

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
MEETING MINUTES**

May 9, 2013

1. CALL TO ORDER

Chairman Rocky Burks welcomed everyone and called the meeting to order at 10:05 a.m. at the Department of Rehabilitation, 721 Capitol Mall, Room 169, 1st Floor, Sacramento, California 95814.

The off-site meeting locations for teleconference were Communities Actively Living Independent and Free, 634 South Spring Street, 2nd Floor, Los Angeles, California 90014, and Small Business California, 2311 Taraval Street, San Francisco, California 94116.

ROLL CALL

Committee Members Present: Sean Connelly, Office of Senator Corbett

Commissioners Present: Rocky Burks, Chair
Scott Hauge (Teleconference)
Lillibeth Navarro (Teleconference)
Betty Wilson (Teleconference)

Staff Present: Stephan Castellanos, Executive Director
Angela Jemmott, Program Analyst

Also Present: David Peters, Lawyers Against Lawsuit Abuse

Staff Member Jemmott called the roll and confirmed the presence of a quorum.

2. APPROVAL OF MEETING MINUTES (March 13, 2013) – ACTION

MOTION: Commissioner Navarro moved to approve the March 13, 2013, minutes as presented. Chair Burks seconded. Motion carried unanimously.

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

There was no public comment.

4. GENERAL BUSINESS ITEMS

a. Commissioner Appointments – Update

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Executive Director Castellanos stated the Senate Rules Committee has appointed Guy Leemhuis, an attorney from Culver City, to the Commission, and they are working to fill the one additional vacant senate-appointed position.

The governor's office has assigned a new appointment secretary to the CCDA, and Executive Director Castellanos has spoken to them on a number of occasions. The governor's office would like to see a wider range of applicants to fill the five vacant governor-appointed positions on the Commission. Executive Director Castellanos encouraged Commissioners to provide names of potential candidates to expedite the appointment process.

Commissioner Hauge stated Regina Dick-Endrizzi, the Executive Director of the Office of Small Business for the City and County of San Francisco, is considering submitting her application. He stated he will contact her again. Chair Burks thanked Commissioner Hauge and stated he will also follow up with her.

Action Items

- Commissioners are to provide names of potential candidates for appointments to staff.
- Chairman Burks is to contact Regina Dick-Endrizzi.

b. Review of Draft Language for the Personal Care Assistants Travel Policy – Discussion

Executive Director Castellanos noted the last paragraph required additional clarification and asked that the travel policy discussion be postponed. Commissioners agreed and Chair Burks stated this agenda item will be put on the agenda for the next Executive Committee meeting.

Action Items

- This agenda item is to be put on the agenda for the next Executive Committee meeting.

c. Appointments and New Structure for Executive and Outreach Committees – Discussion

Executive Director Castellanos stated the new Committee structure will consist of an Executive Committee, which would also take the role of a legislative committee to provide recommendations to the full Commission on legislation and policy, and an Outreach Committee, which would be the education, resources, and outreach group. The Outreach Committee addresses the Senate Bill (SB) 1186 mandate of developing tools and resources, and focusing on outreach to the business community, the disability community, and local government.

Executive Director Castellanos asked Commissioners to consider the makeup of these groups and who will participate in these Committees. He reminded Commissioners not to limit their consideration to Commissioners alone.

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Chair Burks stated the Executive Committee will remain as it is for now. He asked Commissioners Hauge, Navarro, and Wilson if they would consider being part of the Outreach Committee. Commissioner Wilson agreed to be on the Outreach Committee.

Commissioner Hauge stated he was comfortable with the structure and asked about the timeline for filling the Committees.

Chair Burks stated the Commission can appoint community members to Committees or potential subcommittees, according to the CCDA Bylaws. He asked Commissioners to e-mail him and Executive Director Castellanos with names of individuals who may serve on a Committee or subcommittee.

Executive Director Castellanos gave the example of creating a functional website to serve the needs of the disability and small business communities as a project the Outreach Committee will be working on. He has a proposal to the Department of Rehabilitation (DOR) and the Division of the State Architect (DSA) to create an independent web portal for this purpose.

He proposed that the three agencies share duties and responsibilities to manage and provide content to this portal. He will send a draft copy of that proposal to members of the Outreach Committee for their consideration. In addition, he hoped to send some design work, content formation, and existing content and will ask the Outreach Committee to define how to best organize it to make this portal as effective as possible.

Commissioner Wilson suggested the Outreach Committee discuss the notion of statewide outreach, ensuring meetings are held in different parts of the state once or twice a year. She also suggested hosting webinars, where people can participate, be involved, and encourage others to support the CCDA mission.

Executive Director Castellanos agreed and stated others have proposed that the Commission consider statewide conferences and/or workshops, along with face-to-face activities.

Commissioner Navarro stated she assumed that representatives from both the disability and business communities would be a part of the Outreach Committee. Members of the disability community are focused on the laws that guarantee civil rights, but not many know much about the business community. She emphasized the need to debunk the myths and engender understanding for each community in order to facilitate goodwill between the two communities.

Commissioner Hauge stated he believed the small business community wants to make their facilities available for the disabled, but there is the fear and the lawsuit factors that they need to move past.

Commissioner Wilson offered her assistance in involving many of the large businesses and felt they would be happy to collaborate with the Commission.

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She cautioned against doing too many projects when there are not enough Commissioners yet, and restated the need for securing assistance from interns.

Chair Burks agreed and stated the executive director has identified a manageable approach to narrow the scope of intervention. It does not mean the Commission cannot begin reaching out to larger businesses, as Commissioner Wilson suggested, or interacting with the smaller businesses to move beyond that fear factor that hinders persons with disabilities from actively participating in the business environment, as Commissioner Hauge suggested. He recommended that Commissioners send their thoughts and ideas to Executive Director Castellanos and him, and also submit names for possible membership for the Outreach Committee or subcommittee. He and staff will follow up with them.

Action Items

- Commissioners are to e-mail Chair Burks and staff with names of individuals who may serve on the Outreach Committee or subcommittee.
- Chair Burks and staff are to follow up with the individuals suggested by Commissioners to serve on Committees or subcommittees.
- Staff is to send a draft copy of the proposal to DOR and DSA to members of the Outreach Committee for their consideration.
- Staff is to send design work, content formation, and existing content of the web portal to members of the Outreach Committee.

d. Proposed Speaker(s) for Full Commission – July 17, 2013

Executive Director Castellanos stated Ms. Dick-Endrizzi gave a great presentation at the last full Commission meeting. Chair Burks added it was helpful to have Commissioner Navarro, as a Commissioner, a businesswoman, and a member of the disability community, give a presentation on independent living services. He stated there are knowledgeable and skillful people on the Commission.

Executive Director Castellanos stated meetings are one of the Commission's communication tools; they are broadcast and posted on the website. Presentations that include common challenges faced by both the disability and business communities bring a voice to the Commission, and communities have an opportunity to learn from each other. He suggested making informative presentations a CCDA tradition for the full Commission meetings, where presenters can share their experiences and activities related to the CCDA mission. He added that including presentations by people who are doing interesting, innovative things adds value to Commission meetings.

Executive Director Castellanos asked Commissioners to offer names of interesting topical speakers to staff to keep a list as a resource for future meetings around the state. He suggested dividing the presentations up, one in the morning and

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one in the afternoon, and having a disability-focused speaker and a business-focused speaker in each meeting.

Executive Director Castellanos has invited Marsha Maytum, the architect for the Ed Roberts Campus in the Bay Area, to give a presentation at the July 17th full Commission meeting. She is experienced in the area of architecture and providing access. He stated it would be interesting to get a designer's perspective. He is currently looking for a second speaker, one from the business community, and asked Commissioners for suggestions.

Chair Burks asked Commissioner Hauge if he would give a presentation at the next full Commission meeting about his role with small businesses and the issues and concerns he is addressing, such as reducing the fear factor for hosting CCDA meetings, the positives of operating successfully to achieve compliance, the negatives that inhibit compliance, and what Commissions can do to work collaboratively with stakeholders to disseminate that information and to move towards the positives of compliance and diminish the negatives. Commissioner Hauge stated he would consider it and confirm with Chair Burks and Executive Director Castellanos.

Commissioner Wilson suggested contacting human resource departments and facilities management departments for corporations relative to employment, program, and architectural access. She also suggested tapping into their foundations.

Commissioner Hauge agreed and suggested that Give Something Back may be a company to put on the list, as they have a human resources person. He stated most small businesses do not have facilities managers or human resources departments.

Commissioner Wilson stated the small business upper management sometimes does the work of human resource directors in large businesses. Small businesses can bring information on how they creatively make their venues accessible. She was a presenter at an international conference in Moscow, Russia; there were many small business owners in attendance. Since Moscow is an older city, these small business owners had to be creative in making their businesses accessible, due to the age of the buildings. Commissioner Wilson stated it would be a good presentation to show some of the ways people have creatively complied with the law.

Action Items

- Commissioners are to offer names of interesting topical speakers to staff.
- Staff is to keep a list of the names of topical speakers to use as a resource for future meetings.

e. Bagley-Keene Refresher Training - Discussion

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Executive Director Castellanos stated he has been advised that the Commission needs to be more cautious with regard to the Bagley-Keene Open Meeting Act, and he stated there will be training in the July meeting, and annually thereafter. Staff is working with the trainer on developing a resource kit for Commissioners to refer to throughout the year. He stated it is important for Commissioners to attend the training to gain a better understanding on how a state agency operates in public.

Chair Burks added accountability standards will be incorporated into the Bylaws.

Action Items

- No action items.

f. Strategic Planning Proposal

Executive Director Castellanos stated staff has explored the best approach, has looked at contracting methods, and has put out a Request for Proposal (RFP). He suggested the Commission work with CSU Sacramento to provide services. Staff will contact them to locate a person with interest, skill, and understanding of the Commission, to put together a strategic plan. He stated he hopes to have more information to report at the autumn full Commission meeting.

Chair Burks added that the Commission was perhaps remiss in identifying the direction of a strategic plan according to statute in the past. There are many elements that need to be addressed. The question is whether the Commission has the capacity to address this in a meaningful, effective, and efficient manner with the change in statute and the missing appointments.

Executive Director Castellanos stated it is important to set a strategy that efficiently identifies some of the most critical responsibilities of the Commission, and builds some solutions around them. This process will help identify where the Commission needs to place resources and, in the future, identify additional resources necessary to accomplish further goals.

Action Items

- No action items.

g. Executive Report

San Francisco Office of Small Business - Executive Director Castellanos stated he met with Ms. Dick-Endrizzi in San Francisco to learn more about their program and the challenges they face. He referenced Commissioner Wilson's earlier comment that Moscow had access issues due to the age of their buildings, and stated, while San Francisco's buildings are not as old, there are still many problems with access due to the area's topography and the age of the buildings.

He stated the upcoming Mandatory Seismic Retrofit Program, requiring building owners to upgrade the buildings seismically in San Francisco, will be a useful

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example throughout the state. San Francisco will develop guidelines and recommendations and is trying to provide support for this. This law affects approximately 8,000 businesses and will have a compliance responsibility along with the seismic mitigation.

San Francisco faces unique problems, because it must struggle to comply with preservation requirements in addition to the seismic and access requirements. San Francisco continues to have many lawsuits, even though the Office of Small Business does an incredible job to support small business in the city and county of San Francisco.

Executive Director Castellanos stated he and Ms. Dick-Endrizzi also discussed the shortage of CASp inspectors in that area, which turned into an opportunity to talk to the DSA about streamlining and bringing more CASps online.

The relationship that has begun with San Francisco has been very productive, helping the Commission learn from their experience, and learn how to expand what San Francisco is doing to a statewide platform.

Commissioner Hauge referenced the preservation requirement issue for the historic San Francisco buildings and noted that, in the past, the preservation requirements outranked the ADA requirements.

Executive Director Castellanos stated San Francisco is in the process of developing guidelines. The City of San Francisco is trying to come to a compromise between the preservationists and the access community, but such a compromise will not satisfy all 8,000 historic buildings because of factors such as topography or only having a single façade on a sloping hill. These are difficult issues to work through, but, in the end, the people of San Francisco will be served well through the efforts of Ms. Dick-Endrizzi and the Office of Small Business. He stated the Commission will support their effort as much as it can.

Executive Director Castellanos and Ms. Dick-Endrizzi discussed taking a preventive stance on these issues in working with the business and disability communities. Ms. Dick-Endrizzi is working on encouraging more CASp inspections in advance of any of the work that may be done as a preventative measure, by finding ways to underwrite the expense through the new money coming in from permits.

Documentation: Claims and Demand Letters. Executive Director Castellanos stated staff has begun to receive calls from fretful business owners seeking resources and direction on how to protect themselves. Staff is happy to take these calls, but will need to look at this in a more formal sense due to the volume of calls and the time involved in assisting callers. Many calls come from small businesses that are operated by non-English-speaking individuals, and people that have never been exposed to lawsuits and do not know what to do. He emphasized that he has not talked to a business owner yet that does not

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want to provide an accessible place of business. The problem is that they do not know how to best approach the issue while trying to defend themselves in court.

Executive Director Castellanos stated Ms. Dick-Endrizzi has two or three customer service staff members that field calls and direct callers to resources. This may be a need with the Commission as well, to handle the growing incidence of citizen calls seeking support and direction.

Chair Burks recommended contacting Erica Jones, the director of the Pacific ADA Center in Oakland, a disability and business technical assistance center.

The Division of the State Architect and the Department of Rehabilitation. Executive Director Castellanos stated the collaboration continues between the CCDA, the DSA, and the DOR. They have met several times as they work to develop a common web portal to address the Commission's charge. He developed a draft proposal to the DOR and the DSA, and discussions are continuing on how to manage this, how to develop content, and where to go to find existing content. The idea is to create a readily-identifiable portal that people can access to more easily be directed or linked to the resources that exist in state government.

The portal will be designed to be customer-friendly and will make it easier for people to find what they need to help themselves. He stated his hope that the development of a portal will create a sense of community and sharing of information. He pointed to the Commission as a model, where the disability sector and the business sector come together to talk with each other. He hoped to replicate that model on the website to motivate communities to begin the dialogue that opens the door to understanding.

In answer to Commissioner Navarro's question, Executive Director Castellanos stated the law requires that the Commission put the initial posting of what the claims and letters look like on the website by July 15th. The collection of that data has already begun by two volunteers from the DOR, and staff is working with Commissioner Seferian and the Department of Justice to secure interns to help tabulate this information. He stated the DSA is adding credibility by identifying the types of failures or what the claims actually represent, since they are the regulator on what this should look like. The information will be posted on the website by July 15th and updated every quarter through 2016.

Staff has been collecting the letters and claims since last September, and has been collecting more data than required by statute in anticipation of the questions that will be asked. Not all of this collected data will be put on the website, but it will be used for CCDA programmatic purposes.

Commissioner Navarro stated she was excited that the Commission is on stable footing, and asked if now might be a good time to put out an introductory letter about the Commission to coincide with the update to the website. Chair Burks

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agreed with the idea of sending out a letter of introduction, but suggested postponing it until after the July full Commission meeting, where the strategic direction will be more defined. He stressed being cautious of misrepresentation. Commissioner Navarro agreed.

California Architect Issue. Executive Director Castellanos stated some architects are incorrectly advising their clients when seeking a permit that falls under the valuation threshold. There is a provision in code that allows small businesses to use a hardship provision, which means they only address a short list of accessibility requirements, such as an entrance, bathroom, and path of travel. This does not constitute complete compliance, but architects are misadvising their clients that they have complied with the code, or they fail to advise them at all. Businesses think they are now in compliance, but are being sued because the architects have not done a comprehensive job. Staff is working with the DSA, the American Institute of Architects (AIA), and the California Building Standards Commission (CBSC) on how to address this widespread issue.

Commissioner Wilson suggested providing webinars or onsite seminars to architects to educate them so they can give their clients the correct information. She stated Los Angeles had to discontinue providing seminars and conferences due to budget issues, but they were very successful, well-attended, and garnered much support. Chair Burks stated other organizations, such as Accessibility Online and the Pacific ADA Center, put on national webinars, but he thinks there can be some crossover, due to the unique characteristics of Title 24 of the California Code.

Executive Director Castellanos agreed and stated he will look into using seminars and, next year, some targeted workshops for a number of different issues. Architects have a five-hour annual requirement for continuing education in access. He will be working with the AIA, taking advantage of some existing seminars and building small business compliance and architects' duties into them.

Commissioner Wilson stated she has the program from one of the all-day seminars given in Los Angeles County, and offered to provide a copy to Executive Director Castellanos.

Report to the Legislature. Executive Director Castellanos stated the CCDA report to the Legislature was submitted April 15th. The report detailed the history of the Commission since its founding. In order to end on a positive note, Executive Director Castellanos stated staff is preparing an amendment to the report outlining where the Commission is going in the future. Chair Burks added the report is on the CCDA website.

Inspector Checklist. Executive Director Castellanos stated the inspector checklist is one of the responsibilities from SB 1608, and even though it is no longer

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required of the Commission, the pressure that has been applied from a number of different sectors has indicated an importance for this kind of tool. The Certified Assess Specialist Institute (CASI) is in the process of creating a checklist that they will share with the Commission. They have asked the Commission to help them organize an oversight process that would include the DSA, the CBSC, local business officials, and others.

Staffing. Staff received fifty applications for the office technician position and completed the interview process. Executive Director Castellanos stated there are some very qualified candidates, and he hopes to have the new staff person in place by July.

Action Items

- No action items.

5. DISABLED ACCESS LEGISLATIVE AND REGULATORY DEVELOPMENTS

a. Capitol Track Report: AB 223 and SB 550

Executive Director Castellanos stated there has not been as much legislative activity this year that affects the Commission as there was last year. He stated Assembly Bill (AB) 897, by Wagner, which was intended to eliminate the \$1 permit license fee, \$0.30 of which was to go to the DSA, is gone. The other two bills are continuing to wind their way through the system.

AB 223, Kristin Olsen, Civil Actions: Disabled Access, is a bill that seeks to extend SB 1608 and SB 1186 to Title II agencies. Popular opinion states SB 1608, the creation of the Commission, the provisions of SB 1186 for small business, and legal filings were intended for Title III agencies and not Title II agencies. Staff will watch this bill anyway.

SB 550, Hannah-Beth Jackson, Accessible Housing, is a public housing bill. It is not really within the Commission's area of interest, but it does address accessible housing and publicly-funded housing projects. Staff will watch this bill to see how it develops. May 31st is the deadline to get through the Legislature.

Action Items

- No action items.

6. BUDGET UPDATE

a. Monthly Report

Chair Burks asked if the overbilling for IT will be corrected. Executive Director Castellanos stated it is a slow process, but it will be corrected.

Executive Director Castellanos stated there will be surplus funds at the end of the fiscal year and, since the budget does not roll over, some fixed expenses will

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be prepaid out of the surplus. Staff will also use these excess funds to bring in a contract employee and a strategic planning consultant.

Action Items

- No action items.

7. FUTURE AGENDA ITEMS

Chair Burks stated he will be in Chicago for a National Fire Protection Association meeting and may not be back in time for the June 13th full Commission meeting. He asked Commissioner Hauge if he would prepare to chair that meeting in his absence. Commissioner Hauge put it on his calendar.

8. ADJOURN

MOTION: Commissioner Hauge moved to adjourn the May 9, 2013, Executive Committee meeting. Commissioner Navarro seconded. Motion carried unanimously.

Chairman Burks adjourned the meeting at 12:00 p.m.