

**Minutes**  
**ADA Compliance Committee**  
**May 17, 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

Melinda Reed, Commissioner

Deborah Lane

Caroline Scott

**Staff Present:**

Christopher Brink, Community Development

Director

Ellie Ray, Planner II

April Sparks, Administrative Assistant III

**Members of the Board Absent:**

**Members of the Public:**

Dr. G

**Call to Order & Staff Introduction:**

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

**Approval of Last Meetings Minutes:**

(0:06:23) It was stated the minutes from the last meeting were still being transcribed and would be available for approval at the next meeting.

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

**ADA Concerns/Complaints Status Report:**

(0:09:06) Ms. Ray presented the one complaint received by the city regarding the ADA parking on the south side of the City-County building, and how since being constructed as ADA compliant, it has not held up well over time. The Facilities department has planned on phasing out that parking lot after reconstructing the north lot to become the designated ADA parking lot. Ms. Lytle's complaint served as a reminder that this is still an issue and holds the City accountable. The Facilities department hopes to have construction activities related to the north parking lot completed in 2023 or as soon as a contractor is hired. The current plans are going to take where they have the entrance near the elections office in the building and constructing a big ramp to access the building on that side. Once that is completed the south lot will essentially be decommissioned as a parking lot for the building.

(0:11:33) Chair McCauley asked for clarification on where the accessible parking will be located. Ms. Ray stated that it will be moved from the south parking lot accessed by Clark St to the north lot accessed by Lawrence St and again stated that a ramp will be installed for access to the entrance door located near the elections office.

**New Business**

- **Draft City Accessibility Survey**

- (0:13:04)** Ms. Ray presented additional information about the draft of the City Accessibility Survey that was included in the meeting packet. The intent of the design of the survey was to make it as broad as possible and to make it for members of the community who have a disability or care for someone with a disability. The city intends to attempt to engage certain nonprofit partners and present the survey when it is in a more final state, or shortly after it has launched, to the Lewis and Clark County Aging Well work group. There are numerous nonprofit members in the community, such as MILP and Rocky, who would be able to engage with their clientele to either assist them or point them to the survey to complete and hopefully this will serve as a continuation of the discussions that the committee had in November with members of the disabled community that were able to join the meeting to gauge where people are struggling in accessing our facility, services, and other programs. So the survey is being kept as broad as possible and attempting to hit on the main areas within the city's jurisdiction with respect to ADA, other than employment. Ms. Ray stated that she believed that the survey would bring in enough information to create subsequent surveys and thanked Ms. Lytle for her assistance in the process of creating the survey.
- (0:14:53)** Ms. Ray did state that she had received some feedback from David Knoepke, Director of Transportation Systems, with questions that the city might put forward in a future survey that are more geared toward transportation related matters. Ms. Ray then asked the committee if there were any suggestions for improvements.
- (0:15:34)** Ms. Scott stated that she is excited about the survey and asked about the timeline for getting feedback on it, as she wanted to pass it by a couple of her coworkers at MILP. Ms. Ray stated that the city was hoping to launch it within the next week, and that the Aging Well work group was meeting the following Wednesday, so ideally the city would want to have it live that that meeting to share it with those stakeholder groups. Additionally, Ms. Ray stated her intention to pass the survey along to some directors she knows at certain agencies she thought should be putting it out there in community and would encourage anyone that serves on this committee to do so as well. The survey will be open until July 1 and then after having time to analyze the data, the city will present preliminary findings to the committee. Ms. Scott asked if the survey would be web based. Ms. Ray confirmed that this is the case and stated that it would be on the "I Heart Helena" App, which she understood to be accessible. Ms. Ray did state that if needed the city could distribute hard copies to people if for instance you work with clients who need assistance in completing the survey and those could be returned to add to the data. Ms. Scott offered MILP's assistance.
- (0:17:32)** Ms. Ray noted that there was a public comment from Dr. G related to question 7 asking if it would be possible to have a text box inserted so that people can talk about accessibility issues created by current snow practices of the city. Ms. Ray said that was a possibility, however the city was trying to determine, with the aid of Director Knoepke, the utility of the question in the context of this particular high-level survey, or if it shouldn't be included into a future transportation survey. It was noted that Ms. Ray had received a number of questions that could serve as the basis for a separate transportation related survey. Director Knoepke was going to get back to her within the week regarding question 7.
- (0:18:33)** Chair McCauley stated he had a similar thought to Dr. G and suggested that there were several other questions that in his opinion needed to have a text box, as, in his opinion,

they are hard questions that require a thoughtful response. Ms. Ray stated her appreciation for that sentiment but stated that survey is being kept as focused as possible otherwise it would be very difficult to assess quantitatively and qualitatively what the results of the survey are, and the city did not want to make it too difficult to process the feedback from this first survey. With respect to questions on sidewalks, Ms. Ray will defer to Director Knoepke as to whether he feels we should have those questions or if there should be a separate transportation related survey. Ms. Ray went on to state that there could be some places that it would be appropriate to have a text box for people to get assessments. It was also noted that while developing the survey a number of other jurisdictions were looked to, including one in Australia, one in Canada, one in California, and the city of Bozeman, as they are currently doing a park survey to see how they framed their questions in order to align ours with them. The report of the findings from the survey of the jurisdiction in Australia was available to review, and at the end of the results, they provided a whole section that was filled with the comments that they had received in text boxes. Generally, the city has had an open ended question at the culmination of a survey where if people have additional thoughts that they can provide them, however the thought was that it might be a little unwieldy, and Ms. Ray gave deference to the public information officer, Jake Garson.

**(0:21:21)** Chair McCauley stated his appreciation for Director Knoepke's desire to make it part of his own survey, but based upon his own experience of completing surveys, relating a very recent experience, people need a place to express themselves in addition to responding to the pre-determined questions.

**(0:22:33)** Ms. Ray suggested that a disclosure be added at the end of the survey providing an email address for any additional comments. Chair McCauley stated that he thought it would be nice to have a box at the end for people to share their thoughts. Commissioner Reed stated that she often has to do surveys, and there is often a text box after each question that is marked optional, where people can provide additional information so people who want to, can share more without taking an extra step. Ms. Ray thanked Commissioner Reed for her input and stated that the city would look into adding those text boxes on certain questions, however there is a question of how exhaustive and unwieldy the survey can become. Chair McCauley stated his appreciation for the effort to keep the survey simple.

**(0:24:34)** Ms. Lytle stated that the team creating the survey struggled with how to keep the survey narrow, as once certain questions were discussed and the different entities involved in some, it can become very complicated, and the choice was made to keep things as simple as possible. MS. Scott stated that she felt a text box was needed in particular on the question regarding snow removal and that it may not have the same context in a general transportation survey as it does in a survey tailored to those with accessibility issues. Ms. Ray stated it might be possible to narrow the way the question [about snow removal] is framed, as they way that it is written, it addresses snow removal policy as a whole for all city operations, facilities, street snow plowing, and some sidewalk snow removal, so deference will be given to Director Knoepke about what is done with this question. Chair McCauley asked for clarification about the survey question being discussed. Ms. Ray confirmed that it was the same question and that Director Knoepke stated that he would get back to her on how he wants to address the question in the context of either this survey or a subsequent survey.

**(0:27:27)** Chair McCauley stated his belief that it is an important question to leave on this survey, and that there could be an expansion on the question of snow removal in Director Knoepke's survey. Ms. Lytle added that it [snow removal] is a huge barrier and problematic and that the public would like to voice their opinion. Chair McCauley asked if because if this question was in discussions with Director Knoepke if it would not be included on this survey if he wants to expand on it in another survey. Ms. Ray stated that it does not mean that it won't be on this survey in some form and that it may get reworded to be a little more focused, as it is written very broadly currently. Additionally, Ms. Ray assured the committee that if it does not appear on this survey, it will appear on a future survey. Chair McCauley expressed that he would be disappointed if a question about snow removal was not on the survey and that the question could be refined, but it was his belief that it really needed to be included in this survey. Ms. Lytle and Ms. Scott agreed with Chair McCauley on the need for the question in this survey. Ms. Ray stated she would pass that on to Director Knoepke and that they would work out how to best word the question.

**(0:29:36)** Chair McCauley asked if there were any additional comments on the survey. Ms. Lane stated she was surprised over the choice of answers to the question about which park a person goes to, as there are a lot of little parks in each neighborhood, and it's possible that a person only goes to one. Ms. Ray stated that is a good point and that can be revised to add another box that says other. Ms. Ray stated the Parks department was consulted with to determine which were the most heavily utilized parks in the system to incorporate into the survey as the list of parks is voluminous, additionally, when looking at the [ADA] transition plan, the parks take up a good chunk of the areas with improvement opportunity. Ms. Ray stated Ms. Lane is correct in that many people go to their neighborhood park rather than some of the other larger facilities as it is what is accessible and nearest to them. Ms. Lane suggested adding just the answer of other as someone may look at the list and not know how to answer.

### **Public Comment**

**(0:32:12)** There was no public comment.

### **Member Communications/Proposal For Next Agenda**

**(0:32:22)** Chair McCauley stated that he had been speaking to a number of organizations around Helena and with some city staff about code enforcement, and he intends to make a motion to give code enforcement officers a way to ticket people for violations such as snow removal. There was discussion back and forth between Chair McCauley and Ms. Lytle about reporting and documenting these infractions through the myHelena app, and how things were reported before the app. Ms. Lytle noted that she felt the more the myHelena app was used to submit these complaints the more documentation will be created and the better the app will become. She also stressed her desire to see more public education/awareness efforts. Chair McCauley stated that in his opinion the myHelena app does not work to curb the infractions he sees and has been reporting for the past 10 years and feels that something more must be done.

**(0:43:21)** Ms. Ray wanted to clarify for Ms. Lane, Ms. Scott and Dr. G, that Chair McCauley has a more extensive history with this issue than she does, as she has been the ADA coordinator since mid-2019, but would like to note that her understanding of the issue having discussed it with Director Knoepke, staff, and the City Attorney's office that currently, this can seemingly have no teeth to it in our enforcement capabilities, because you have to cite an individual, and it's the same with parking violation, and consequently, these issues do recur for a number of people in a number of situations. However, Ms. Ray has learned that if the city were to change things as per Chair McCauley's request, which will be discussed more intensively at the July meeting, that it would become a criminal matter rather than a simple civil matter, and one of the net effects of doing that would be that we'd be ticketing and people would end up in the Municipal Court system, adding to an already overtaxed docket. That said, there needs to be some more review of this proposal, and there needs to be some documentation from years past when this was last discussed. Ms. Ray asked Chair McCauley when the last discussion regarding this topic was held, and he could not recall immediately, but stated that there were emails, flash drives, and CDs from that time. Ms. Ray said that city staff will work on getting more information and letting the committee know in advance of the July meeting.

**(0:45:24)** Ms. Lane asked if there is the authority for them [code enforcement officers] to ticket. Ms. Ray stated that they can directly ticket individuals, but this is a complaint driven system, and the problem that poses is, that as Chair McCauley stated, there have been multiple complaints made about the same individuals with photographs showing a point in time, but unless city staff has a context of knowing exactly where and when, staff can go and check on it, but if there is nothing there to ticket, there is no complaint to enforce. Chair McCauley stated that he had sent photos to the Mayor and Commission over the years for their education that these things were a continuous issue, and while he could have turned these people in, if the code enforcement officer isn't there to catch it, it's a moot point. Ms. Ray added there are only two code enforcement officers for the entire city. Chair McCauley stated that every time this has come up with the city it is always "we only have this" and that the disabled community are on the receiving end, and he is tired of hearing excuses. Chair McCauley added that all the entities he has spoken with agree that we need to start putting some enforcement in the code enforcement officers, and there needs to be some "teeth" in the ordinance, and while he is not optimistic that the committee or city is going to like this, he is bringing it forward as a response to people from the disabled community and the organizations that help those citizens.

**(0:48:16)** Vice-Chair Whaley joined the meeting and Ms. Ray explained the current conversation. Vice-Chair Whaley asked for confirmation about ADA being civil legislation Federally. Ms. Ray confirmed and stated that this conversation relates to citing people for violations. Vice-Chair Whaley asked if the city wanted to develop an ordinance that made it a fine system that was enforced separately that would be the city's prerogative. Ms. Ray confirmed. Chair McCauley stated his intent to make a motion at the next meeting [to propose such an ordinance]. Vice-Chair Whaley asked if that was within the committee's charter. Chair McCauley stated the committee can make recommendations to the city commission. Ms. Scott stated that if this is something that the committee will be voting on in July, she would like as much information about the history of the debate as possible. Ms. Ray stated that she would try to compile as

much [information] as possible, so that everyone, including herself could be well informed.

**(0:50:59)** Vice-Chair Whaley asked if there were any other local municipalities that have made this [the proposed] part of their ordinance. Chair McCauley stated that when he worked with the city years ago to rewrite the snow removal policy, he and his colleague begged the city not to make it a complaint driven process, and if it is complaint driven have a way to make things happen. At that time he had compiled a CD with information on what other municipalities had done, but he no longer has that and thinks that most of the other information that was compiled for that are gone. Ms. Ray stated that she thinks it may have been discussed in 2014, and that she would try to research it more. Ms. Ray stated further that with this committee she routinely struggles with the fine line that exists between getting direction from them and then not putting additional work on her plate without it being vetted by senior staff within the city, so she will need to check to see how much time she can devote to reviewing this. However, she can see that this issue was discussed in 2014 and a letter from the then committee chair with some recommendations was sent to the City Commission, so something similar would happen in this situation. In fact, this might be exactly what was put forward in 2014, but nonetheless Ms. Ray was going to see what she could find, however with a proposal like this it is incumbent on the members of the committee to do the research about other jurisdictions.

**(0:53:39)** Ms. Lytle stated that she has information about another topic from another jurisdiction but would look to see if she could find information on any other topics. Ms. Ray said that there was an excel worksheet put together sometime around June 2014, which showed who is responsible for enforcement, if they can write citations, what the process is, is it complaint driven and it could have been something that city staff put together based upon information received from members of the committee, but it is hard to read in its current state. With that Ms. Ray stated that she would look into what work she can do on this. Chair McCauley asked if someone could access information held by the city without going through the city attorney. Ms. Ray stated that the former city attorney is no longer with the city, and that while the CD Chair McCauley provided to the city years ago may exist, however unlikely, it may no longer be readable, but there was the possibility that the information was copied to the city's server. Ms. Ray also stated that she could reach out to the former ADA coordinator, Elroy Goleman, to see what information he remembered from that process. Ms. Ray also offered to help Chair McCauley draft recommendation language so it could be properly noticed on the next agenda.

**(0:58:58)** Vice-Chair Whaley asked Ms. Ray if there was an update on the question, he had asked Director Knoepke at a previous about if a boulevard tree caused an upheaval of a sidewalk was it the property owner or city's responsibility to fix the sidewalk. Ms. Ray stated that she had not heard back from Director Knoepke, but that she would follow up with him. Ms. Ray also introduced Director Brink to the committee and announced that that city had hired a new city attorney, Rebecca Dockter. Vice-Chair Whaley asked Ms. Lytle if she had had a chance to try the new trail on Mount Helena yet. Ms. Lytle stated that she was waiting for the Parks and Recreation Department to contact her when the trail had been flattened enough for her to try her multiple devices on it. Ms. Lytle also stated that she would soon be acquiring an adaptive bike, so she would soon be exploring all over the city and all of the parks. Vice-Chair Whaley stated he had been

out on that trail some months before the meeting and that it seems to be significantly out of compliance with the urban standards, and he does not know how it matches up with the UM recreational standards. Ms. Ray stated that work on the trail to get it compacted is not yet completed, and that they do not use an urban trail standard, they use a Federal standard from the USFS. Ms. Ray stated that she has repeatedly told the department that how they describe the trail matters, and has told them to classify it as accessible, not ADA as there is no such thing in the framework of the guidelines they have used. Ms. Ray concurred with a statement made by Chair McCauley that the Parks and Recreation department is very open to input on any aspect of the park system.

### **Next Regular Meeting**

[It was not announced by the next regular meeting is scheduled for Tuesday, July 19]

### **Adjournment**

**(01:04:47)** The meeting was adjourned