

Minutes
ADA Compliance Committee
July 19, 2022, 1:30-3:00 p.m.
Held via Zoom at <https://zoom.us/j/98319107147>

Committee Members Present:

George McCauley, Chair
Jim Whaley, Vice Chair
Gina Lytle
Debbie Lane

Staff Present:

Chris Brink, Community Development Director
Ellie Ray, Planner II
April Sparks, Administrative Assistant III
Wilmot Collins, Mayor

Members of the Board Absent:

Melinda Reed, Commissioner
Caroline Scott

Members of the Public:

Joel Peden
Dr. Gregory Thomas

Call to Order & Staff Introduction:

(0:00:00) The meeting was called to order and introductions were made.

Approval of Last Meetings Minutes:

(0:02:12) Ms. Lytle made a spelling correction. Chair McCauley noted a correction to the language used about the trail on Mount Helena. There was discussion about how the city should classify open lands accessible trails with multiple suggestions, including those related to difficulty of the trail. Ms. Ray stated that she would pass the suggestion along, but also that if signs had already been printed it would become a bigger thing, as the signs are not inexpensive. The minutes were approved with the noted changes.

(0:06:52) Director Brink was able to join the meeting and introduced himself to the Committee.

ADA Concerns/Complaints Status Report:

(0:08:42) There were no complaints.

New Business

- **Review of Initial Accessibility Survey Findings**

(0:09:01) Ms. Ray directed the Committee to the provided document with data from the high-level question responses from members of the public, and noted it is not as nuanced as the rest of the information the city has, which includes written comments about certain questions. The survey ran for just over a month, launching shortly after the last meeting. There were 68 unique responses and 200 individual visits to the site. Of the responses 40% identified as disabled and the remaining respondents were friends,

family or providers to the disabled in the community. Further demographics showed that over half of respondents were over the age of 55, while a large number of respondents are between the ages of 18 and 54, close to 66% live in the city, with 90% of respondents living in Lewis and Clark County, with the rest being from outside the county. Most people responded saying that they have mobility issues, and most people get around by using cars. A lot of respondents reported finding barriers to getting to places in the city. Ms. Ray stated that the questions with the option to provide a written response of individual experiences will hopefully be categorized in the next few months. Based upon that analysis and additional feedback, the city should be able to determine if there is a need to produce additional surveys for the community. Ms. Ray gave her opinion that for a first pass, the survey received a good response, and acknowledged Chair McCauley's comments over the years about the struggle to engage with the disabled population. With this survey people did express where there are barriers getting around the city using sidewalks and other infrastructure. Ms. Ray also noted that the responses indicated most of the respondents have used the city parks, and while the responses were varied as far as people who utilize the largest parks that the city wanted to fit in the survey, the city has more than what were put in the survey and people use them with a solid amount of frequency. Ms. Ray offered to expound on some of the other responses but stated that the city is excited with how this first effort went and that they are hopeful to find ways to further engage with the disabled community. Ms. Snyder had nothing to add but stated that she was very excited to be part of the effort, and Ms. Ray announced that Ms. Snyder would be taking over the responsibilities of ADA coordinator in the future. Ms. Ray asked if anyone had any questions about the survey findings thus far.

(0:13:57) Chair McCauley expressed his appreciation for the survey findings and noted that it was very detailed, and a lot of information had been gathered. Ms. Ray noted that the city's public information officer, Jake Garcin, also contributed heavily to the survey. Vice-Chair Whaley stated that his impression of the survey results by and large is that the city was in a good or excellent ranking on most of the items, and that while there was not an option to select between good and poor, the survey results generally reflected well upon the city. Ms. Ray thanked Vice-Chair Whaley for pointing out the lack of a "neutral" option and stated that it will be noted for potential future surveys.

- **Consider a recommendation to the City Commission for an amendment to the city's right-of-way code enforcement authority that would allow issuance of tickets by Code Enforcement Officers in lieu of the adopted complaint-driven process**

(0:15:57) Chair McCauley started the introduction of the next item with a statement that the motion he intended to make had nothing to do with the city's work with the evaluation plan and the prioritization plan and wanted to thank the city for the work it has done on the evaluation plan, which is an ongoing project. Chair McCauley stated that his intended motion is related to everyday quality of life: living, walking, driving, those issues, not the larger pictures of the evaluation and prioritization plans. In the time that he has been sending photographs of infractions of the complaint driven process to the code enforcement officer, nothing has happened to the offenders, they keep doing the same thing. Chair McCauley kept sending photographs despite this, he stated this was not always part of a complaint, but more for informational purposes so the city could see the complaint driven process was not the only solution. Chair McCauley related his experience of about a year ago speaking to Director David Knoepke about ticketing someone who resides across from one of his studios and was told that the code enforcement officers cannot ticket people but only ask someone to comply with the code, which shocked Chair McCauley. He subsequently related this information to friends

who were not only disabled but others who are politically active and they were equally shocked. Chair McCauley stated his motioned is because he sees that there is a problem with complaint driven ordinances being unenforceable as code enforcement officers can only ask for compliance. He has asked for the city to allow code enforcement officers to issue fines for infractions, but also that the complaint driven process should not go away entirely, and [allowing for code enforcement officers to ticket offenders] is a way to help the problem that is rampant all over the city.

(0:21:21) Ms. Lytle asked if code enforcement would be able to give tickets or fines for parking violations as well. Chair McCauley thanked her for her question and stated that at some point in the past he had the understanding that the city was rewriting codes, and that code was left out so that a police officer cannot ticket someone for parking illegally in an accessible parking spot, so did not know the answer and deferred to the mayor and city attorney. Ms. Lytle stated that she had spoken to the city attorney three to four years ago about that violation and ticketing and was told there was nothing on the books in Helena. Mayor Collins stated that he will support the direction in which the committee would like to go as he has seen the disregard for the rules and ordinances of the city, and he will support ticketing people for the blatant disregard of rules. Mayor Collins stated that he would bring up the issue of giving ticketing powers to the code enforcement officers with the City Manager and discuss how best to move forward with it. Ms. Lytle added that the way accessible parking is currently enforced is that a police officer has to write the ticket and there are four police officers on duty for the city at any given time and so to her understanding from the city attorney, is charge it as a criminal offense where they have to go before a judge. Mayor Collins acknowledged Ms. Lytle's statement but stressed that was four years ago and the city may be able to make headway and change some other things around to make it work, so he will be talking to the City Manager and be in contact with Chair McCauley and go from there.

(0:25:11) Vice-Chair Whaley asked for confirmation on what was being discussed in the context of code enforcement officers: police officers, building code enforcement officers, or parking. Mayor Collins stated that parking should be able to do that. Vice-Chair Whaley asked if Mayor Collins was referring to parking. Mayor Collins confirmed that and further stated that there are also code enforcement officers that are separate from the parking guys, and that the code enforcement officers do not have the authority to issue tickets. Mayor Collins did note that parking [enforcement] does have the authority to issue tickets and that it why he said in order not to re-write everything and that the city will find where it can add that to the parking enforcement when they see that kind of thing [illegal parking in ADA spots] happening, as they should be able to issue tickets.

(0:26:16) Vice-Chair Whaley stated that it was his understanding that the city had an ordinance that requires people to shovel their sidewalks within 24 hours of an [snow] event and that the city has handicapped parking designated spots, which he assumed was also a city ordinance. Vice-Chair Whaley started to ask a question and Chair McCauley asked if he could clarify the discussion and stated that the motion was not necessarily about parking in accessible parking, it is anything to do with streets and sidewalks that is complaint driven that the two code officers under Transportation Services would come to your home and say "George, you haven't shoveled, please shovel." Then he doesn't shovel, and they come back and tell him again, as that is all they can do. Chair McCauley stated he is specifically speaking about anything that has to do with obstructions on sidewalks, such as un-shoveled snow, debris, or anything that can block access, which is not strictly an ADA issue, it affects everyone. Chair McCauley stated that he wants to see us take the complaint driven ordinances and have our code enforcement officers have some ability to actually enforce them. He related a conversation with a staff member recently, in which it was stated that if we're not going to enforce them [ordinances], we might as well get rid of them, which in his opinion is a bad idea. Chair McCauley also noted that parking is something a police officer can issue a notice to appear as it is a state statute, not city, and that ticket notice to appear must go to a human being not the vehicle and no police officer has the time to find the driver. He further described his interactions with city commissioners and how he has

stated to them that [the ADA Compliance Committee] can only make a recommendation and cannot determine how to do it.

(0:29:33) Vice-Chair Whaley asked Chair McCauley for clarification that there is an ordinance, but that there is not a penalty associated with that ordinance currently. Chair McCauley confirmed this and stated that people can only be asked to comply. Vice-Chair Whaley asked for further clarification if Chair McCauley was proposing that the ordinance is amended to include a penalty and perhaps even a penalty for first, second, and subsequent offenses. Chair McCauley stated that it is not in the motion, but he has been working with Director Knoepke on this issue, and if the code enforcement officer comes to your house the first time, that is purely education on why not to park across the sidewalk or why you should shovel snow off the sidewalk, essentially the first visit is a warning. Mayor Collins stated that there are chronic offenders that nothing will make them change, so the committee has the ability to pass a motion and give it to [the Commission] and let them work on it further, not continue to argue about things that are not in this motion and creating more problems so to speak, as he understands the gist of the motion and [the Commission] will be able to take it further.

(0:31:37) Ms. Lytle encouraged that the motion includes that code enforcement can enforce parking as well, and that as a disabled person that is a huge priority. Chair McCauley stated that he is all for that but did not know if that is two separate issues, he then asked Mayor Collins if that could be included in the motion. Mayor Collins stated that the motion could be amended. Ms. Lytle motioned to amend the original motion. Vice-Chair Whaley seconded the motion. The motion to amend the original motion passed. Vice-Chair Whaley moved to accept Ms. Lytle's proposal to have traffic enforcement enforce parking and have the ability to fine both parking and snow removal violations and other violations regarding ADA. Ms. Lytle seconded. Ms. Ray asked for clarification that the motion be focused on parking and sidewalks. Chair McCauley called for a vote, and the motion with the amendment passed unanimously. Chair McCauley voiced his appreciation to the committee for passing this motion and expressed how long he had been working on it. Ms. Ray stated that the next step in the process is a signed letter from Chair McCauley with the recommendation to the Commission. There was further discussion on the letter and Chair McCauley's remaining tenure on the Committee.

Public Comment

(0:37:04) Mr. Joel Peden stated his appreciation to Chair McCauley and the Committee for making the effort to raise that concern on path of travel, as it is something that has been being worked on for some time. Mr. Peden did raise a concern about the language of the amendment to the motion, as if he understands correctly parking officers only work in the downtown area. Ms. Ray confirmed that. Mr. Peden state that what Ms. Lytle brought forward is a great step forward and will allow the conversation to move forward, but he wanted to bring up that the issue goes beyond the downtown area and the city needs to be accountable, go into the codes and fix what got left out the last time so that it doesn't have to be given to the person that it can be left on the car like any other parking violation, and another option there used to be a citizens group that was trained and authorized to issue accessible parking violations. Mr. Peden expressed his hope that the city would look at something like that again to increase the number of people that have their eyes out there and are working. Coming back to the discussion on sidewalks, Mr. Peden noted that the issue is also repairing sidewalks and there currently is not a good remedy that works. He related how it has been going on three years that he went through the complaint driven process on a large section of sidewalk along 11th St. and commended those that had fixed issues but stated the most dangerous violations still persist. Mr. Peden stated that he has

attempted to follow up on his complaints with the code enforcement officers but has been told they have been turned over to the City Attorney's office, but it seems to him as though that is where these things go to die. Mr. Peden stated that he chooses to ride in the street as opposed to traverse the sidewalk due to several impassable areas involving 4-to-6-inch heaves in the sidewalks. He also encouraged the committee to stay active and commended their work to this point.

(0:42:55) Vice-Chair Whaley asked if before moving onto further public comment if he could ask Ms. Ray to have the City Manager and Attorney look into a response to the sidewalks that are in disrepair and stated that it seems that it would be the city's responsibility to repair those [sidewalks] when city trees are the cause of [the damage]. Ms. Ray stated that she had an answer for Vice-Chair Whaley, and that she had conferred with both the outgoing and current city attorney to determine whose responsibility it is. In each instance she was told that it is the adjacent property owner's responsibility to address the sidewalks, and that was based upon city ordinances that are adopted, to the best of her estimation under Title 7 Chapter 4. Ms. Ray noted that this was something discussed at the May meeting, and she made a note to ask both of the city attorney's offices and that was the response. Vice-Chair Whaley and Chair McCauley asked if Ms. Ray could provide him with a copy of the ordinance.

Member Communications

(0:45:46) Chair McCauley took the time to express how honored he has been to serve on this committee and work with city staff, as his term on the committee expires on September 1, 2022. Before the meeting came to a close Ms. Ray did relay that the information both Chair McCauley and Vice-Chair Whaley wanted is in Title 7 Chapter 4 Section 8, and briefly stated the start of the section.

Next Regular Meeting

(0:50:53) The next scheduled meeting is Tuesday, September 20, 2022.

Adjournment

(0:50:53) The meeting was adjourned at approximately 2:20 PM.