

**CALIFORNIA COMMISSION ON DISABILITY ACCESS  
MEETING MINUTES**

**February 2, 2010**

**1. CALL TO ORDER**

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

**ROLL CALL**

*Commissioners Present:*

Margaret Johnson, Interim Chair  
James Abrams, Interim Vice-Chair  
Tom Ammiano  
Rocky Burks  
Connie Conway  
Michael Dean  
Ellen Corbett  
Mark Martinez  
Lilibeth Navarro  
Mitchell Pomerantz  
Anthony Seferian  
David Thorman  
Pierce Welch  
Betty Wilson

*Commissioners Absent:*

Richard Luehrs  
Thomas Harman

*Also Present:*

Stephanie Davis, Executive Assistant, CBSC  
Jim McGowan, CBSC  
Mike Nearman, CBSC  
Venus Sharifi, CBSC

**2. HOUSEKEEPING ITEMS**

Ms. Davis reminded Commissioners to track travel expenses for reimbursement.

Venus reported that the forms were forwarded to the FPPC. Annual Form 700 filling is coming up. Instructions for completing forms were explained.

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**3. APPROVAL OF THE OCTOBER 19, 2009 MEETING MINUTES**

Chair Johnson requested a motion to approve the Minutes of the October 19, 2009 meeting. Moved by Commissioner Corbett and seconded by Commissioner Wilson that the Minutes be adopted. **Motion Carried.**

**4. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON AGENDA**

- Joe Xavier, Deputy Director, Department of Rehabilitation, spoke regarding the 20<sup>th</sup> anniversary of the Americans with Disabilities Act. A celebration is planned for the week of July 26<sup>th</sup> at the Capitol. Further activities will be held during week at Raley Field.

Ralph Black, Assistant Director of Legislation, Department of Rehabilitation, encouraged participation in the event to continue public awareness.

Commissioner Abrams motioned that the CCDA will formally support the ADA celebration and will partner with the DOR in this effort. Seconded by Commissioner Navarro. **Motion Carried.**

Commissioner Thorman requested that the Division of the State Architect be added to the list of supporters.

- Laura<sup>1</sup> Williams, President, Californians for Disability Rights, Inc., spoke as a delegate for East San Gabriel Valley Chapter 17. Two years ago the Chapter obtained a \$5,000 grant to promote and pay for accessibility in public accommodations in local communities. No local businesses came forward to participate in this funding to make threshold repairs to improve accessibility. The City Attorney has refused to move this forward, so Ms. Williams is requesting assistance to enforce businesses to comply. Commissioner Seferian will follow up with Ms. Williams.
- Greg Izor, Architect and Vice President of Certified Access Specialist Institute, and Ida Claire spoke on behalf of the Certified Access Specialist Institute. The CASp Program has held two luncheons resulting in fifty percent of the CASp committing to be a part of the institute. Their mission is to partner with CCDA as a resource with the goal to see the environment in the state become more accessible to the disabled. CASp has four committees; Professional Practice, Advocacy, Member Events, and Public Outreach.
- David Peters, Lawyers Against Lawsuit Abuse<sup>1</sup>, commented that there have been a couple of the early evaluation conference hearings now ordered by judges. Judge Edward Ferns, Los Angeles Superior Court, said there doesn't appear to be procedures set in the courts for stays and conferences resulting in a delay of months. Mr. Peters suggested guidance for the clerk's office and judges to help them understand what happens in the conferences.

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<sup>1</sup> Corrected from April 23, 2010 CCDA meeting.

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Mr. Peters also reported that when dealing with CASp, the question has come up of whether the readily achievable standard applies in California and indicated that guidance is needed on this issue. Commissioner Burks suggested that Mr. Peters provide the CCDA with a letter specifying problems being encountered in terms of the early conference that could then be forwarded for interpretation of the implication of the readily achievable standard and whether 52A is applicable. Commissioner Corbett indicated that she will meet with Mr. Peters on issues with regard to the implementation of the legislation and whether there are issues that need guidance.

- Richard Skaff, Executive Director, Designing Accessible Communities, requested that the camera operators include the sign language interpreter during the meeting, as well as a call-in number. He also suggested captioning being provided on-screen.
- Kevin Sparks asked whether the appointment of Commission Burks has been renewed. Mr. Sparks also reported that his requests to a couple of counties have resulted in unfavorable responses as for incorporation of a CASp to their staff.

**5. GENERAL BUSINESS ITEMS**

a) Fiscal Matters - Budget, Future Funding/Staffing

Commissioner Abrams reported that CCDA received an appropriation of \$80,000 for the current fiscal year. \$20,000 has been spent so far to reimburse Building Standards Commission for staff resources, as well as ensuring compliance with the Bagley-Keene Act for all meetings. Funds in excess of \$80,000 will be needed. The BSC advised that based on their current staffing model, the CCDA could need roughly \$1.2 million per year, which is not feasible under current budget restraints. Moving forward with minimal staff and scaling back where possible, the Administration Committee will provide a proposed budget to the State and Consumer Services Agency for next fiscal year. Many state agencies have been identified as potential partners to assist CCDA in their operations and will be contacted prior to February 14, 2010.

Commissioner Wilson indicated her willingness to work with Commissioner Abrams in development of public sector partnerships and university interns.

Commissioner Abrams stated that reports will be made to the legislature on various items.

Commissioner Burks stated that CCDA has two deliverables. There is already some fiscal commitment for the checklist in process. The BSC is charged to lend the necessary staff assistance for development. The second deliverable comes before the state legislature in a formal report as the effectiveness and protocol applications of the CASp Program. Commissioner Burks recommended that the CCDA puts emphasis on these two deliverables.

Commissioner Martinez stated the checklist should be priority.

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Commissioner Pomerantz stated that the report that needs to be provided to the legislature should also be a priority.

Chair Johnson requested a motion to accept the recommendations from the Administration Committee to prioritize the master checklist and the CASp. Moved by Commissioner Martinez and amended to include the report to the legislature as a combined report, seconded by Commissioner Burks. Commissioner Corbett stated that she could not support this motion until it is confirmed that there is no problem with following the direction of the legislation by combining those two reports. Commissioner Burks responded by saying that the Accessibility Enhancement Committee's report could be the lead-in to the CASp report. Chair Johnson restated the motion as accepting the recommendation of the Administration Committee to prioritize the checklist and the CAPs Committee and the Accessibility Enhancement Committee with the hope that the two committees can work together on the report to provide a combined report unless instructed otherwise. Seconded by Commissioner Wilson. **Motion Carried.**

**5. GENERAL BUSINESS ITEMS (Cont.)**

b) Legal Counsel - CCDA Representation

Commissioner Burks stated that at the last meeting there was a question about serial meetings. Commissioner Thorman responded that meetings needed to be noticed properly if there are more than three members of the Commission voting.

c) Future Meetings - Scheduling, Location, Etc.

Ms. Davis indicated that she has sent the schedules out. The full Commission meeting dates are April 23, 2010, June 17, 2010, August 11, 2010, October 26, 2010, and December 9, 2010. All meetings will be at the DCA location from 10 a.m. to 4 p.m.

d) Disabled Access Accommodation Protocols; Granicus

Chair Johnson reported that the Administration Committee has come up with a list of things to provide. Granicus submitted a proposal to provide services that would include a hosted website for the meetings; there was no representative present from Granicus. This item has been tabled due to funding. Commissioner Pomerantz suggested finding some alternative service providers as well.

Chair Johnson reported that the Administration Committee suggested webcasting, captioning, large print agenda and materials, wheelchair accessibility, public transit accessibility, adequate public parking, Braille, sign language interpreters, other accommodations upon request for all meetings.

Commissioner Pomerantz explained that he staffed the Los Angeles City Commission on Disability for several years and provided captioning. He found that the captioner's record was not sufficient to use for preparing meeting minutes and that someone taking notes or using the recorded audio is better.

Commissioner Abrams noted that teleconferencing was not mentioned.

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**Public Comments on this Agenda Item**

Laura Williams requested that any documents submitted be in PDF, Word or HTML.

Commissioner Pomerantz made a motion to obtain a proposal for providing teleconference services for all meetings, as well as video relay services and this option be reviewed at the April meeting. Seconded by Commissioner Burks. Motion amended to proposals for each fiscal year. **Motion Carried.**

**Public Comments on this Agenda Item**

Richard Skaff, Executive Director, Designing Accessible Communities, expressed concern over the discussions by the Commission with regard to public access to the hearings. Mr. Skaff feels that this Commission is one of the most important commissions dealing with accessibility and therefore feels it must be fully accessible. His concern is that if the Commission doesn't demand adequate funding to assure all services are provided to give everyone full accessibility, some individuals may not be able to participate. Mr. Skaff suggested that all Commission meetings and committee meetings of the Commission be fully accessible so people are able to participate. He further suggested that the sign language interpreter be in the camera at all times with the Commission in the background.

Commissioner Pomerantz moved approval of the Administrative Committee's recommendations regarding provisions of accessibility accommodations for meetings, including webcasting, captioning, large print agenda and materials, wheelchair accessibility, public transit accessibility, adequate public parking, and Braille sign language interpreters. Seconded by Commissioner Navarro. **Motion Carried.**

**6. PRESENTATION ON THE CERTIFIED ACCESS SPECIALIST (CASp) PROGRAM BY THE DIVISION OF THE STATE ARCHITECT**

Aaron Noble, Senior Architect, Division of the State Architect, presented this item. The intent of the CASp Program is to meet the public's need for experienced individuals who can provide opinions as to the compliance of buildings consistent with the State's Access Codes and the ADA standards. The CASp Program professionalizes the field of disability access so that designers and builders can demonstrate competency and knowledge of accessibility issues. Senate Bill 262, 1993, created the CASp Program by adding certain sections to 4459 of the Government Code.

To become a CASp, an application is submitted to DSA to confirm eligibility. Once eligibility is confirmed, the applicant registers for the test, given twice per year. A certificate is issued upon successfully completing the exam. 15 units of continuing education must be completed every three years. There are currently approximately 160

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Certified Access Specialists. The exam locations provide reasonable accommodations for disability access.

Commissioner Burk requested that DSA add the location of the specialists to the list on the website.

Commissioner Burks<sup>1</sup> requested that DSA provide the Committee with the CASp Program expenditures since 2003 so the Committee can include it in the report on the effectiveness of the program to the legislature.

**Comments from the Public on this Agenda Item**

Tom Scott, Citizens Against Lawsuit Abuse, expressed his feeling that the fee should be reduced. Mr. Scott also questioned the 55% pass rate. Mr. Nobel responded by saying that several people taking the exam are not competent. Mr. Scott asked whether there was an enforcement policy in place for disciplinary action. Mr. Nobel responded that there is disciplinary action located in Title 21 which includes the possibility of suspension or revocation of the certification.

Greg Izor, Architect, CASp, suggested that DSA publish their exam schedule for the year as soon as possible to allow candidates to prepare.

Mr. Noble explained that DSA<sup>1</sup> may be implementing an open-book segment in the test and that the pass rate is increasing.

Steve Dolim, Architect CASp, indicated his support for the current structure of the exam.

David Peters, Access Issues, requested that the public have access to the guidance that is being provided to CASp in terms of telling the business and property owners what they need to make. Mr. Peters also indicated that there is no standard form for the CASp reports and requested that a standard format be put in the works.

Mr. Noble responded by saying that DSA is only tasked with providing the exam and the certification program, but does agree that there needs to be a higher level of outreach to business. Mr. Noble confirmed that there is no standard report form.

Commissioner Burks requested that any suggestions for the CASp Program be put in writing to the Commission.

Commissioner Abrams commented that during the next few months, people will be meeting with Commissioner Burks to come up with some of the things that are being discussed.

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<sup>1</sup> Corrected from April 23, 2010 CCDA meeting.

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Barbara Thorpe indicated that it is very important for the Commission to look at the quality and accuracy of the report that is being delivered.

Commissioner Martinez suggested using business license renewals as a point of outreach.

Dawn Anderson, Architect, CASp, encouraged the board to keep the test as a closed-book test.

Commissioner Navarro asked whether there are any corresponding programs in other states. Mr. Noble indicated that there is one in Texas that is structured differently because it takes a building from plan to completion.

**5. GENERAL BUSINESS ITEMS (Cont.)**

d) Disabled Access Accommodation Protocols (Cont.)

Chair Johnson explained that there were recommendations for the Commission meetings, but the Administration Committee also had recommendations for Committee meetings. Those recommendations are teleconference, captioning, large print agendas and materials, wheelchair access, and upon request, Braille, sign language interpreters and any other accommodation that a person might request.

Commissioner Burks requested that access to public transportation be included in the recommendations.

Chair Johnson requested a motion to accept the Administration Committee recommendations for access to be provided for Committee meetings, including teleconferencing, captioning, large print agendas and materials, wheelchair access, and upon request, Braille, sign language interpreters and any other accommodation that an individual may need, in addition to access to public transportation. Commissioner Burks moved. Commissioner Dean seconded. Commissioner Burks amended the motion to include that documents will be made available in Word format. **Motion Carried.**

**Public Comments on this Agenda Item**

Laura Williams requested that the agendas and materials be provided in Word format.

Chair Johnson recommended that the Administration Committee look at what the best formats would be for web posted and transmitting documents by email.

Commissioner Pomerantz suggested ensuring that the website is accessible and user-friendly.

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Mr. Walls explained that technology does fail so there does need to be preparation in that event.

Ms. Arnold commented that she would like to see a webcast included in the accessibility offered and that the camera should be focused on the sign language interpreter with a picture-in-picture so that both interpreter and members would be visible.

Commissioner Navarro requested that the meetings be interpreted into Spanish.

**7. COMMITTEES**

At the adjournment of this meeting, there will be a meeting of the committee chairs.

**Public Comments on this Agenda Item**

Laura Williams, Californians for Disability Rights, commented that she didn't see the task for the California Code to receive its federal ADA equivalency certification on the agenda. Ms. Williams requested that this be made a top priority.

Commissioner Abrams indicated that he will look into this. In SB1608, there was a discussion regarding the need to get the California Building Code certified.

Mr. Noble reported that SB1608 does have the provision for DSA submitting regulations to ensure that certification occurs to the Department of Justice by December 31, 2010. Mr. Noble explained that this is a federal matter, not a state matter.

Commissioner Burks requested that Laura Williams put her concerns in writing to the Commission.

Chair Johnson indicated that she will be adding Commissioner Wilson to the Administration Committee and the CASp and Education Committee.

**8. DISABLED ACCESS LEGISLATIVE AND REGULATORY DEVELOPMENTS**

Commissioner Abrams asked what the timing is for the Department of Justice to begin the new rulemaking procedure for updating the ADAG (Americans with Disabilities Act Guide).

Mr. Noble responded that the procedures have been withdrawn. The adoption of new regulations could have the effect of delaying the certification of the California Building Code. DSA<sup>1</sup> is preparing for this by doing an analysis of the existing Code.

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<sup>1</sup> Corrected from April 23, 2010 CCDA meeting.

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Commissioner Pomerantz stated that he recently had a teleconference with John Wodash, the attorney in charge of the Civil Rights section of DOJ, who gave no inclination that the ADAG is pending. Guidelines on service animals are close to being released.

Commissioner Abrams provided the Commission with a handout regarding service animals that was sent to every hotel in California.

Commissioner Abrams reported that 99 percent of websites are not accessible to people with certain disabilities. The California Hotel and Lodging Association is going to publish material explaining how to make websites accessible.

Commissioner Burks encouraged everyone to read the handout and commended Commissioner Abrams and the hotel association for putting this together.

Commissioner Pomerantz responded that the California Council of the Blind helped to put the handout together.

Commissioner Martinez indicated that he founded an educational program called Annual Bilingual Financial Aid and College Awareness Workshop to teach families how to get through the financial aid forms. The program is now in several languages and educates families of special needs on what campuses are user-friendly.

Commissioner Navarro spoke regarding the lack of access of people to their legislators. Traveling to Sacramento or setting up a webcast is not easy for most. Commissioner Navarro would like to encourage legislators to make access second nature.

**Public Comments on this Agenda Item**

Laura Williams indicated that the Access Board recently published their intent to restart the rulemaking process. The requirements in the 2004 ADAD have already been adopted, with the exception of those withheld because of the public rights of way.

**8. FUTURE AGENDA ITEMS**

Commissioner Burks requested feedback on what Commissioner Navarro identified in terms of access for the public to the policy arena. He would like to ask both the Assembly and the Senate's legislative administrative authority to come before the Commission to explain what they know about this topic.

Commissioner Pomerantz stated that he was contacted several months ago regarding an issue to do with destination elevators. The City of San Francisco has developed some guidelines, however the City of Los Angeles is not going in that direction. He would like BSC to look into this issue.

**Public Comments on this Agenda Item**

Dawn Anderson requested that any regulations or guidelines coming down from the federal government be added to the agenda.

Laura Williams expressed concern about the prospect of how high rise buildings continue to be built with stairs only for emergency egress.

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Richard Skaff expressed concern about destination elevators. This was addressed at the last DSA Advisory Committee meeting. Mr. Skaff stated that these elevators continue to be installed without permits and he would like the Commission to discuss this with the State Architects office.

Mr. Skaff explained that he is the co-chair of the State Fire Marshal's Evacuation and Access Committee and they do have an upcoming agenda item regarding emergency egress.

Commissioner Abrams responded to Ms. Williams that her concerns need to be addressed to the State Fire Marshal's Office.

Commissioner Burks responded to Ms. Williams to let her know that this issue is being address on a national scale by the National Fire Protection Association.

Commissioner Navarro responded to Ms. Williams that this Committee is not mandated to deal with that issue, but would like the Committee to foster a dialogue with the appropriate agencies.

Commissioner Wilson agreed that the emergency egress issue should be a future agenda item.

**9. ADJOURNMENT OF CCDA MEETING**

Chair Johnson adjourned the meeting at approximately 4:00 p.m.

**10. COMMITTEE MEETING**

Commissioner Abrams called the Committee meeting to order by indicated that the purpose of this portion of the meeting is to take advantage of the commissioners being together. The committee chairs were sent a document that lists the provisions in SB1608 that are the legislature's directions. Each committee chair is a liaison to a member of the Administration Committee and should plan to meet prior to the end of this fiscal year, with the exception of the Accessibility Checklist Committee and the CASp and Education Committee, who will be meeting frequently.

Chair Johnson reminded the chairs that they will need to put together an agenda that will need to be noticed properly. BSC staff will assist with the logistics of the meetings.

Commissioner Burks suggested that BSC staff have the e-mail addresses and telephone numbers for all chairpersons.

Dawn Anderson asked whether the committees are doing Title 3 public accommodations or Title 2 entities.

Commissioner Abrams responded by saying that the preliminary focus is Title 3.

Commissioner Burks responded by saying that Title 2 entities sublease to Title 3 entities, so this would be something to confirm with BSC staff.

Mr. Walls indicated that the July 1 deliverable is what needs to be focused on primarily.

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**11. ADJOURNMENT OF COMMITTEE CHAIRPERSON MEETING**

Commissioner Abrams adjourned the meeting at approximately 4:30 p.m.

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