

ADA COMPLIANCE COMMITTEE
REGULAR MEETING
AUGUST 12, 2021

Session 21-06, a Regular Meeting of the ADA Compliance Committee was called to order by Acting Chair Joyanna Geisler at 4:01 p.m. on August 12, 2021, via Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. There is one vacancy on the Committee.

PRESENT: DONNA ADERHOLD, VIKKI DEADRICK, JOYANNA GEISLER

ABSENT: PAM VANHOOZER(EXCUSED)

STAFF: RENEE KRAUSE, DEPUTY CITY CLERK/ADA COORDINATOR
MATT STEFFY, PARKS SUPERINTENDENT
OWEN MEYER, PUBLIC WORKS PROJECT TECHNICIAN

GUESTS: DEVONY LEHNER, TRAILS (Total Recreation and Independent Living Services)
MICHAEL GAVILLOT, TRAILS

AGENDA APPROVAL

Acting Chair Geisler requested a motion to approve the agenda.

ADERHOLD/DEADRICK MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

RECONSIDERATION

SYNOPSIS APPROVAL

A. Regular Meeting Minutes of July 8, 2021

Acting Chair Geisler requested a motion to approve the minutes.

ADERHOLD/DEADRICK MOVED TO APPROVE THE MINUTES OF JULY 8, 2021.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS/PRESENTATIONS

- A. ADA Compliance for Parks - Playgrounds Specific Training by Eva L de Leon, MA CRC ADAC Assistant Director of Programs, CCER Project Director, Accessible Design and Innovative Inclusion (ADII) and Michelle Toy, Assistant Director of the NW ADA Center

Acting Chair Geisler introduced the visitors by reading of the title and then provided a brief summary of the previous actions by the members of the ADA Compliance Committee in creating the Transition Plan adopted by City Council. She then stated that they are now starting the work to draft a parks and trails transition plan and realized that some training would be beneficial.

Ms. De Leon and Ms. Toy provided a summary of their individual backgrounds and roles at the Northwest ADA Center in Seattle, Washington. They facilitated discussion and provided responses to the following questions:

1. Playgrounds, campgrounds, beaches, and other outdoor spaces seem inherently difficult to make accessible and I wonder what our options are?

Response: The play areas should be accessible to children with disabilities and the proposed rules are quite complex. Designers should consult with playground equipment manufacturers and there is reference that you can get those specifics from Access Board. This document provides guidelines and addressing accessibility. The question to ask yourselves is how you can make the playground accessible and inclusive to all children who are using it. Surveys and research based on school playgrounds and parks and recreation that really make an inclusive and accessible playground report that the focus should be on components to ensure a positive and engaging experience for all children. Physical accommodation, how the playground addresses children with different abilities, how they are integrated and encouraged to do social play. Is everyone able to use every amenities of the play area, and are they included or separated. No play component should be separated. An inclusive playground is one that offers accessibility, integrates fun and is an engaging playground that all children can enjoy that really facilitates physical, social and sensory experience that everyone shares together. To the greatest extent possible components should be arranged with ease of access to areas of play and maximum adult supervision plus consideration of any disability that the adult may have.

Acting Chair Geisler explained that their difficulty lie in the existing playground equipment and how to integrate or replace that playground equipment.

Ms. De Leon responded that viewing the playground under the auspices of safety and security then prioritize the replacement of the equipment which allows you to schedule in the accessibility component of the new equipment.

Ms. Toy provided information on the average lifespan of playground equipment is 10-15 years. Using that as a guideline can assist in determining what components should be replaced. She then noted that there is no specific regulations directly related to campgrounds, beaches and trails but there are guidelines specified under the Architectural Barriers Act (ABA) and access could be enforced since the city has a requirement under the ABA.

There are currently no set standards for campgrounds there is a table that can be used for reference similar to the parking space tables which can be used to establish the minimum requirements. Do not clump up the accessible units throughout the campground to offer choice of accessibility features. Additionally path of travel should be reviewed and addressed, especially the common public areas of the campground. There are standards that can be applied to those areas.

Ms. Toy responded that if all non-accessible camping spots are taken then those accessible spots can be then used and believed that there were no guidelines and it is more of a policy. But it should be policy that all accessible spots were retained until the others were full first.

Ms. Toy then commented on access to the beach noting that there are a variety of options as follows: permanent route to high tide areas or temporary options that include rubber like mats that can be installed from the parking lot to the water when it would be reasonable to have that access; another option if the city is going to have or does beach re-nourishment projects such as bringing sand in then the city would have even more responsibility to provide access since the city would be actively changing the landscape.

2. When retrofitting existing facilities, while we strive for 100% compliance, sometimes we don't have the budget to achieve that. Is there a "reasonableness" standard of some kind; that is, an acceptable point where we can fix the non-compliance the best we can, within our budget, and then stop?

Ms. de Leon responded that when talking about compliance they are referencing 100 percent of minimum ADA requirements. The City is responsible to address those standards to remove barriers that are achievable. If the compliance issue will be a capital improvement then it could be considered in the transition plan and that is one of the major reasons for a local municipality to conduct the site audits for implementing a transition plan. If the municipality completes the site accessibility audits and self-evaluation documentation then plans can be made and that

would be proof that the city is in the process of making those changes. This transition plan can also contain a time line for those projects as well as showing what has been completed. In retrospect if the city does nothing or does not begin work and a complaint is filed with the Department of Justice then they could assign the timeline which may not be desirable and even more difficult to budget in but will be required nevertheless. Another key word is technically feasible, is if the project is not technically feasible and changes cannot be made then you have to consider if alternative way that services can be provided. Also based in the size of the city if the improvement will be an undue financial burden this is 20% overall cost improvement and this is a disproportionate cost cap but that does not mean you can you are done however once the funding is replenished then you can start again. There is guidance on how to prioritize how to spend the funds.

3. Not all facilities need to be accessible but what guidance is there available to determine the number that is required.

According to ADA not all facilities need to be accessible however there has to be alternative facilities that meet ADA guidelines. The city could do this by messaging and signage.

Mr. Meyer provided clarification on his question by stating he was asking if there was a required number of play components within a playground that were to be accessible.

Ms. de Leon responded that the ADA does not provide that specific specificity that it is based on what is being offered to the Community as a whole. Thinking of the playground in terms of what is inclusive, the physical aspect of access and of engagement of children and the integration and promotion of inclusion. Those points are more important than the specific equipment that is accessible or the number of play components there are that are accessible.

They can research that and send Deputy City Clerk Krause that information.

Ms. de Leon responded to Mr. Meyer's question regarding the possibility of the city getting sued if they do not have an accessible playground stating that anyone is able to file a claim regarding the lack of an accessible playground but the question he should be asking himself is how can the city can address and correct the complaint or concerns from the community. They provided an example that there is no specific prototype since there is a wide range of abilities among children who may visit the playground.

A brief discussion ensued on viewing the playground from the health and safety aspects and it would be better to have a hard standard that can protect an entity from the threat of a lawsuit, but the ADA regulations were written to last, change was expected and the laws needed to be flexible.

4. Sometimes we have a facility that was in compliance when it was built, but the standards changed over time. What is our obligation to bring the facility up to date?

Ms. de Leon responded that it is part of the obligation under Title II and that is why it needs to be done. Typically it takes 20 years to reform a law so there is time to make those changes but it has been since almost 30 years so it needs to be included in a transition plan.

Existing facilities must achieve a level of usability that balances user needs the constraint of the existing conditions and the resources available for remedial work. Viewing various sources of funding and if there is no funding available including the remedial work into the transition plan as a prioritized list. If the building is newer it should be accessible but that is not always the case, however that does not relieve the entity from making sure the facility is accessible and falls with the ADA and ABA standards.

5. Who is responsible to inspect the playground equipment and how often is it inspected?

Parks Superintendent Steffy responded the City inspects the equipment once a week during rounds and then once annually they perform a safety inspection that follows the National Playground Safety Institute and in relation to the AML/JIA Safety inspection.

6. Who performs a check to make sure the playground is accessible all year long and how often?

Project Technician Meyer responded that the city would be checking to make sure it is accessible. The Department of Justice is responsible for the enforcement of the ADA regulations but they do not perform inspections. They rely on complaints to be filed by the public, then address them as they come in. The residents can file a complaint with the city and if the city does nothing then they can file a lawsuit.

It was additionally noted that the complaint would be filed with the owner of the playground as not every city owns or manages their playgrounds. Further, every municipality depending on size should provide information on filing complaints regarding ADA compliance.

Ms. de Leon and Ms. Toy expressed looking forward to working with the Committee in the future and will forward materials to deputy City Clerk Krause for the review and use of the Committee.

PENDING BUSINESS

NEW BUSINESS

A. Report on Site Accessibilities for the Homer Spit July 23, 2021 and Jack Gist Park August 6, 2021

Acting Chair Geisler introduced the item by reading the title into the record. She noted that Parks Superintendent Steffy submitted notes taken from the Spit parks site accessibility surveys conducted and then noted the memorandum Project Technician Meyer provided.

Project Technician Meyer reported that he submitted the memorandum to suggest some additional locations to perform additional site surveys and if they can receive additional training they could revisit Karen Hornaday Park.

Member Aderhold noted that there were pictures in the Supplemental Packet that she was unsure where they came from.

Parks Superintendent Steffy explained that he had a contractor in town on another project and they visited the boardwalk to get a quote on the transitions that require some modifications to be compliant.

Member Aderhold provided comment and information on the responsibility between the City and Fish and Wildlife on the boardwalk and the switchback trail up the bluff that requires attention.

Parks Superintendent Steffy responded that the elevated portions of the boardwalk is the City's responsibility and the trail up from the beach is under the Fish and Game. He additionally noted that the restrooms were scheduled to be replaced and it would be good to talk about ADA Accessibility. He then announced that they have contracted with Rika Mouw to develop a Master Plan for Bishops Beach when they revisit Bishop's Beach.

A brief discussion ensued on the scheduling of every other Friday to perform Site Accessibility Surveys and providing a description of what is conducted at these surveys to find non-compliance issues. The next date recommended is August 20, 2021 from 9:00 a.m. to Noon for the following parks: Bishop's Beach, Ben Walters and WKFL. The schedule Bayview and Karen Hornaday Parks for another visit.

Member Deadrick announced that she will be unavailable August 18-September 25th so will be unable to attend.

Member Aderhold announced that she will be unavailable for the tentative schedule of August 20, 2021 and September 3, 2021.

There was a brief discussion on the availability of Commissioner Lowney attending those dates, the use of Karen Hornaday Park Campground since they did not visit there and how busy it would be to facilitate a site audit.

Acting Chair Geisler commented that she will be unavailable for the September 3 visit and stated that they could address that at a later time.

B. Next Steps in the Process – ADA Transition Plan Development for Parks and Trails

INFORMATIONAL MATERIALS

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Parks Superintendent Steffy welcomed Member Deadrick to the committee.

Project Technician Meyer welcomed Member Deadrick to the Committee.

Deputy City Clerk Krause stated that the Committee does not have regularly scheduled meetings for September, so the next meeting shown at the end of this agenda is incorrect and offered her apologies for the misinformation. The next regular meeting is October 14, 2021 and she believed that the weather should allow for the surveys to be conducted at Karen Hornaday Park. She then explained that the Committee is not required to get all the site surveys completed in a four month period. They can take the time needed to perform the reviews for each of the parks and playgrounds and then clarified that the information will be used to develop the transition plan that she provided a draft template at a previous meeting. Ms. Krause stated she will try to schedule Ms. de Leon and Ms. Toy for further training at an upcoming meeting, noting that many of the documents they referred to she has provided to the ADA Committee and Staff. Ms. Krause requested them to review those documents as they will provide the direction needed to perform the needed evaluations. Ms. Krause added that she was available if anyone has any questions as the City's ADA Coordinator she has many of the answers to the questions that they may have or can research and provide the answers needed. She expressed her appreciation for the information provided by Ms. Toy and Ms. de Leon.

COMMENTS OF THE COMMITTEE

Acting Chair Geisler requested that election of officers to be on the next meeting agenda.

Member Deadrick commented that she is surprised to hear about the playground at Karen Hornaday as she helped build it and it was unbelievable that it has been 10 years already but she could not believe that ADA was not included in the design and build for this.

Parks Superintendent Steffy responded that the new ADA guidelines came out in 2010 and the playground was constructed in 2011 but designed over the previous few years that is why there are ADA swings but there is not an accessible route however it does not quite meet the new updated standards which address more comprehensive accessibility. He noted that the costs of the materials is upwards of \$100,000.

Project Technician Meyer explained that ground materials are also a source of problems since they are flammable and other cities have had problems with vandalism so it brings the question up of whether the City of Homer wants to go the extra mile and install a surface that is smooth stable and slip resistant and how much risk are we will to take on people vandalizing it once completed.

Member Deadrick thanked staff for their input.

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Member Aderhold wanted to confirm if the September 3rd meeting was going to be moved to September 17th as she could attend that meeting and then welcomed Vikki to the committee and looks forward to working with her.

There was a brief discussion on establishing September 17, 2021 9am to noon for the Karen Hornaday Park and Bayview Park site re-visit.

ADJOURNMENT

There being no further business to come before the Committee the meeting adjourned at 5:35 p.m. The Committee will be performing Site Accessibility Surveys on Friday, August 20, 2021 starting at Bishop's Beach Park, Ben Walters Park and WKFL Park from 9:00 a.m. to Noon and Friday, September 17, 2021 at Bayview Park & Karen Hornaday Park 9:00 a.m. to Noon. The next regular meeting is scheduled for Thursday, October 14, 2021 at 4:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



RENEE KRAUSE, MMC, DEPUTY CITY CLERK II/ADA COORDINATOR

Approved: October 14, 2021