

Boston Commission for Persons with Disabilities

Minutes for Wednesday, December 1, 2010

Present: Eileen Brewster, John Winske, John Kelly, Suzanne Leveille (by telephone), Carl Richardson, and Heather Watkins. David Estrada, Arnold Berry, and Janice Ward were absent. Commissioner Kristen McCosh represented the City. Don Summerfield from the Cambridge Disability Commission also came.

City of Boston Attorney Elizabeth Dello Russo-Becker, the city's ethics adviser, came to briefly discuss the ethics and open meeting laws. She offered herself as a resource. She handed out summaries of the law, and will send electronically the open meeting law, ethics law, handouts, and a link for taking that test. Members must acknowledge receipt by return e-mail.

Commission members count as "employees" of the city for the purposes of both laws. As employees, members are not allowed to accept illegal gifts (anything valued at over \$50) which are designed to coerce or influence us. Members cannot solicit money from other city employees or people with business before the city. Members are also not allowed to use city property without authorization.

The open meeting law has two distinct requirements, that everyone acknowledge receipt of the information packet yearly, and that everyone take a 25 question test. Some employees with disabilities have had trouble taking the test. Carl says that while the test is not perfect for visually impaired people, they can take it. Carl took it with a screen reader. He will get in touch with Elizabeth about helping people take the test.

Although the disability commission may not be specifically required under the law to take the test (the testing requirement depends on the type of commission), members thought it was a good idea, especially if people could take the test before the February 23 meeting. Even if members have taken that test in another role (e.g., work with the state), members must take it again regarding for city requirements.

Any meeting which meets quorum must be public, with very limited exceptions. Commission members may be in the same room together, they just are not allowed to deliberate on commission business. For any meeting that meets the quorum threshold, public notice must be given at least 48 hours prior.

Elizabeth answered member questions regarding the following:

- Regarding outside site visits, notice is not necessary, but there should be no deliberation out at the site. The legal "cure" is for members to recap for the full

commission what they said at the site visit, thereby making it fully public. Decisions can then be made at the commission level.

- Regarding e-mail communications, these count as meetings if a quorum is present. No deliberation can occur, communication should be individual-to-individual only. Members should avoid hitting the "reply to all" button in response to group e-mails. And members should remember that all e-mails are public records. On the other hand, it is fully permissible to send out information (e.g., files) in a group way.
- Regarding a commission Facebook page, it would be permissible if it were noticed as a Facebook meeting that everyone can access; the BPL has done meetings online. Elizabeth will look into this matter further.
- Regarding subcommittee meetings, the law still applies. Membership should be kept below a quorum, and meeting business should be brought before the full board and recapped before decisions are made.

Atty. Dello Russo-Becker will come back with Atty. Mary Beth Cusack to give the committee the full PowerPoint presentation, at the February 23 commission meeting, 6 PM-7 PM.

Suzanne Leveille joined the meeting by phone.

A motion carried to table the October minutes, which were not ready.

Carl Richardson brought an assistive listening system. John Winske reported that his iPhone amplified the previous meeting well enough to hear. The commission would like to have its own assistive listening system available, so that meetings can be accessible to more people with disabilities.

Commissioner's Report: Kristen McCosh reported on her staffing, that there are now three positions. The project coordinator, who handles handicap parking applications; an administrative assistant, who answers phones and provide some Information & Referral; and a clerk who does some limited data entry. One staff member has been out indefinitely for medical reasons. As a result, even though she loves the work, she has had to take up some of the staff responsibilities herself. She emphasized that her door is always open for the commission.

In preparing her budget, Kristen will request two new staff positions. She would like to have a staff member capable of taking minutes, and a staff person who is an expert on state and federal access codes.

The currently assigned tasks for her office is to provide I&R, technical assistance, and handle handicap parking requests. Kristen wants to be designated the city ADA coordinator. Her priorities include increasing advocacy, working closely with the

commission, and bringing the city up to date with appropriate accessible technology. For example, she mentioned that a trial snow alert system had been sent out that was not fully accessible, but will be improved. She said that the city contractor handling the city website uses the program CAPTCHA, a program which uses questions to restrict website interaction to humans. But it does not work well with the screen reading program, JAWS. The city contractor doesn't have the capability to make it work, but she is working with IT to make the site accessible.

Kristen has had numerous meetings, such as with the Institute for Human Centered Design, the Architectural Access Board and the MBTA. She also met with the Hackney division of the police department. Hackney wants to develop specifications standards for the accessible cabs -- the division wants uniformity. She will write up a report on her meeting. The division is against side-loading taxis, which were used when accessible cabs were introduced in the 1990s. John Winske reported that he ran a project to train taxi drivers back in 1991-92, and that there were standards then. John said he would look for his old information on this training.

Carl reported that he was recently videotaped at the Hackney division for a training video for assisting people with disabilities. He also wants service dogs to be used in sting operations, like they are in NYC and Washington, DC. John Winske added that real disabled people should be participating in these stings.

Kristen would like more taxi coupons to be available for people with disabilities. Now most go to seniors at a few senior housing facilities around the city. Eileen Brewster said that she used to get the coupons, but stopped because she had to travel all the way to City Hall to get them, and was never able to get a taxi to stop for her.

Kristen is working on developing an ADA grievance procedure, and to get it posted as required by law. There was no previous policy. She will also identify the city position which would serve as the adjudicator for ADA grievances. In Cambridge, for example, grievances are referred to the Human Rights Commission. She hopes to finish the process by January.

She also wrote a memo to Mayor Menino requesting her appointment to the Public Improvement Commission, which authorizes all work involving the city streetscape.

Kristen has spoken with Kathy Gips from the ADA Regional Technical Assistance Center, and proposed holding a training for the commission early in the new year. (That meeting is scheduled to be held on Friday, January 26, from 3-5pm.)

Eileen Brewster raised the issue of curb cuts responsibility at the entrance to Wentworth Institute on the Ruggles Street reconstruction project. Kristen will follow up.

Chair John Kelly's Report: MBTA general manager Richard Davey will be attending the January commission meeting from 5:30 p.m. to 7 pm.

Regarding the City Hall Plaza access route, project manager Leo Murphy said that the city was switching back to the Washington Mall Route (from the old Statehouse at State and Court streets). This was the city's original choice, agreed to by the commission last summer. It is Route #2 on the map handout. It would be 10 feet wide. Regarding materials, the city wants pavers, we want as smooth as possible. The switch was made because the reconstruction of the Government Center MBTA station looks to be more extensive than originally thought -- portions of Cambridge St. are to be regraded. John said that we are still waiting for a three-dimensional representation of the route.

If \$100,000 remains the cost for this route, there would be \$213,000 left for other sidewalk and curb cut work. John hoped that the money would be used to make a splash that could be publicized, a unified project like the block containing City Hall Plaza -- on his way to the meeting down Sudbury and Congress streets, he had witnessed curb cuts that were too steep or filled with water. The city list of proposed work included Court Street at Cambridge Street, the island at Scollay Square full of uneven pavers. The other areas were scattered downtown. Members reported other bad curb cuts in the area, such as at Cambridge Center plaza. All work must be done by December 2011.

Kristen raised the possibility of using some of the money for a drop-off area for The Ride, which is no longer permitted to drive into the horseshoe on Congress Street. A small inlet and curb cut could be installed in that area. She will investigate this possibility, which Carl and John Winske supported.

John Winske suggested concentrating on city services provided at other buildings, like Court Square. John Kelly said that 1010 Mass Ave., which provides a lot of services, lacks an accessible crosswalk and curb cuts.

Bob Giers from public works is compiling the master curb cut list for work in 2011. John Kelly reported Mayor Menino saying that curb cuts should be done more downtown than out in residential areas, and John agreed that it would be better to have the curb cuts where people most need them. John thought that the city was simply working through the list of curb cuts identified in the huge number of Disability Policy Consortium complaints a few years ago. John Winske said that much time was spent with the city developing the priority list. He will try to send a copy of it to John Kelly.

John Kelly reported that he and Kristen had contested a plan in the Fenway by the Parks Department to move a curb cut away from the public path of travel. This showed a lack of knowledge and commitment to access. He reported on the hearing at the Architectural

Access Board regarding Massachusetts Avenue's steep cross slopes, some as high as 15%. John Winske and Dennis Heaphy also testified at the hearing. At a 10% cross slope, wheelchair users will tip over in their wheelchairs and end up in the gutter. After hearing numerous objections to the city plan (a bus stop area, a 100-foot-long sidewalk near Boston Medical Center), the designers said that some sidewalks could be reconstructed. John wondered how much of a problem the sidewalk was in the first place, if it could now so easily be reconstructed. Carl said that such steep cross slopes also affected elderly and blind people. John Kelly said that he will continue to update the commission on Massachusetts Avenue, that the access board had not yet decided the case.

John reported that Janice had continued her research into how to enable air conditioning during months that apartment buildings are required to provide heat (September 15-June 15). Janice found a couple of responsive officials, but she was told that the process to change the regulations would take more than one year. Rather than this slow route, an early meeting with public health Commissioner Barbara Ferrer would seem the next step.

Suzanne said that regulations could be made more flexible, by removing the strict dates in which heat was required (September 15-June 15 in Massachusetts). For example, New Jersey only requires heat available through May. It may not be necessary to change the law, just the regulations. The hearing process would take time, but perhaps an advisory could take effect in the meantime.

Carl: suggested a 2-tier approach, both legislation and short term. He could arrange a meeting with the chairs of the joint housing committee.

Regarding snow removal, John said the meeting with the MBTA was not all that helpful, as it was mostly just a list of bus shelters that are not be MBTA's responsibility. While the city contract with JCDecaux requires a 3 foot area cleared around the shelter, it does not guarantee a path of travel to the bus itself, nor a path of travel to shelters on wide sidewalks. Carl said that this lack of a path created an obstacle for service dog users, as dogs will not climb a snow bank.

Eileen asked whether the shelters would be moved that were placed so close to the curb that wheelchair users could only enter them with a side of the shelter removed, exposing people to the weather. Kristen said that she would meet soon with the city official who manages the contract.

John said that David had sent in the names of a couple of applications that might be used to reports snow problems. More research would be needed. John would love for an application that could take pictures and submit the location of the problem to the city, coupled with a city campaign.

In the interest of time, the following items were tabled until a later meeting: variances, website, outreach, and HP parking.

Announcements: the semi annual meeting between the MBTA and BCIL is to take place on December 6th at 10 Park Plaza. MBTA access had Gary Talbot is to join the Cambridge Disability Commission on January 13.

Public input: Don Somerfield said that pavers such as on the island at Scollay Square are difficult for him as a cane user.

Old business: Heather said that "Small Business Saturday" had just taken place, but that many businesses remain inaccessible. Kristen was hoping to work on access within the Main Streets initiative, and Heather mentioned the façade improvement program, which can include access improvements. Kristen said that an ordinance might be the way to go.

The meeting adjourned at 6:56pm.

Minutes recorded by Carl Richardson, written up by John Kelly