

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
MEETING MINUTES**

June 17, 2010

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE/HOUSEKEEPING ITEMS

Chair Johnson called the meeting to order at approximately 10:00 a.m. at Department of Consumer Affairs, 1625 North Market Blvd., First Floor Hearing Room, Sacramento, California.

ROLL CALL

Commissioners Present:

Margaret Johnson, Chair
James Abrams, Vice-Chair
Rocky Burks
Richard Luehrs
Mark Martinez
Lilibeth Navarro
Mitchell Pomerantz
Anthony Seferian
David Thorman
Betty Wilson

Commissioners Absent:

Tom Ammiano
Connie Conway
Ellen Corbett
Michael Dean
Thomas Harman
Pierce Welch

CBSC Members Present:

Jim McGowan
David Walls

Also Present:

Chris Henson, Building Department, City of Santa Barbara
Aaron Noble, Division of the State Architect
Donald Parks, Applied Technology, Inc.
(Teleconference)
Tom Scott, California Citizens Against Lawsuit Abuse
Kevin Sparks, DSA Inspector and CASP certified consultant

Chair Johnson led the Commission in the Pledge of Allegiance.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
JUNE 17, 2010 MEETING MINUTES**

2. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

Mr. Donald Parks, a disabled veteran, commented on the difficulty of obtaining contracts because of inaccessibility issues in the process. Persons in wheelchairs are granted access to *public buildings*; persons who are vision-impaired need access to *public facilities* including the Internet.

Mr. Parks also noted that the Department of Fair Employment and Housing is the entity designated for resolving complaints of non-compliance with the Civil Code for Accessibility. But that department itself has not done its Americans with Disabilities Act (ADA) self-evaluation in terms of how it processes complaints.

3. GENERAL BUSINESS ITEMS

a. Fiscal Matters

Chair Johnson stated that regarding the budget process, the California Commission on Disability Access (CCDA) got past the Senate and Assembly Budget Subcommittees. The outlook is good for receiving funding.

CCDA must start working on its budget proposal for the next fiscal year (2011-12). It is due this September.

As long as the state budget is not passed, CCDA has no money with which to function. The Commission and Committees must think about how to do business during this interval. Meetings require a number of services that involve expenses; and because of the Bagley-Keene Act, Commissioners cannot hold informal conversations or meetings.

Vice Chair Abrams added that the approved budget amount is \$500,000 for the coming fiscal year. However, CCDA cannot start to spend the money until a budget is passed. He reminded everyone that CCDA did not get started until October 2009 because of very minimal funding.

The Commission has taken up all the charges that the Legislature gave in SB 1608 in 2008, assigning them to different Committees. Quorums are crucial for Committee meetings, but some Commissioners are members of the Legislature working on the budget and have not been able to attend.

The CCDA is moving forward in spite of these fiscal and membership constraints. Vice Chair Abrams noted that he and Chair Johnson will do their best on an individual basis to keep the Commission objectives progressing.

i. Commission & Committee Meeting Schedule while budget is not passed

Chair Johnson announced that the next full Commission meeting was scheduled for August 17, and after that, October 26.

b. Staffing

Chair Johnson stated that Vice-Chair Abrams has been putting together information on job descriptions to facilitate hiring staff when a budget eventually is passed. The Department of General Services (DGS) was interested in providing services to CCDA, such as HR (Human Resources), budgeting, and IT (Information Technology).

Vice-Chair Abrams noted that staffing needs for the upcoming fiscal year consisted of an Executive Director, Executive Assistant, and Staff Services Analyst. He asked for feedback from Commissioners on desirable skills and qualities for an Executive Director. He asked them to think

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
JUNE 17, 2010 MEETING MINUTES**

about to what extent it's necessary that the Executive Director have a disability, and whether the CCDA Attorney should have experience in state government.

Public Comment

- Mr. Tom Scott, Executive Director for California Citizens Against Lawsuit Abuse, commented upon the subject of transparency. He asked that in future meetings, after a state budget is passed, for a specific agenda item to be included on CCDA budget – the Commission would give dollar amounts of what's in the budget, what's left in the budget, etc. He also asked that the website include budget information.

Mr. Scott also expressed frustration with the number of disability access-related lawsuits that keep rolling in. Some of the lawsuits are crushing businesses.

- Mr. Aaron Noble, Division of the State Architect (DSA), asked what would happen if the Commission does not produce a Checklist for SB 1608 by July 1 from a legal perspective – was it a violation of law? Chair Johnson responded that because the CCDA does not have an established budget, technically it doesn't exist in the eyes of the State. Mr. David Walls, Executive Director of the California Building Standards Commission (CBSC), added that in statute, if a Commission does not receive permanent funding by the Legislature, the Commission will “sunset.”

c. Space and services

Chair Johnson stated that DGS was interested in helping CCDA to negotiate space. She reiterated that DGS was interested in helping with services such as HR, budgeting, and IT.

Vice-Chair Abrams noted that the full Commission can authorize the Administration Committee to get the staff hiring process going, as well as moving ahead with MOU's (Memorandum of Understanding) to DGS, so that as much can be done as possible before June 30. After that, Chair Johnson and Vice-Chair Abrams will work on their own as much as they can.

MOTION: Vice-Chair Abrams moved that the Commission authorize the Administration Committee, and the Chair and Vice Chair, to proceed with initiating the hiring procedures to identify, interview, and recruit an Executive Director and other staff members. This would include authorization to hire the individuals. Also, the Administration Committee would be authorized to finalize MOU's from DGS regarding HR, accounting, and IT; and the Chair and Vice Chair would have authority to sign the MOU's. Commissioner Navarro seconded. Vice Chair Abrams then withdrew the motion so that it could be split into separate motions.

MOTION: Commissioner Burks moved to empower the Administration Committee to review the MOU from DGS regarding budgeting and accounting services; that Committee would then empower the Chair and Vice-Chair to sign the MOU. Commissioner Pomerantz seconded. The motion carried unanimously.

MOTION: Commissioner Burks moved to empower the Administration Committee to review the MOU from DGS regarding Human Resources services; that Committee would then empower the Chair and Vice-Chair to sign the MOU. Commissioner Navarro seconded. The motion carried unanimously.

MOTION: Commissioner Burks moved to empower the Administration Committee to review the MOU from DGS regarding Information Technology services; that

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
JUNE 17, 2010 MEETING MINUTES**

Committee would then empower the Chair and Vice-Chair to sign the MOU. Commissioner Navarro seconded. The motion carried unanimously.

MOTION: Commissioner Burks moved to empower the Administration Committee to review the MOU from DGS regarding physical plant space and equipment for CCDA; that Committee would then empower the Chair and Vice-Chair to sign the MOU. Commissioner Navarro seconded. The motion carried unanimously.

MOTION: Commissioner Burks moved to empower the Administration Committee to begin the process, in conjunction with DGS Human Resources services, to hire an Executive Director, on condition that all members of the CCDA be invited to participate in the selection process. Commissioner Wilson seconded. The motion carried unanimously.

d. CCDA bylaws

Commissioner Burks reported on the progress of the bylaws. In developing this operational tool, the Administration Committee found that their name is commonly called the Executive Committee. Commissioner Burks suggested three different ways to populate the Executive Committee. Commissioners then gave their feedback.

e. Accessibility Coordinator for state government

Vice-Chair Abrams gave an update. Mr. Donald Parks and others had expressed a concern that California government does not have a centralized agency for ensuring that state government functions, facilities, services, and programs are accessible. There is no agency that has the Legislative mandate to take on that function. The DSA has no authority or delegated responsibility to be in charge of this area. The Department of Rehabilitation's role is advocacy – they have no ability to enforce compliance.

Discussion ensued with Commissioners giving their thoughts. Vice-Chair Abrams closed by planning for the Accessibility Enhancement Committee to gather as much information as possible, and putting together a report on the status of California state government's compliance with requirements under state and federal law to have coordination of its accessibility-related activities, services, and programs. The Commission will decide on recommendations for legislation, etc. in upcoming meetings.

Public Comment

- Mr. Noble commented that the responsibility for having an Americans with Disabilities Act (ADA) coordinator in place is up to each state agency. He felt that this Commission could establish an oversight coordinator to oversee all individual state agencies' ADA coordinators.
- Mr. Scott commented on the difficulties of compliance litigation – the huge amount of taxpayer dollars it takes. He suggested that the CCDA take a role in notifying the public on ADA requirements, especially through the CCDA website.

f. Refresher on Bagley-Keene Open Meeting Act

Mr. Jim McGowan, CBSC, reminded the Commissioners of several points.

- Serial meetings provide the most risk for violation of the Bagley-Keene. They can happen inadvertently by way of telephone calls, emails, and texts as well as face-to-face conversations.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
JUNE 17, 2010 MEETING MINUTES**

- For transparency purposes, documents to be discussed in Committee and Commission meetings must be available to the public.
- Agendas and Notices must be provided a minimum of ten (10) working days prior to the event. Furlough days are not an issue at this time, but holidays can affect the timeline.

Public Comment

- Mr. Noble commented that the definition of “serial meeting” includes the content of the communication. The Attorney General’s website includes a document that explains it well.
- Mr. Kevin Sparks, suggested setting up an advertised website to function as an open, accessible bulletin board in which Commissioners can post messages to each other with transparency.

4. COMMITTEES

a. Committee Reports by Committee Chairpersons

Accessibility Checklist Committee

Commissioner Luehrs, Chair, reported that a comprehensive checklist is turning out to be a larger task than the Committee had originally anticipated. He then acknowledged Mr. Aaron Noble from DSA for contributing his expertise on the template that the Committee is using for the checklist. Mr. Noble explained to the Commission the DSA’s checklist on its website.

A lengthy discussion ensued during which the Commission and members of the public discussed the difficulties of having the CCDA Checklist available by July 1; the purpose of the document; uniform interpretation, the review process, and so on.

In the immediate future, the Committee members will be reviewing the DSA checklist to come up with a document to share with the Commission and the public for review.

Administration Committee

Vice-Chair Abrams mentioned that the 20th anniversary of the ADA is coming up on July 26. The Commission had decided to participate with other state agencies in celebrating that day. Mr. Noble announced that DSA will have a booth at the Capitol.

Accessibility Enhancement Committee

Chair Navarro stated that having meetings has been difficult because many Committee members are in the Legislature and have been working on the state budget.

CASP and Education Committee

Chair Burks reported that the Committee is in the process of delegating information regarding its respective charges, to find out what the respective entities’ concerns on continuing education are – for architects, building inspectors, businesses, etc.; are the current conditions working?

Civil Enforcement Committee

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
JUNE 17, 2010 MEETING MINUTES**

Chair Johnson stated that this Committee probably will not convene until a budget is passed. This Committee will be looking at the effectiveness of SB 1608 in preventing certain types of litigation.

5. DISABLED ACCESS LEGISLATIVE AND REGULATORY DEVELOPMENTS

Chair Johnson mentioned two proposals that are working their way through the State Legislature:

- ACR (Assembly Concurrent Resolution No.)162 (Beall). This bill would proclaim the second week of October as Disability History Week. It would encourage public and private institutions of higher education, state and local agencies, nonprofit and community-based organizations, and private businesses and corporations to observe Disability History Week, by dedicating classroom instructional time or by coordinating activities to afford opportunities for students and the general public to learn more about the disability community and to celebrate and honor its role in contemporary American society.
- SB 1256 (Hancock). This would honor Ed Roberts, credited with being a pioneer of the independent living movement. The bill would proclaim each January 23 as Ed Roberts Day. Public schools and educational institutions would be encouraged to conduct suitable commemorative exercises.

Vice-Chair Abrams gave an update on federal legislation. In 2004 the Access Board had adopted proposed revisions to its accessibility guidelines under the ADA. The revisions cannot become effective until approved by the Department of Justice (DOJ). DOJ's rulemaking procedure has been at a halt, but looks to be restarting by September 30.

6. FUTURE AGENDA ITEMS

Commissioner Burks suggested that for the next meeting, a similar agenda would be in order except for budget item #3.a.i. He also suggested a review of statewide activities for the ADA 20th anniversary celebration.

Mr. Noble suggested a status update from DSA on the DOJ certification. DSA plans on an October submittal, and if a budget is passed, there may be something to report.

Commissioner Navarro remarked on the value of having other state agency members attend CCDA meetings.

7. ADJOURNMENT OF CCDA MEETING

Chair Johnson adjourned the meeting at approximately 3:55 p.m.