DISCUSSION – DAVE MCQUARIE
  - b) MCD AND KIVA PROGRAM DISCUSSION FOR OCTOBER DISABILITY AWARENESS MONTH – MCD & KIVA PROGRAM STAFF
8. ITEMS FROM MEMBERS AND STAFF (3 MINUTES)
9. ADJOURN

**NEXT MEETING, OCTOBER 17, 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**

**SEPTEMBER 19, 2013**

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

**September 19, 2013**

A scheduled meeting of the Mayor's Committee on Disability was called to order by Roberta Hunt, Vice 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:**

Roberta Hunt, Vice Chair  
Dr. Charles Maynard  
Dave McQuarie  
Ron Ortiz Dinkel  
E. Meriam Jawhar  
Nancy Pieters

**Members Excused:**

Marcia Bowman, Chair (excused)  
Mary McGinnis

**Members Absent**

**Staff Present:**

Joe Lujan, ADA Coordinator

**Others Present:**

Monica Vargas, NMDOT ADA Coordinator  
Charmaine Clair, Stenographer

**APPROVAL OF AGENDA**

**Dr. Maynard moved to approve the Agenda as presented. Mr. Ortiz Dinkel seconded the motion and it passed by unanimous voice vote.**

**APPROVAL OF MINUTES: July 18, 2013 & August 15, 2013**

**July 18, 2013**

**Ms. Jawhar moved to approve the July 18, 2013 minutes as presented. Mr. McQuarie seconded the motion and it passed by unanimous voice vote.**

**August 15, 2013**

**Mr. Ortiz Dinkel moved to approve the August 15, 2013 minutes as presented. Dr. Maynard seconded the motion and it passed by unanimous voice vote.**

## **PUBLIC COMMENTS**

Mr. McQuarie said he requested to speak under Public Comments because his comment is the long awaited decision from the federal government about the ADA complaint and right of way. He said the decision was delivered to the City on July 18 with recommendations and the City has 90 days to respond, which is up October 18, 2013.

He said that is interesting because the City is losing their ADA coordinator on October 22<sup>nd</sup> and he has not heard a positive action from the City in an official response. His understanding is that the federal government will make the City do something or take the issue to the DOJ (Department of Justice.)

Mr. McQuarie said he asked Monica Vargas of the NMDOT (New Mexico Department of Transportation) to give the possible actions with the City in addressing the right-of-way issues.

Ms. Vargas said she has been with the DOT over 6 years and working with ADA a year and a half. She said her presentation would be on her travels through the six districts of the state and the training conducted.

She said recently the DOT established an ADA committee consisting of about 12 people from design, construction and engineering, etc. and they have been working on pedestrian access details. (Exhibit 1) She said the current standards have not been updated since 2003 and the DOT contracted with WH Pacific to do ADA training.

Ms. Vargas said in the training they compared the manual standards to the Washington State DOT, because their manual is one of the better manuals. She said there have been issues with technical warnings and their placement and recently everyone was asked to follow the PROWAG (Public Right-Of-Way Access Guidelines.) The guidelines ask that the detect board be placed directly behind the back of the curb. The updates would be complete in about three months and the DOT will receive three additional statewide trainings.

Ms. Vargas presented a slide show. A summary of highlights follow:

- The course objective is to identify the laws, rules and regulations that pertain to accessibility; the requirements to ensure accessibility were discussed as well as existing facilities, reconstruction and alterations. Challenges were identified in public right of way and design elements were reviewed and best practices were identified. Eight different modules were covered.
- Field activity participants utilized crutches, blindfolds and wheelchairs, etc. to understand what it would be like to be impaired; signal light timing was observed and they experienced crossing an intersection.
- The laws, rules and regulations were discussed and Title II covering state and local governments.
- Basic governing guidelines are from ADAAG and PROWAG and the NMDOT standard drawings. A link to the Access Board provides a place for questions.
- Pedestrian access routes and the components were reviewed: walkways, crosswalks, ramps, curb ramps, landings, blended transitions, overpasses and underpasses, elevators and platform lifts.
- Curb ramps and blended transitions are to allow pedestrians transition between the streets and sidewalks, etc. and typically are installed at each end of the crosswalk at intersections. Crossings include trail crossings and accessible on street parking spaces, passenger loading zones and bus stops.

[Mr. McQuarie asked if the general rule is four to curb ramps per corner. Ms. Vargas responded that they strive for that, however it is not always feasible.]

- Detectable warnings are used to alert pedestrians with visual impairment about the transition from the sidewalk to the street; NMDOT follows PROWAG and warnings are to be placed directly behind the curb and no more than five feet from the back of the curb to the front of the detectable warning.
- A study on pedestrian crossings showed unmarked crossings to be safer because it forces pedestrians to look both ways before they cross. The study shows that continental and ladder designs are most visible to drivers and pedestrians.
- Accessible pedestrian signals provide accessibility to everyone. The key features are: speakers at push buttons; tactile arrows; audible and vibro-tactile walk indications and automatic volume adjustments.
- The Zone system is referenced by the NMDOT: the curb zone, furniture zone, pedestrian zone, frontage zone.
- Title II of the ADA covers maintenance of pedestrian facilities. Public entities must maintain equipment and features that provide access to those with disabilities.

Ms. Vargas provided her contact information as well as Lisa Neie, the FHWA (Federal Highway Administration) Civil Rights Specialist for New Mexico and Arizona. She offered to send the PowerPoint presentation to Mr. Lujan.

Vice Chair Hunt said she understood that the state is now taxed with looking at the City's compliance.

Ms. Vargas said the City would be the lead, but she could be called for assistance and she could call in Lisa Neie. She said NMDOT wouldn't oversee the city unless the City requests assistance or does not act on an issue.

She said NMDOT is receiving transition plans and she is ensuring the plans are uniform. She said the ADA Committee would be updating their Pedestrian Access Details and are now not accepting more than 2% [transition].

Mr. McQuarie asked if the NMDOT ADA Committee had considered including other individuals as advisory. He said the previous ADA committee did involve the Governor's Commission on Disability as well as an individual that had to be a previous City employee.

Ms. Vargas said they have discussed that, but no one has been included yet because the chair is in transition. She said she could mention that again.

Ms. Jawhar asked how the NMDOT determines whether to conduct training.

Ms. Vargas said the NMDOT sends it through their local government program. There are six districts (Las Cruces, Roswell, Albuquerque, Las Vegas, Santa Fe and Gallup) and training was conducted at each district with participation limited to 40 in a class. Training consisted of seven hours of bookwork on the modules and discussion and an hour field exercise.

Mr. McQuarie commented that the MCD should be the go-between for the public and the local government in explaining problems. He said as a person of disability it is the little things that cause the problems more

than the big things. He said if there is no sidewalk, people are smart enough to go into the street with caution, but debris or holes on the sidewalk presents more of a pedestrian problem.

He said people should complain to their local government. He asked if the complaint is not addressed in a reasonable time then who should they go to. He said ADA is civil rights and federal law; public right of way, and a person should go to the Federal Highway Department for determination and assistance.

Ms. Vargas said that was discussed and NMDOT would have more to review. She said if a person put in a request that had no response it starts at the state level and goes to federal and then to the DOJ. She said she hopes to get a public comment area on the website for comments on ADA issues on facilities.

Mr. Lujan asked the status of the State transition plan and district 5 facilities, particularly in Santa Fe.

Ms. Vargas said she had something submitted in May that doesn't include facilities, but hasn't compared the transition plan to last years. She offered to send the plan electronically to Mr. Lujan.

Mr. McQuarie asked if NMDOT is limited to access to public rights of way. Ms. Vargas replied options for accessibility could be discussed with the owner; they try to work with owners to get ADA compliance.

## **OLD BUSINESS**

### **a) MCD Sub-Committee Reports**

#### **◦ Plan Review**

Mr. McQuarie said there are two plans in the Committee's packet; a third plan was individual because it is access to various school areas. He said comments were made that when a curb ramp is put in, there should be two per corner put in. He said the reports are self explanatory, but members could call him if they had questions.

### **b) Assistive Listening Device/City Council Chambers- Dave McQuarie**

Mr. McQuarie said an improved sign was developed and a drawing is in the packet. The sign has a blue background with bright white with black lettering. He said the current sign is black on silver and he heard that no one has ever asked about the system. He said the sign would be installed in City Hall Council Chambers. He said the new civic center also needs the sign.

Mr. McQuarie said the Committee is asked for concurrence of the sign layout and the layout would be forwarded to Public Works.

Mr. Lujan clarified that the sign was developed by the T-Coil company and MCD had discussed adding the FM Loop system in addition to the T-Coil Loop system. He said the Committee's concurrence is asked on two changes: to add "and *FM assistive listening system*" to identify there are both systems and to add the FM symbol to the upper left hand corner, because the T for the T-Coil system is on the bottom right.

**Ms. Pieters moved to approve the new sign layout for the Council Chambers. Dr. Maynard seconded the motion and it passed by unanimous voice vote.**

## **NEW BUSINESS**

### **a) MCD Agenda Format Discussion – D. McQuarie**

Mr. McQuarie said years ago the Committee passed a motion that each item on the agenda would have written documentation on the topic, so members are not blindsided. He wanted to go back to that. He said this came to the forefront for him when two people who came to the meeting about the electromagnetic issue were told to "read the minutes." He said the minutes were not there, so how could people be informed if nothing was available.

He said anything brought up in as an agenda item should have something in the packet that explains what the item is about. He said there is nothing in the packet to explain the Agenda Format Discussion he is talking about and he did that on purpose so he could ask the Committee if they had any idea what he was asking before he spoke.

Mr. Lujan said from a different perspective; he had put cover letters on the agendas before and it was time consuming. He said he is a one-man show and struggles to get the Committee packets out. He said the packet is for the Committee to read and they have the responsibility to know what is in the packet. He said he could recommend to the new coordinator on discussion items, to ask for information for the packet from the presenter. He gave Sally Swanson as an example of a presenter that provided information.

Ms. Pieters thought the Committee didn't need a motion. She said some things on the agenda are self explanatory like the Committee Reports and the Assistive Listening Device. She said things that could benefit from more description, could have information added to the agenda line. Only New Business would be affected; members should know the Old Business. She said it could be a conversation between the ADA Coordinator and the person who puts the item on the agenda.

Ms. Jawhar said unless it is New Business that requires extra visuals, it wasn't necessary.

Mr. Ortiz Dinkel agreed. He said the spirit of what Mr. McQuarie is saying is in practice.

Vice Chair Hunt confirmed that most of the Committee members did not feel it necessary to require documentation for agenda items. The person who adds an agenda item would be encouraged to have documentation if that made the item useful and informative.

Vice Chair Hunt said when Arthur Firstenberg came in it was under Public Comments and not as discussion. She said there were minutes from the previous meetings about the Committee's consideration of EMF and why that was being considered and why the Committee recommended the system. She said Mr. Firstenberg had the previous minutes to refer to on the website.

Mr. McQuarie said the minutes were not available until they were approved at that meeting.

Mr. Lujan said the bottom line is that Mr. Firstenberg read the agenda and knew the Committee would be speaking on the issue. He said the minutes might not have been approved but as Vice Chair Hunt pointed out, that was under Public Comment that turned into a discussion. He said it was not a public hearing and not a discussion period.

Vice Chair Hunt confirmed the Committee recommendation would be for the individual to decide about documentation when they add an item to the agenda.

b) MCD & KIVA Program Discussion- MCD & KIVA Program Staff For October Disability Awareness Month

Mr. McQuarie said MCD committed to October Disability Awareness Month. He said his impression was that the Media Committee was going to work with people from KIVA about what would be covered and how the Committee could assist.

Vice Chair Hunt said the KIVA group went back to school in August. She said she would follow up and she apologized as part of the Media Committee, for not taking more initiative.

Dr. Maynard said he is with KSFR and had passed a request from Chair Bowman on to Mary Charlotte, who said she would respond. He said he would follow up with that.

Vice Chair Hunt said she sees members of the KIVA and would talk to them and the GCC about setting up a table in the GCC. She would also look at the current flyers on assistance animals etc. and what might be used with the KIVA program as outreach.

She suggested that the Media Committee stay after the MCD meeting to discuss the event.

Dr. Maynard said he is in charge of the news hour and could do features about disabilities or a program through October that runs 4-6 minutes, once a week. He would set that up if he gets ideas for topics.

Ms. Pieters suggested Katherine Lee talk about the work she does in the public school system. She said Ms. Lee has written a children's book about disability and her assistance dog. She goes into classrooms and talks about disability awareness and the children draw pictures to illustrate her book.

Mr. Lujan said he has made several attempts to contact Russell Ray, who initially contacted him about the KIVA program. He said he called the public schools administration office and left a message but no one responded. He was told that Mr. Ray is no longer in the KIVA program.

He explained that the month of October is Disability *Employment* Month and a national theme, but doesn't mean that the Committee couldn't do something educational for the month. He noted that in the past the chair and vice chair did public TV to talk about employment for persons with disabilities. He said the Committee is encouraged to do public outreach whether through KSFR, city television or at a facility.

Ms. Pieters said she thought the KIVA program could develop leadership among teens with disabilities and feed into the MCD Committee. She said anything that the Committee could do to mentor, assist and work with the program would be beneficial.

#### **ITEMS FROM MEMBERS AND STAFF**

Ms. Pieters said Katherine Lee asked her to bring an issue forward having to do with occupancy reviews for permits in businesses in Santa Fe. She said Ms. Lee had a bad experience at a restaurant. She doesn't want to focus on the restaurant, but the issue in general.



Ms. Pieters said a new business opening to the public has to get an occupancy review and within that is an ADA component. She said Ms. Lee found that as a woman in a wheelchair there isn't good access and has asked the question how a business passes the occupancy review.

Ms. Pieters gave an example of a popular restaurant that Ms. Lee noted three issues with: the restaurant has one accessible parking place; that space has no accessible aisle next to the parking space on either side, for a lift to operate, etc. and the one accessible space is directly in front of the entrance to the restaurant and when a car is in that accessible space, the entrance is blocked and the person cannot get into the restaurant.

Ms. Pieters asked Mr. Lujan about the process and the checklist the City uses.

Mr. Lujan explained there are two parts to ADA and this is Title III, the private/commercial sector such as Wal-Marts, etc. He said those businesses are required to comply with the New Mexico Building Code covered by Chapter 11 accessibility, American National Standards Institute (ANSI) and they do not have to comply with ADAAG.

He said this is dealing with an existing building where other restaurants have been. He said if new construction or alterations were done they are bound to the ANSI code and either way, would be required to get a Certificate of Occupancy (CO.) He said if this is just a change of tenant, such as the restaurant mentioned; the building official, fire and zoning do inspections for a business license and CO. He said there is not a provision in the ADA that requires a business to put in a ramp or accessible parking, though it is in their best interest.

Mr. Lujan said the parking is calculated for accessible spaces based on the total number of parking spaces provided to the public; a percentage of roughly 25 to one. One of the spaces has to be van accessible with an 8 foot access aisle.

Mr. McQuarie said Ms. Reed has a diagram of the rule and what is required. He said people are not following the state/federal laws about parking with new or revamped construction.

Mr. Lujan said the code is a state local code. He offered to send Ms. Pieters the code electronically.

Ms. Pieters said she is hearing that once a building is occupied and leaves and a new business moves in, as long as the new business does no construction, there would not be an ADA inspection.

Mr. Lujan said if there is construction there is then an ADA component.

Ms. Pieters thought there was a big hole in access in the City.

Vice Chair Hunt said that legally there is not a requirement for the restaurant to do anything. She said that could be approached by education and the issue could be addressed directly with the restaurant. She said a misconception is that everything has to be accessible, and a lot of places are not remodeled. She said Ms. Lee could suggest things the restaurant could do to improve the situation.

Ms. Pieters said Ms. Lee had another issue with another restaurant where the bathrooms were ADA accessible except for the toilet height. She asked Mr. Lujan how that happens; if there is a business with ADA violations how did they get their CO.

Mr. Lujan said the City does not make a business make changes unless there is alteration, construction, remodel or change and the building permit triggers ADA compliance. He said he is not sure about the requirements for Title III and they are dealing with old facilities. He said sometimes things fall through the cracks, or is technically infeasible to change.

He said a concerned citizen with a complaint should contact the Land Use Department to find out if there was a building permit and for what. He said that could have been an oversight or not addressed at all or there may not be a building permit tied to that.

Ms. Pieters asked what the MCD could do. She said there are loop holes and some people might experience a problem and be able to advocate getting the issue addressed. She asked if the Land Use Department is doing the ADA inspections and if that could be changed.

Mr. Lujan said the Land Use Department abides by the New Mexico building codes. He said Title III private sector is not tied to public funds and using federal and state funds is strict with municipalities because it is public money. He said there is a big difference between Title II and Title III and the City cannot enforce things if not a City facility.

Mr. Lujan said Ms. Lee could complain but the complaint is between her and the restaurant; the City wouldn't cite the business because of inaccessibility. He recommended the members read the resolution and focus on the City government facilities, programs and services. He also advised them to research Title II and Title III, which do not have the same requirements.

Ms. Pieters suggested it would be good to invite the permit people to give a presentation. She said the Committee could ask how to deal with the loop holes.

Vice Chair Hunt said there is no "loop hole." She said the private businesses are not getting away with something- they don't have to comply unless they remodel, etc. and this is an education issue. She said the MCD is looking at City facilities and though it is not the MCD's mission to educate private businesses, in order to have an accessible city, the Committee could help with education.

Mr. McQuarie had two suggestions; one for the individual to approach the head of the restaurant and alert them of the problem and ask they address that. He said for individuals who want to go beyond that they could contact the Department of Justice (DOJ.)

Mr. McQuarie said secondly, the Committee is here to assist the public with disabilities and should write Mike Purdy with the City enforcement agency to say they have had repeated complaints about private businesses. The Committee could invite Mr. Purdy to speak on how MCD could handle the issue.

Mr. Lujan recommended rather than Mike Purdy, to send the letter to the Land Use Director and copy the City Manager. The letter could state that MCD received concerns that may or may not be tied to the CO process. He said although that is out of the realm of the resolution, it is advocacy.

Mr. Lujan explained the 20% requirement rule for improvements when changes are made to facilities.

Vice Chair Hunt asked Ms. Pieters if she would like to send an e-mail to the Land Use Director. Mr. McQuarie suggested the letter go to Mike Purdy and copies to the Land Use Director and the City Manager. Mr. Lujan suggested Ms. Pieters bring a draft of the letter to MCD for approval and to be forwarded to the appropriate staff.

Mr. McQuarie asked if anyone noticed how the access to GCC was changed.

Ms. Pieters said she was prepared to push the ADA button and advised not to or she would be on the wrong side.

Mr. McQuarie said the GCC has changed the access and it is now inaccessible and he has mentioned the problem to them. He said without notification, the route of access is inaccessible and creates a barrier. He added the GCC should make sure the sign is in Braille.

Mr. Lujan said Mr. McQuarie knew the facility was planning the change for two months.

Mr. Lujan said the Committee is struggling with finding items for the agenda and anyone who has an item for the agenda should contact Marcia Bowman, Chair or the ADA Coordinator as soon as possible.

Vice Chair Hunt suggested the draft of the letter be a discussion item for the agenda.

Mr. Lujan said the October meeting would be his last meeting. He said he has a candidate to fill the vacant committee position and hopes to have her aboard by the next meeting.

#### **NEXT MEETING: October 17, 2013**

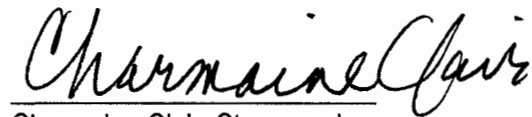
#### **ADJOURNMENT**

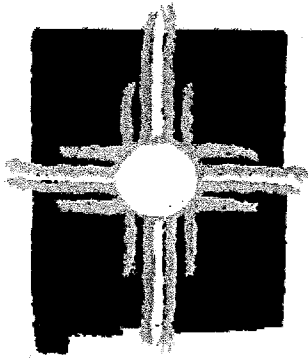
*Having completed the agenda and with no further business, the meeting adjourned at 12:04 p.m.*

Approved by:

  
Roberta Hunt, Vice Chair

Submitted by:

  
Charmaine Clair, Stenographer



*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**  
MOBILITY FOR EVERYONE

# Designing and Constructing Pedestrian Facilities for Accessibility

Desk Reference

## Americans with Disabilities Act (ADA)

\*EXHIBIT 1 IS AVAILABLE IN ITS ENTIRETY IN THE CITY CLERK'S OFFICE\*