

Minutes
ADA Compliance Committee
June 15, 2021, 1:30-3:00 p.m.
Held via Zoom at <https://zoom.us/j/98319107147>

Committee Members Present:

George McCauley, Chair
Jim Whaley
Gina Lytle
Emily Dean, Commissioner

Staff Present:

Sharon Haugen, Community Development Director
Ellie Ray, Planner II
April Sparks, Administrative Assistant III
David Knoepke, Streets Superintendent
Kristi Ponozzo, Parks and Recreation

Members of the Board Absent:

Brian Coplin, *Vice Chair*

Call to Order & Staff Introduction:

(0:00:33) Chair McCauley called the meeting to order at 1:34 pm with brief introductions.

ADA Concerns/Complaints Status Report:

(0:02:55) Planner, Ellie Ray, reported that there were no complaints submitted between the time of the last meeting on April 22nd and the date of the current meeting.

Approval of Last Meetings Minutes:

(0:03:33) Planner, Ellie Ray, informed Chair McCauley, that the agenda had not been updated, but minutes from the previous meeting had been completed and were at the end of the digital packet for the current meeting.

(0:04:09) Member Jim Whaley stated he had reviewed the minutes and had no changes. Made motion to approve the meeting minutes.

(0:04:16) Chair McCauley stated that he had some questions regarding the minutes. The Chair was questioning what has not been done yet. Chair McCauley referenced his comments at timestamp 4:54 of the previous meeting minutes, about snow removal in the city. This has been a question the Chair has asked in multiple meetings, as he has seen in many cases snow plowed into accessible parking spots and onto the sidewalks. He asked Planner Ellie Ray if she recalled stating that instructions are given to people who do that kind of plowing. Ellie Ray stated that she thought that information possibly came from David Knoepke. Chair McCauley stated that it seems to him nothing happens when people do not plow correctly, and it is not reported. Ellie Ray asked if Chair McCauley was asking about private or public property. Ellie stated the City cannot regulate contracts between private parties, but within city limits people performing the work should be licensed. Chair McCauley stated he brings up things like this because he continuously notices things that the disabled community must contend with.

(0:08:27) Chair McCauley referenced timestamp 0:09:12 in the previous meeting's minutes. Ms. Lytle had suggested formalizing the policy regarding ADA license plates and plaques regarding downtown parking. Chair McCauley wanted to know where the committee was on this issue.

- (0:08:53)** Ellie Ray stated that the Board did not take any action to make a formal recommendation, however Transportation Systems may be working on this issue and asked Director David Knoepke for confirmation.
- (0:09:15)** Director Knoepke stated they are working on code revisions with the police and city attorney. This issue is one of the codes they are working on revising. Chair McCauley asked Director Knoepke if Director Knoepke will be updating the committee in the future about this issue. Director Knoepke stated that work will continue and once there is something to report it will be brought to the committee.
- (0:10:16)** Chair McCauley referenced remarks at timestamp 0:20:00 in the previous meeting minutes. Chair McCauley stated that the education campaign has been talked about for at least two years.
- (0:11:04)** Chair McCauley referenced remarks at timestamp 0:27:15 in the previous meeting minutes. Chair McCauley's point in referencing those remarks is because the city is not at the point it is willing to do this, the city is fraught with infractions, even though the MyHelena app works, most infractions are never reported. Chair McCauley thinks that city employees should be reporting more of these infractions.
- (0:13:45)** Chair McCauley referenced remarks at timestamp 0:28:57 in the previous meeting minutes. Chair McCauley asked Ms. Lytle if the statement was accurate. Ms. Lytle said she was not sure what she would have disagreed with, and it was decided that it was a typo, minutes will be changed.
- (0:15:30)** Chair McCauley asked Director Knoepke if he could share a conversation, they had regarding incorporating the disabled community into what the city is trying to do. Chair McCauley cited timestamp 1:14:14, he has been attempting to coalesce the disabled community along with a few other people to bring them into the discussion and the solution to what the city needs and is trying to do to protect our most vulnerable citizens. What Chair McCauley has found that he and a few people from the disabled community have been unable to coalesce members of the disabled community to work with the city, so the city does not do for the disabled community, without the disabled community. Chair McCauley and Director Knoepke have searched for ways to do this, and they both agree is that if the disabled community will not come forward, and if the Committee cannot bring them together to work with the city, particularly on the education plan, the city has no choice but to move forward.
- (0:17:37)** Ms. Lytle stated that she recently did a survey from her home to her physical therapist, to downtown, to the public library, and to the "blue house". The survey has included photographs, and currently does not have the technology to type. On these surveys she has encounter broken glass, which has made her concerned for getting a flat tire. Ms. Lytle did call the city and have a discussion, and the best way is to present the photographs with word documentation of the locations. Ms. Lytle plans on continuing to do this type of survey for as long as she has adaptive technology to do so. Ms. Lytle stated that she is not able to travel to these locations safely with the borrowed adaptive equipment and has damaged it due to the condition of sidewalks. There are no curb cuts on some of the sidewalks. Ms. Lytle stated she is willing to work with the city but feels as though the city pays consultants to do assessments of parking garages, parking, and parking spaces that do not meet ADA code or are in the wrong places. Ms. Lytle thinks if this is presented in a positive way and work is being done, it will make the city more accessible. Crosswalks and lights at places like North Montana, "Malfunction Junction", help, as it is daunting trying to cross some streets. Ms. Lytle is working with a design company in California and high school students to develop an app to bring awareness and accessibility to communities.

Ms. Lytle thinks the committee is on the right track but needs to keep moving forward and build on the positives so people will want to do more when it comes to accessibility.

- (0:22:05)** Chair McCauley stated that he has been trying to do the things Ms. Lytle was talking about, and Director Knoepke is in favor of these things. Chair McCauley has not been able to gather a group of disabled citizens to have a meeting with the city. It is all important to include people with disabilities. Chair McCauley asked Ms. Lytle if she could pull together a group that can work with the city, we could have a meeting and see what the disabled community wants to happen, but without them the city has no other choice to but move forward without their input and that does a disservice to the disabled community. Chair McCauley again asked Ms. Lytle if she could bring together a group of disabled citizens to meet with the city.
- (0:24:22)** Mr. Whaley stated that he agrees with both Chair McCauley and Director Knoepke that there really does need to be a focus group and get good input from them about what in Helena works well, why they live here, why they enjoy living here, and what do they see as their challenges. Mr. Whaley knows that Chair McCauley has addressed several issues that are not necessarily even important to the disabled community, then the Committee is going to be trying to do public awareness and education on topics that may not even be relevant. Mr. Whaley thinks that the first thing that committee needs to do is understand the disabled community and find out where their biggest obstacles are and where the committee should be focusing.
- (0:25:16)** Ms. Lytle asked if the city has a policy about inviting disabled city employees to provide comments. Ms. Lytle said that while she is often approached for her input there is very rarely any follow up. Ms. Lytle stated that she feels the disabled community is willing to participate but is unsure if they have ever been invited.
- (0:27:30)** Chair McCauley stated that if Ms. Lytle can come forward with herself and the names of 5 others from the disabled community to submit to the city manager, so the city can put a meeting together. Chair McCauley stated if the committee continues to talk about specifics the committee will not get anywhere, members of the disabled community really need to be part of the conversation and that the city wants the disabled community to be part of the conversation.
- (0:28:29)** Ms. Lytle asked Chair McCauley what the minimum number of people she would need to bring together, as she could currently have three people from the disabled community. Chair McCauley stated there is no minimum. Chair McCauley suggested that Ms. Lytle submit the list of names she can create to Director Knoepke and City Manager Harlow-Schalk and they will set up a meeting between the city and those members of the disabled community, and then the committee and city can move forward with the education plan.
- (0:29:37)** Ms. Ray asked Chair McCauley if the purpose of this meeting would be to inform the city's PR plan. Chair McCauley stated that the city needs the input from the disabled community in order to be able to move forward and is needed to inform the education and PR plans for the city. Mr. Whaley stated that he sees this meeting as a way for the city to get input from the disabled community, what is working, what is not working, where their greatest issues are. Mr. Whaley stated that he thinks this needs to come first and then the committee strategizes, later connects with the business community and if there are other things that need to be done with the

education program, the committee needs to secondarily say “here’s what we heard from the disabled community and here’s what we think we should do to make it better for them.” Mr. Whaley stated that the first piece of this process is getting a good dialogue with representatives with all aspects of disabilities, including those with mental health issues, the physically disabled, visually impaired, and the hearing impaired. The focus should not be exclusively on those with physical disabilities and limitations.

(0:32:32) Ms. Haugen stated that Jacob Garcin, the city’s Public Information Officer, came to a previous meeting and that is part of what he was going to do as part of the education and PR plan, but that this discussion is good as it provides the first step in the process. Ms. Haugen encourages everyone to stay within the ADA Committee and not to branch off, so all the information stays in one location.

(0:33:45) Chair McCauley asked for a motion to accept the minutes from the previous meeting. Commissioner Dean stated that Mr. Whaley had motioned to approve the minutes and she would second that motion. Motion carried unanimously.

New Business

(0:34:15) Director Knoepke gave an update on the sidewalk presentation to be given to the City Commission. As far as ADA enforcement, Transportation Services is working with the Police Department, is working with the City Attorney’s office, the Police Department, and the City Manager to determine how to sort out how best to go about ADA enforcement as far as trash cans on the sidewalk, unauthorized vehicles parked in handicapped spaces. There are about 3-4 other main topics that have been brought forward and the city is looking at how to adapt or revise city code to provide that service more effectively.

(0:36:19) Chair McCauley stated that he liked the three proposals that made it to the top during a previous work session. Chair McCauley suggested to Director Knoepke that escalating fines should be discussed in the proposed meeting.

(0:37:30) Director Knoepke stated that he does not think that the city is not willing to impose escalating fines, but it is currently not in city code to be able to do that. He wanted to note that some of the obstacles that people have like the vertical deflection of sidewalk panels the city will be receiving a sidewalk/concrete grinder to help mitigate those by grinding them down. This will be another process that once we come up with solutions, we will have public comment and engagement to ensure the city is still headed in the right direction.

(0:39:03) Chair McCauley moved to the next item agenda, an update on proposed community outreach and other education activities. Ms. Ray noted that Jacob Garcin was not able to attend the meeting, however the committee could go over the documents Mr. Garcin had prepared.

(0:40:29) Ms. Ray stated that this is a rough sketch of where the city thinks it’s headed. She has been reviewing websites from other cities and plans on pulling together the notes she has taken to compile ideas for content for the city’s ADA page. Ms. Ray stated that she hopes the city can stick to the proposed schedule.

(0:41:39) Chair McCauley stated the manager of Safeway asked him if he could be on the email list for the committee. Ms. Ray replied in the affirmative.

- (0:42:25)** Chair McCauley stated that he wished to apologize for his emotional behavior at the previous meeting. Chair McCauley said his 50 years of advocacy has come to a head and feels the committee needs to expand its membership with more people with disabilities and be involved in more than the complaints process. Chair McCauley asked the committee if there was any interest in pursuing this discussion.
- (0:44:18)** Ms. Ray asked Chair McCauley where he was on the agenda. Chair McCauley stated that he was on the topic of discussing the committee's role and possible expansion. Ms. Ray wanted to make sure everyone had an opportunity to provide comments and input into the previous items.
- (0:45:03)** Commissioner Dean stated that Mr. Garcin is also working on a city-wide communications plan and it may be helpful to note within that how the ADA plan works with the larger communications plan.
- (0:46:23)** Ms. Ray again asked if anyone else had anything they wanted to share regarding the first two items of discussion.
- (0:46:31)** Ms. Lytle asked what is planned for the campaign.
- (0:46:45)** Ms. Ray referenced the timeline included in the meeting packet but stated that setting up the meeting with members of the disabled community as had been suggested by the committee earlier seems like a logical first step to inform the overall PR process. PSAs and business outreach should wait until after the proposed meeting.
- (0:48:15)** Chair McCauley asked if the group of disabled community members the committee intends to gather would meet with Mr. Garcin. Ms. Ray stated that she would anticipate for Mr. Garcin would be part of the meeting. Chair McCauley asked if the communication plan would go out to facilities such as nursing homes, schools, and mental health facilities. Ms. Ray stated that she's unsure of how the communication plan would be disseminated, but that is something that can be considered as a parallel to the PR/education campaign.
- (0:49:34)** Mr. Whaley asked if it would be possible to get a facilitator to go through the focus group meeting with the committee so the committee can actually hear the biggest issues for those people with disabilities. That would help give the committee focus and Mr. Whaley is not comfortable discussing expanding the scope of the committee without input from the disabled community. Mr. Whaley thinks from his reading of the scope of the committee, there is currently more scope than is being utilized. Mr. Whaley isn't sure that the committee needs to expand its scope, but possibly it needs to change its structure to make it more effective.
- (0:50:25)** Chair McCauley stated that Mr. Whaley was right. Chair McCauley asked if there was further discussion about the education campaign.
- (0:50:56)** Ms. Ray asked Mr. Whaley if he was suggesting that the facilitator be at the initial meeting with members of the disabled community. Mr. Whaley replied in the affirmative. He felt the

facilitator could help the committee focus on the objectives of the meeting and draw those answers out of the group, so it does not become about an individual complaining about a specific incident, but it is a more broad discussion about what does accessibility mean in this community given topographic, climate, and all of the issues we have and how what obstacles can the committee take care of and what are the things that they will have to live with.

- (0:52:15)** Ms. Ray asked members of the committee if there is a recommendation from all of them. Chair McCauley responded in the affirmative. Commissioner Dean stated that it would be a good idea to see if there was someone on staff who could facilitate this and would hate to delay the meeting due to budgeting issues. Ms. Haugen stated that staff would speak to Mr. Garcin to see if he would be comfortable facilitating the meeting.
- (0:53:22)** Chair McCauley made another call for discussion on the education campaign. Ms. Ray brought the committee back to the first item under new business which was passed over and asked if anyone had any questions about the transition plan and the materials included in the meeting packet.
- (0:54:27)** Mr. Whaley stated he had several comments on the transition plan. The first comment is in regard to the Bill Roberts Golf Course, some of the facilities have been built and renovated in the recent past. The list said it was in compliance with the adopted building codes, and the ADA codes and architectural guidelines for the ADA are much more specific than the building codes. Looking over the list and given the date of construction for some of the buildings, Mr. Whaley would assume there would be no issues, because they should have been built in compliance with ADA. Mr. Whaley asked if the city is requiring architects to design, and contractors to build buildings in compliance with the architectural design guidelines. Ms. Haugen said that if it is a city owned building that is a requirement and is part of the Building Division's review. Mr. Whaley stated that for example a place like the Bill Roberts Golf Course should have no deficiencies. Ms. Haugen stated that would be the assumption. Mr. Whaley stated he was surprised to see the number of deficiencies for some of the newer buildings. Some of the buildings, some of the deficiencies are not as concerning, some of the public works buildings, the main concern is that if a member of the public wants to have a meeting there or an employee has accessible facilities, but some of those buildings are not frequented by people from the disabled community as much or even by the public in general very much so as we do our priorities, and input from the disabled community should be used here, which of these facilities do they most frequent and where do they have the most issues.
- (0:57:15)** Chair McCauley asked Mr. Whaley if he recalled when they were talking about the transition plan, Mr. Whaley made the remark that it would be great to know just not the plan but what has been done. Mr. Whaley stated that he recalled that conversation. Chair McCauley asked if the transition plan listed what has been done, or if this is just the plan. Mr. Whaley stated that the transition plan is a list of the facilities and identifies the deficiencies with them, and states which phase those deficiencies will be addressed. Mr. Whaley stated his expectation is that anyone should be able to arrive at a public facility, access the public facility, and have accessible restrooms, accommodations can be made on some of these other things more easily than architectural changes, so input from the disabled community is important in identifying these items. Additionally, Mr. Whaley sees the role of the committee is having conversation with the city when they are doing projects, knowing what issues there are regarding compliance,

what work is being completed, and making recommendations to different city departments on the direction of projects regarding ADA. Ms. Haugen stated that the list will be updated as to what items from the Transition plan have been finished, as it will be part of the report presented to the Commission and will be shared with the committee. Ms. Hauge stated that will establish the baseline of what is left to be done, and perhaps the committee can then assist in developing priorities with projects that are left and suggested this is what she understood Mr. Whaley was looking for the role of the committee to be in the process. Mr. Whaley agreed with Ms. Haugen and stated that he sees the committee as assisting in setting up priorities and giving input before the work is done. Mr. Whaley stated from looking at the report it appears to him as though Parks and Recreation has done most of the work in addressing deficiencies, it looks like they are doing a great job. Mr. Whaley commented on the Beattie St Trailhead stating that while there are ADA facilities available, unless someone with a physical disability wants to go to this area for the purpose of having a picnic, they do not have access to the trails as the trails are not friendly to those with physical disabilities, so having accessible facilities in a non-accessible area may not necessarily be a priority site.

(1:03:45) Chair McCauley wanted to take issue with Mr. Whaley's comment about the Beattie St Trailhead, Chair McCauley stated that the trail is accessible depending on the disability. Mr. Whaley conceded that some people with disabilities can use the trail system and stated that the improvements at the trailhead were done properly. Chair McCauley stated that in his understanding of the transition plan, by law the committee is to receive an update on the prioritization of the projects as work is completed, and an updated prioritization plan was not included. Chair McCauley asked Ms. Haugen why an updated plan has not been provided. Ms. Haugen stated that the plan was sorted into phases, and this document is intended to identify items which have been completed, but which phase those items were designated is not available. The intent of the phases was to sort projects by 1st, 2nd, and 3rd priorities. The intent of this update was a first look at the transition plan, identifying what has been done, and Ms. Haugen pointed out as Mr. Whaley stated, as we move forward having this group look at what is left in that transition plan and assisting the staff in prioritization of what is left and identifying items that were not part of the transition plan. Beattie Park and Bill Roberts Clubhouse were not part of the transition plan. This is the intent of this first update. Ms. Ray shared a link to a page on the city website with a list of projects from the transition plan, the phases were to run over an 11-year period, with phase 1 being a 3-year period and consisting of the more obvious deficiencies in areas you will see most public interaction. Phases 2 and 3 were both intended to take place over 4 years respectively. There is still time to address these items. This is a first pass to highlight where there are deficiencies and what has been done, but it was a good reminder for the facilities manger and what he needs to put in his budget.

(1:10:10) Chair McCauley asked Ms. Ray if addressed means identified or fixed, in the update. Ms. Ray stated it means identified. Chair McCauley repeated his question about if a document showing the work that has been done is required by law. Ms. Ray stated that creating an update document is a step that needs to be taken, going point by point through the entire 2300 access deficiency. Chair McCauley rephrased his question and asked if the committee could be provided with an updated list detailing the work that has already been completed. Ms. Ray stated that the staff needs to go through the list, which is 67 pages long, and update each line item with those that have been completed and new costs to provide guidelines for future budgeting. Chair McCauley asked if the city needs to make public the items from the transition plan that have been done. Ms. Ray stated that is correct and it will be done once there is an updated list. Chair McCauley stated that he has been told by people who do this kind of work

that the city is behind in letting people know the work has been done. Ms. Haugen stated that this is an issue that needs to be taken to the city attorney. Mr. Whaley stated that he does not believe the disclosure of what has and has not been done is a requirement of the ADA, and it is ultimately a city policy choice, but does not think there is any legal obligation.

(1:17:17) Ms. Lytle stated she appreciates the prioritization of which areas and locations to remediate first, that is a good place to start. As far as the Beattie St trail access, one of the hot topics is e-assist bikes being used to provide access to the trails to the disabled community. The committee should be aware of the discussion happening in the community and that there is opposition to it. Ms. Lytle would like the committee to weigh in on the issue of e-assist on city trails. Commissioner Dean noted that the city manager mentioned this in her remarks in a previous meeting a month or two ago that people with mobility disabilities are allowed to access city trails that are open to the public with motor driven mobility devices if they can provide credible assurance that the device is being used for a mobility disability. Commissioner Dean wanted to make sure it was clear those are the current rules for e-assist technology on city trails. Ms. Lytle thanked Commissioner Dean for the update. Commissioner Dean stated that there is a statement that goes with those rules. Ms. Lytle requested access to that statement so she could provide it to her disabled community.

(1:20:00) Chair McCauley stated that at the next meeting is scheduled for September, and hopefully before that meeting Ms. Lytle will be able to gather a group from the disabled community before that meeting. Ms. Lytle said that her only concern is technology, as some individuals are unable to use the Zoom platform.

Public Comment

There was no public comment.

Next Regular Meeting

September

Adjournment

(1:22:57) The meeting was adjourned at 2:56 PM.

ADA Grievance Investigation Report

November 2021

November 9, 2021

TO: ADA Committee

FROM: Ellie Ray, City Planner

SUBJECT: ADA Complaints Status Report

One (1) Title II ADA issue has been raised to the City between June 15, 2020, and November 9, 2021.

Date of Complaint Receipt: October 21, 2020

Topic of Complaint: Various City Parks Issues and Queries

A serving member of the ADA Advisory Committee representing the local disabled community, Gina Lytle, contacted the city ADA Coordinator (Ellie Ray) to inform them that they encountered issues accessing facilities at city parks and open lands areas (see attached memo to Open Lands, Parks, and Recreation Department staff). Currently, the matter has been raised informally rather than as a formal complaint as means to raise awareness and assess the possibility of alternatives and/or accommodations. City staff are working to address the feasibility of providing changes in line with requests/issues noted in the complaint. A determination letter reflecting the findings of staff and any proposed remedies from the Open Lands, Parks, and Recreation Department is forthcoming.



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Date: October 28, 2021

Subject: ADA Complaints and Comments Received October 21, 2021

On October 21, 2021, Gina Lytle, an ADA Advisory Committee Member, submitted the following complaints and comments regarding city facilities:

1. Issues raised regarding Memorial Park:
 - a. The surface area of the playground is difficult for those in wheelchairs to navigate
 - i. Is there a more accessible, compliant alternative?
 - b. Much of the equipment cannot be used
 - i. Swings are not inclusive with regular swings relegated to one area, infants another, and a disabled swing elsewhere
 - ii. The disabled swing was not entirely functional, accessible
 1. Gina had 2 able-bodied people assisting her and still struggled to get on the string with their assistance (it kept swaying)—she was unable get in securely to use the swing
 - c. It was noted that there was not an accessible picnic table or easily accessible space
 - d. Restrooms at the time of visit were locked, with access only available to one non-ADA accessible porta-potty
 - i. A general, facilities-wide request was made to provide an accessible restroom at all city venues, even if it is an accessible porta-potty
 - e. Gina found no direct access/path to the swimming pool
2. Gina did not raise issues related to Centennial Park or the Folf Course other than noting that switchbacks on the Folf Course trail were difficult to navigate on an adaptive bike
 - a. Gina asked to be included in any future discussions regarding improvements to the parks



Figure 1: Gina on an adaptive bike at the Folf Course