

ADMINISTRATIVE MEETING

March 16, 2016

4:00 p.m. to 6:00 p.m.

Room 326

AGENDA

1. **Call to order, introductions, opening comments**
2. **March 2, 2016 Administrative Meeting summary**
3. **Commission comments, questions**
 - Upcoming appointments
4. **City Manager's Report**
 - Request for Amicus Brief, Tim Burton & David Nielsen (MLCT)
 - Public Records Request Resolution (*materials in 3/21 meeting packet*)
5. **Department discussions**
 - Parks and Recreation**
 - Emerald Ash Borer Presentation, Dr. Laurie Kerzicnik, Insect Diagnostician at MSU
 - Parking**
 - 15th Street Parking Structure Agreement with Montana State Fund
 - **Consensus Direction to Manager:**
 - Community Development**
 - ADA Transition Plan Presentation, John McGovern, RAC
 - **Consensus Direction to Manager:**
6. **Committee discussions**
 - a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns
– Mayor Jim Smith
 - b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee
– Commissioner Dan Ellison
 - c) ADA Compliance Committee, Audit Committee, City-County Parks Board , Civic Center Board
– Commissioner Rob Farris-Olsen
 - d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee
– Commissioner Andres Haladay
 - e) Business Improvement District/Helena Parking Commission ,Montana Business Assistance Connection, Public Art Committee
– Commissioner Ed Noonan
 - f) Helena Citizens Council
7. **Review of agenda for March 21, 2016 Commission meeting**
8. **Public comment**
9. **Commission discussion and direction to City Manager**
10. **Adjourn**

City of Helena, Montana

ADA NOTICE

The City of Helena is committed to providing access to persons with disabilities for its meetings, in compliance with Title II of the Americans with Disabilities Act and the Montana Human Rights Act. The City will not exclude persons with disabilities from participation at its meetings or otherwise deny them the City's services, programs, or activities.

Persons with disabilities requiring accommodations to participate in the City's meetings, services, programs, or activities should contact the City's ADA Coordinator, Elroy Golemon, as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following:

(406) 447- 8490

TTY Relay Service 1-800-253-4091 or 711

citycommunitydevelopment@helenamt.gov

316 North Park, Avenue, Room 440, Helena, MT 59623

City of Helena, Montana

March 7, 2016

TO: Ron Alles, City Manager

FROM: Amy Teegarden, Director of Parks & Recreation

Subject: Emerald Ash Borer Presentation

Objective: A high percentage of Helena's urban trees are green ash. Across the nation, green ash is threatened by the Emerald Ash Borer (EAB), an insect that is established in more than 25 states. What would our community look like if our trees disappeared?

In an effort to raise awareness, share information and discuss proactive measures to limit the potential effects of the (EAB) to Helena's urban forest, city staff invited Laurie Kerzicnik, from Montana State University in Bozeman to speak to the Commission.

Dr. Kerzicnik is the Insect Diagnostician and Assistant IPM Specialist in the Plant Sciences and Plant Pathology Department. Her work focuses on the identification of urban insects and spiders, education, and outreach. She has a Master's and PhD in Entomology from Colorado State University and has worked with insects, spiders, and biological control for over 20 years.

Present Situation: The primary goal of Helena's Urban Forestry division is to provide proactive management, maintenance, and preservation of trees within the municipality and to provide quality customer service, education resources, and volunteer opportunities to ensure the long term safety, health, viability, and aesthetic quality of trees in our community. EAB is a potential threat and proactive practices need to be implemented in order to minimize the threat. The more we learn and move into action, the better off our urban forest will respond to the threat.

Proposal: N/A

Advantage: N/A

Disadvantage: N/A

Attachments: None

City of Helena, Montana

CITY OF HELENA PLANNING DIVISION
316 North Park Avenue
Helena, Montana 59623

DATE: March 10, 2016
2016 ADA Transition Plan Update
Telephone: 406-447-8448

MEMO

TO: Ronald J. Alles, City Manager

FROM: H. Elroy Golemon, City Planning
Sharon Haugen, Community Development Director

SUBJECT: 2016 Transition Plan

The Americans with Disabilities Act (ADA) requires state and local governments to conduct a Self-Evaluation of its facilities, services, programs, and activities to identify barriers. Once the barriers to people with disabilities are identified, the ADA requires a Transition Plan be established to remove barriers in order to ensure accessibility.

A Transition Plan establishes the steps necessary to complete the changes identified through the Self-Evaluation process. In addition, a Transition Plan establishes the schedule for completing the needed changes and allows for prioritization of those changes. Transition Plans are reviewed and updated on a regular basis as projects are completed and programs made more accessible.

BACKGROUND:

The first transition plan for the City was adopted by the City Commission on January 22, 1993. In 2009 the Federal Highway Administration (FHWA) investigated a complaint submitted to the US Department of Justice (USDOJ). The FHWA investigation found that the Self Evaluation and 1993 Transition Plan focused primarily on employment provisions and ADA administration, and identified improvements needed for some City facilities. The FHWA investigation determined that the City's 1993 Transition Plan failed to include schedules for program accessibility, especially on public right-of-way within the City's jurisdiction, and the plan was not current. The FHWA recommended that the City update its Transition Plan.

Since 2009 the City and the ADA Committee have worked together to complete numerous projects to improve accessibility in the City, such as: a) updating the ADA Complaint Grievance process, b) reviewing and updating City policies, forms, and website to increase accessibility, c) development of a map of accessible routes in the downtown area, d) completion of an inventory of curb ramps in the City, e) development of a priority funding map indicating the routes and related ADA curb ramps to target as funds come available, and f) the snow removal ordinance has been updated. In September 2012 Stahly Engineering conducted an accessibility audit of Lockey Park and an accessibility audit of the 1st floor of the City County Building.

Due to the complexity and number of City owned facilities and parks, the ADA Committee recommended that the City secure the services of a consultant to assist with creating a self-evaluation and proposed transition plan for the City. In March of 2015, the City of Helena contracted the services of Recreation Accessibility Consultants (RAC) to develop a new Transition Plan for City owned facilities and parks. As part of the update process, city staff and RAC conducted new Self-Evaluations of each facility and park location to determine what types of access barriers exist for individuals with disabilities.

As part of the process, the ADA Committee conducted a public outreach meeting held on February 17, 2016 (see attached summary). The draft Transition Plan update was placed on the City website, and publicly noticed prior to this meeting. In addition to the web, copies of the draft Transition Plan were made available upon request to any member of the public or interested group. Invitations to the public outreach meeting were sent to over 20 organizations and government entities.

The proposed Transition Plan is only for existing City owned facilities and parks constructed before March 15, 2012. All new construction or renovations completed on or after March 15, 2012 must comply with the ADA. Any renovations or new construction initiated and completed on or after March 15, 2012 found to be non-compliant cannot be incorporated for correction in a proposed 2016 Transition Plan and must be corrected to meet current ADA requirements.

The 2016 Transition Plan will replace the 1993 Transition Plan and will be reviewed annually for updates and changes by City staff, the ADA Committee and City Commission. In addition, the 2016 Transition Plan will be used to help guide future planning and implementation of necessary accessibility improvements. Finally, the the 2016 Transition Plan establishes the city of Helena's ongoing commitment to providing equal access to all its public facilities, programs, services, and activities for citizens with disabilities.

NEXT STEPS:

1. Accept RAC's Transition Plan recommendation for facilities and parks which will be incorporated into an overall city Transition Plan that includes other compliance elements such as communication, service, programs, curb ramps and sidewalks.
2. Identify the priority method to address improvements at facilities and parks and city services.
3. City staff and the ADA Committee will develop a draft list of priorities and time lines for incorporation into the plan. Once the draft plan is completed, the city will conduct another public meeting to take comment on the proposed plan to ensure those priorities are in line with the needs of the public.
4. After the public meeting, city staff and the ADA Committee will finalize the draft plan and present it to the City Commission for final acceptance.
5. There will be a review, and if needed, an update of the Transition Plan on an annual basis. The review will also be part of the city's budget preparation process.
6. Staff estimates that the draft of the complete Transition Plan will take six months.

ADA PUBLIC OUTREACH MEETING MINUTES
February 17, 2016, 12:30 - 1:30 p.m.
Civic Center Ballroom

Committee Members Present:

Allen Tompkins and Robert Farris-Olsen

Staff Present:

Sharon Haugen, Community Development Director, Elroy Golemon, ADA Coordinator, Jon Pallister, Chief Building Official, Dustin Ramoie, Senior Planner, Amy Teegarden, Parks and Recreation Director, Troy Sampson, CCAB Bldg. Manager, Gery Carpenter, Community Facilities Director, Greta Dige, Weed/Code Enforcement Officer, Helen Sautter, Community Development

Guests Present:

John McGovern, Patty Blaskovich (interpreter), Lloyd Sparks, Zach Briggs, Leslie Torgerson, Theresa Gardner, Nate Homier, Les Clark, Kelly Lynch, Kim Abbott, Jaymie Sheldahl, Deborah Swingley, Bob Maffit, Robert Rasmussen, James David, and James Schell.

Call Meeting to Order:

Acting Chair Allen Tompkins called the meeting to order at 12:37 p.m.

Introductions:

Introductions were made of all present.

NEW BUSINESS/OLD BUSINESS:

New Business:

A. Presentation of Draft Transition Plan – John McGovern

Mr. Tompkins provided some background on the Americans with Disabilities Act relevant to the requirements of a transition plan. The current transition plan was implemented in 1993 and has been periodically updated.

In March 2015 the city contracted the services of Recreation Accessibility Consultants to help develop a new self-evaluation and transition plan. The draft transition plan is available on the city's website.

Mr. Tompkins noted in 2003, the state of Montana implemented totally accessible voting machines. These machines provide the ability for disabled

individuals to vote without assistance and are also available for use by non-disabled individuals.

Mr. Tompkins provided some background information about the speaker, Mr. McGovern.

Mr. McGovern shared some of the findings RAC staff encountered while conducting access audits of city facilities and encouraged public comment from all who were present.

Mr. McGovern provided a brief overview of the ADA. The ADA is a very broad federal civil rights law. It's modeled on Section 504 of the 1973 Rehabilitation Act. Many provisions are similar to the 1964 Civil Rights Act.

- Title I applies to all interactions between the city, its employees, and job applicants.
- Title 2, Subtitle A applies to every city service, program, or opportunity.
- Title 2, Subtitle B addresses transportation services that are provided by the city.

RAC has been retained by the city after an RFP process and will be delivering a report to HATS within the next week and a half.

The ADA requires some administrative steps. The city is required to 1) have a designated point person or ADA Coordinator/responsible official, 2) an internal complaint process/process for receiving concerns from persons with disabilities about city services or facilities and figure out ways to address those as promptly and efficiently as possible, 3) ensure access audits of all sites and facilities are available, 4) must have a transition plan (a phased schedule of when the city is going to make retrofits happen at which site).

The Department of Justice (DOJ) states in the Title 2 regulation and it is clear in the statute that Congress passed in 1990 that not necessary every existing site has to be made accessible and not necessarily every element at every site needs to be made accessible. Instead it's the programs and opportunities at those sites that need to be made available to the public.

The access audit was started in the 1990's; Section 35.105 requires an access audit. This audit evaluates city policies, programs, and sites.

The 2010 Standards for Accessible Design were one tool used by RAC during the audit process. Also used were the Title 2 regulations, state of Montana

requirements (if Montana's requirements were more stringent, those were the requirements that were used), and incorporated smart practices.

A hard copy of the city's audit reports is available for viewing. Anyone interested in viewing these reports should contact Elroy Golemon at 316 N. Park Avenue, City/County Building, Room 445.

RAC used checklists for quality control. The checklists identify deficits as well as components that were done correctly. A paired team approach was used to conduct the audits. An RAC staff person was shadowed by city staff while conducting the audits.

Mr. McGovern's presentation included photographs and slides of access deficits and access pluses. Some of the deficits included door levers instead of door knobs, some parking slopes were too steep, narrow doors, and pounds of force required to open some doors exceeded the maximum. Some of these things are complicated by Helena's weather and topography.

An example of one of the subtle deficits was a baseball field. Grass and dirt are never accessible routes; a hard surface is required for accessible routes.

DOJ notes that not every existing sports field needs to be made accessible. What is the right number that is needed to be accessible? DOJ will not give a specific number or ratio. All new construction must be accessible. RAC typically recommends for recurring assets (such as baseball fields) that 1 of 3 at a minimum be accessible. Mr. Sparks suggested that it could be a smart practice, if resources are available, to go above and beyond the recommended 1 of 3 to make recurring sites accessible.

Mr. McGovern noted as a smart practice, "Don't be a minimalist on how you approach this."

The reference costs associated with the retrofits is \$3.3 million: 1,074 modifications each costs less than \$500, 691 modifications cost between \$500 and \$5,000, 280 modifications cost between \$5,001 and \$50,000, and 2 modifications cost more than \$50,000. These cost reference numbers will vary; they are not cost projections or cost estimates and don't include design time or labor costs.

The city is taking the steps and wants to get these retrofits underway. Some assets don't need correction for various reasons including a similar asset being located nearby or making a retrofit would be technically infeasible.

Four questions Mr. McGovern asked of those present:

- 1) What are your access preferences and priorities?
- 2) How far are you willing to go in Helena for an accessible element?
- 3) Start with the basics?
- 4) Centralized access vs. dispersed access?

Mr. Sparks responded by suggesting to start with parking and then to go after the "low hanging fruit" (the lower cost items). Mr. McGovern noted about 900 of the 1,074 modifications were for \$0.00. Mr. Sparks stated, "Let's start there and then move to parking."

Mr. Sparks asked if access to temporary events (examples: the farmers market and Alive at 5) were given any thought. Mr. McGovern responded temporary events can be placed in two categories: 1) a temporary event that happens maybe once a year, and 2) and the farmer's market would be considered a regular temporary event. Mr. McGovern commented he thought category #2 should have a higher level of accessibility; accessible routes to vendors, accessible portable toilets, accessible parking, and accessible signage. One exception in the 2010 Standards for special events regarding signage is braille or raising lettering is not required.

Ms. Garner commented when she attended the 2013 Manheim Steamroller concert, accessible parking signs were covered up with plastic sack over them and she and her mother had to walk a long way to get to the concert.

Mr. Bob Maffit expressed thanks to the city for what it has done. Regarding priorities, Mr. Maffit expressed a recommendation to provide more of a voice and input from the consumer groups and members of the disabled community. With regards to a priority, along with the brick and mortar items, Mr. Maffit recommended that since the principle and spirit of all of this has to do with integration and inclusion of people with disabilities, 1) that the process be tweaked with the best of smart practices so that the ADA Committee's scope be expanded to provide more than just a response to complaints and grievances, 2) that the resolution establishing the ADA be looked at to be expanded in terms of scope, 3) the committee be replaced in the city configuration and be directly responsible to the mayor and have that status in terms of organizational structure and to have that voice of the individuals with disabilities be integrated into it, and 4) the committee be 51 percent with individuals with disabilities to help promote the voice of the disabled community in a higher profile.

Ms. Kelly Lynch noted she agreed with Mr. Maffit's comments and was "very pleased" the city has obtained the Self Evaluation. Her priorities would be 1) see the continuing commitment to this report by the city, making sure to come back consistently to what it says and make sure things are being done and implemented and 2) seeing the commitment by the city to the spirit of being

inclusive. Ms. Lynch noted her priority would be to fix those things that were built or maintained that are in violation of the 2010 Standards since the standards went into effect.

Mr. McGovern pointed out that not all the retrofits can be done in one year and asked about centralized access vs. dispersed access. Example was given: would those present prefer for the city to go to one location (Centennial Park as an example) and address every deficit there and then move on to another site or would you prefer for the city to make access to all locations accessible (such as the baseball fields located around Helena)?

Mr. Sparks suggested first making one of everything accessible. The ultimate goal is to make everything accessible. An accessible feature in each one of the topic areas is needed.

Mr. McGovern pointed out congress told local governments that not every existing facility/site needs to be made accessible. Each city and town will make their own determination as to their own correct ratio and weigh that against their resources, make a plan, and then move forward to make that happen. Mr. McGovern noted that over time, Congress would "love it" if everything was made accessible. No time limit was given to "Over time."

RAC recommended some site deficiencies not be retrofitted; there are other sites that have duplicating assets or those retrofits are technically infeasible.

Mr. McGovern noted the timeline for Helena to make the retrofits is not unreasonable. Some cities have a 25 year schedule. Ongoing progress should be made on a yearly basis.

Mr. Rasmussen asked for clarification of CO on the report. Mr. McGovern responded that CO stands for City Option. It is an accessibility deficit that does not need to be made compliant because either that exact same asset is at a nearby site or that making it accessible is technically infeasible.

Mr. Les Clark noted his preferences are sidewalks including those on the Walking Mall.

Mr. Sparks recognized the fact that not all changes will happen right away. In regards to staff training; training to what level? Is staff trained and equipped with the tools and support to accommodate these individuals? Even though sites, programs, and features may not be accessible "we still have a responsibility to accommodate them and allow them to participate to the best of our abilities and theirs." What level of staff training are we talking about?

Mr. McGovern responded two 1.5 hour training sessions took place this morning. One of those sessions was for general staff and the other was for administrative staff and the hands on staff. These same two sessions will be offered again this afternoon. Communication was addressed and the black and white areas and grey areas of the regulations.

The City understands training is important and it's a way to help staff be in a better position to give all of the residents a better answer. Mr. Golemon noted one of the training sessions was recorded this morning.

Mr. McGovern encouraged all to reach out to Mr. Golemon with their preferences for particular sites or facilities so those can be included in the process as the city moves forward.

Mr. McGovern will be back in March to report to City Commission and noted this is an ongoing evolving process.

Mr. Golemon encouraged anyone with comments or suggestions to contact him.

Patti Blaskovich was the American Sign Language interpreter for this meeting.

Adjournment

Meeting adjourned at 1:35 p.m.



FINAL REPORT TO THE City of Helena

Conclusions and Recommendations

December 15, 2015

All Site Conclusions and Recommendations

Background

A step-by-step approach will help the City of Helena understand and address the deficits in the individual site reports. We recommend the following steps to accomplish the goal of making opportunities in City sites more accessible to people with disabilities.

Our Process

Our work included an access audit of 49 specific City sites and facilities. Our two person teams used checklists in the evaluation process. Additionally, our staff trained two City facilities staff and two Parks staffs, and they conducted audits of an additional 26 sites and facilities.

As we did, the City staff wrote site reports. We did review these for consistency and the appropriate application of the checklists. However, we did not see the sites that were audited by City staffs.

A Guide to this Section

There are approximately 5,300 access deficits identified in the 75 site reports. That is what is required by the ADA, the identification of every access deficit at every site and facility. And, for every deficit, a solution must be identified. Another way to consider this though is that for every deficit we found, we observed 10 elements that complied with the access requirements. In other words, we saw approximately 53,000 access features that complied.

This section is all about the big picture. As discussed in the cover letter with this report, the City does ***not necessarily have to make every site accessible***. It ***does*** have to make every program it conducts within its sites accessible.

We have attempted to identify some broad solutions, such as the refreshing of all accessible parking, as a way to address issues identified in the earlier nine site reports, and as a way for the City to better manage compliance. This approach also gives the City flexibility within its compliance efforts to move resources so that they are applied with optimal impact. Consider these systemic changes as a complement to a site-by-site approach.

However, the scope of our work does not include the design of a solution. Rather, it is performance based. For example, if a park restroom needs to be made accessible we'll make that recommendation. We will not design a solution that includes walls to be removed or plumbing solutions. Those are tasks for City staff or contractors.

We know of qualified and capable designers. If, once you are considering implementation, need references we can certainly help with that.

This is also about accountability. The adjustments to door closers, eliminating changes in level, and other recommended actions are ineffective if not maintained over time by City employees. We recommend the following to facilitate review:

First, read the final report cover letter to Elroy Goleman. It describes the concepts and requirements invoked throughout the report.

Second, read this Conclusion section. As mentioned above, this is a big picture review of the issues and solutions we recommend.

Third, read the 75 site reports. Use your computer and you'll have instant access to the report for that site, the photos, and the checklists.

Fourth, use your knowledge of the sites and of your staffs' expertise. You know the City of Helena sites better than we do, and you certainly know the staff better than we do. Blend in what you know with what we recommend in the report. There is always another way to solve an access problem...perhaps you'll be the one to see that solution.

Common Issues

In our evaluation, some common issues arose. These included the way maintenance affects accessibility to playground surfaces used. The common issues are also "big picture" items for the City and incorporate many of the specific site recommendations.

Maintenance

The City uses a conscientious staff to maintain its facilities and sites. However, over time, every facility and site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

1. ***Provide training*** to maintenance staffs regarding the features of an accessible route and how to ensure that it remains unobstructed so that park amenities, e.g., garbage cans or signs, are placed adjacent to the accessible route.
2. ***Provide training*** to recreation staffs regarding the features of an accessible route and how to ensure that it remains unobstructed.
3. ***Purchase some new tools.*** The City should have enough battery-powered digital levels, and tools to measure pounds of force for doors, to equip some staff for occasional spot-checks. A great website for gauges is:

[http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle.](http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle)

Changes in Level and Gaps

The routes and sidewalks that make up the Cities network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in

level and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many customers with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use City routes, such as staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. **Add** change in level of more than .25" **to park maintenance safety checklists** in 2016. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.
5. **Eliminate changes in level** by the end of 2018. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75" the highest priority. Make changes in level of between .5" and .75" the second priority. Make beveling of changes in level of .25" to .5" the third priority.
6. **Add inspections for gaps** of greater than .5" **to park maintenance safety checklists** in 2016. Identify and fill these gaps before they expand. **In the alternative, consider resurfacing segments of deteriorated asphalt routes.**
7. **Adopt** a policy about the use of other Other Power Driven Mobility Devices in City facilities and at City sites, and promote that policy to the general public. Every day, more people with limited physical mobility start to use a Segway or similar machines.

Pursuant to the new ADA title II regulation published September 14, 2010, this policy was to have been in place by March 15, 2011.

These assistive devices provide great benefits to people with disabilities and the sooner the City has a policy in regard to their use the better. The policy could, at a minimum, address times of allowed use (dawn to dusk), speed limits, off-limits areas, status of the user as a person with a disability, and minimum age.

It is important to note that a power driven mobility device is not a wheelchair. That device has a separate definition and is already allowed in facilities and parks.

The components of a policy are noted below. ***The City is welcome to use some, all, or none of this, but a policy must be in place. We recommend at least the following statements:***

Definition: *Other power-driven mobility device* (OPDMD) means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility

device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this policy.

Definition: *An electronic personal assistive mobility device (EPAMD) is a device used by a person with a mobility impairment for ambulation. This definition does **not** include gasoline powered devices, golf cars, or riding lawn mowers.*

Permission: The City of Helena authorizes persons with mobility impairments to use OPDMDs and EPAMDs in City facilities and sites subject to the following restrictions:

1. The operator of the device must be a person with a mobility impairment, and upon request by City officials, shall produce proof of such within 72 hours;
2. The device, if used in a facility or in a park, is allowed in any area of the facility or park in which the general public is allowed, with the exception of employee only spaces, stairways, and identified hazardous areas;
3. The device, if used in a facility, must be controlled by the operator. It:
 - A. may not exceed 4 mph;
 - B. shall be driven on the right side of the circulation route;
 - C. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
 - D. must not be operated in a dangerous or reckless manner that jeopardizes the safety of the operator, City employees, or City participants.
4. The device, if used in a park or outside, must be controlled by the operator. It:
 - A. may not be operated between dusk and dawn unless equipped with headlights that are visible at 300';
 - B. may not exceed 6 mph;
 - C. shall not be driven into wet or ecologically sensitive areas which are posted as such;
 - D. shall be driven on the right side of the circulation route;
 - E. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
 - F. must not be operated in a dangerous or reckless manner that jeopardizes operator safety, City employees, or City participants.

5. The City accepts no responsibility for storage of the device.
6. The City accepts no liability for damage to the device, or injury to the operator, whether caused by the operator, another visitor, or any other circumstance.
7. The City accepts no liability for damage caused by the operator of the device, or injury to others caused by the operator of the device.
8. The City reserves the right to suspend the use of facilities or sites by the operator if doing so is in the best interests of the City and its participants.
9. The City reserves the right to change, modify, or amend this policy at any time, as it would any other policy.

Obstructed Accessible Routes

Employees *may* see an accessible route as an empty 36" wide space in which a potted plant or garbage can is a perfect fit. However, that blocks or obstructs the accessible route

8. ***Provide training to park maintenance, recreation, and administration staffs*** regarding maintenance of accessible routes in City facilities.

Employee Work Areas

The City of Helena employs many qualified and skilled full time staff, making City services available to residents. The City employs many more on a part-time or seasonal basis. The City likely already has employees with disabilities and in the future, will have *more* employees with disabilities, in all categories...full time, seasonal, and regular part time.

It is important to address access to work areas, and both the title II regulation and the 2010 Standards do so. In section 203.9 of the 2010 Standards, the treatment of employee areas is made clear. Generally, a person with a disability should be able to ***approach, enter, and exit*** the work area. This is addressed by requirements for accessible routes and accessible means of egress. Other factors are door width, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- corridors;
- toilet rooms;
- kitchenettes for employee dining use, and
- break rooms.

The key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when the City hires an employee with a disability, or a current employee acquires a disability, it will

remove architectural barriers in work areas or make other accommodations. The two recommendations below are important for all employees at all City sites.

9. **Address accessibility in the City personnel policies**, and note that, upon request by an employee, the City will make reasonable accommodations, which *may* include the removal of architectural barriers in work spaces.
10. **Require new construction, and alterations or additions** that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards.

Accessible Parking

The City maintains approximately 1,200 standard parking spaces at sites, and 55 more that are designated as accessible parking stalls. In correcting or refreshing its accessible stalls, the City should address all of them at once to eliminate inconsistencies in compliance.

11. **Create a parking stall template.** A suggested template is below.

Parking Stall Dimensions

Stalls are a minimum of 8' wide. An adjacent access aisle must also be a minimum of 5' wide. The access aisle must be diagonally striped with **high quality paint**.

The collection of signs must include the US Department of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the statewide fine sign. Unless the City of Helena has adopted a higher fine by ordinance, the sign must note the statewide fine of \$100.00.

Federal settlement agreements require a third sign, on at least one stall, that says VAN ACCESSIBLE. This stall must be 11' wide with a 5' access aisle. An acceptable alternate is 8' and 8'.

Finally, the bottom edge of the R7-8 sign is a minimum of 60" above the finished grade. We suggest that the signpost be centered at the head of the accessible stall and we suggest that the curb cut and detectable warning run the distance of the access aisle.

The most common deficit in accessible parking stalls and access aisles is the slope. The 2010 standards limits the slope to **not more than 2.08% in any direction**. **This is a challenging requirement that can take considerable effort to meet.**

Connection to the Accessible Route

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%.

Passenger Loading Zone

The loading zone must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60" wide and 20' long.

Confirm this template to ensure compliant stalls.

12. In 2017 **implement a plan to correct or refresh every accessible stall** at every City facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

Running Slope and Cross Slope

We saw running slopes steeper than permitted. At some sites this was a minimal issue, but at other sites it was a significant variance. This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage as well as access purposes.

13. **Adopt a policy** that in new construction and alterations the slope of the AR shall not exceed 1:21, or 4.7%, as opposed to 1:20, or 5%. This allows room for field error.
14. **Adopt a policy** that in new construction and alterations the ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or 8.33%. This allows room for field error. It also makes ramps easier to use for everyone, not just people with disabilities. This universal design approach is also a risk management tool.
15. **Adopt a policy** that in new construction or alterations the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.

Detectable Warnings

The US Access Board suspended the detectable warning requirement in the late 90's, for a period of several years. It was restored in 2002. However, it is not required in the 2010 Standards.

We still, however, as a smart practice, recommend the use of detectable warnings. It is typical to see noncompliant detectable warnings in every community.

The detectable warnings at curbs **that are not compliant** are often a cross-cut of concrete, or a grid laid on wet concrete to create a diamond-shaped indentation. Over time these should be replaced.

16. As with parking, **develop a template for detectable warnings.**
17. In the same year that parking is refreshed, **implement a plan to correct or refresh every detectable warning** at every curb or crossing at City facilities. If necessary, phase this out over a two or three year period.

Door Opening Force Requirements

In City buildings and facilities, there are approximately 800 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and 8.5 lbf for exterior doors).

However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

18. ***Evaluate and determine the age of door closers.***
19. ***Add door closer maintenance checks*** to safety checklists in 2016 and for closers with 10 years of service or less, aggressively maintain them for effectiveness.
20. ***Purchase and install new door closers*** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2017 or as soon as is possible.
21. ***Purchase and install*** new door closers for all remaining interior doors (with closers 20 years old or more) in 2018 or as soon as is possible.

Signage

City signs serve several purposes. First, signs assist wayfinding in buildings, such as the City-County Admin Building. Second, signs identify important permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations. We did not note a signage template at the sites we evaluated.

The 2010 Standards treats two types of signs differently. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. Signs that are directional or informational only require visual lettering of a certain size. Be certain to incorporate these approaches into signs in buildings and sites operated by the City.

22. ***Develop a sign template*** in 2015 that describes where and in what facilities signs will be used. The template could include size of sign, mounting height, mounting location, size of characters, space between characters, contrast between characters and background, icons or symbols used in the signs, City information in the signs (name of facility? phone number? main office number?), and more.
23. ***Implement signage template and refresh*** City site signage in 2016.

Bathrooms

Bathrooms are an essential part of a visit to a City of Helena site. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important.

Additionally, **portable toilets** placed temporarily at sports fields and event venues **must** be accessible and **must be served by an accessible route**.

24. **Develop a bathroom template in 2016.** Confirm it with the State of Montana. Be sure to include temporary facilities such as portable toilets in the template. The template should address the toilet, grab bars, items in the stall such as toilet paper and hooks, the stall, operating mechanisms, mirrors, sinks, hand towels, and more.
25. **Include bathroom renovations** at facilities in the City Capital Acquisition and Replacement Plan.
26. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.
27. **In the interim, implement non-structural modifications recommended in each section of this report,** such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.
28. **Make one portable toilet,** if one is provided at a site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to sports fields. These must be accessible and must be served by **an accessible route**.

The City has sites with portable toilets; this must be addressed. Use our single-user toilet checklist, and require compliance by City vendors.

Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992 or has been upgraded since that same date.

If an alarm in an existing facility is audible only, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

29. **Determine in 2016** if systems have been upgraded or replaced since 1992.
30. **Develop a plan in 2016** for the installation of aural and visual alarms in renovations.
31. **Retrofit construction that has occurred since 1992** to include aural and visual alarms by the end of 2018.

Brochures

The use of a park grid in the City brochures is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the City

staff completes and indicate in your grid where, for example, the accessible picnic areas are, or where the accessible playgrounds are.

32. **Update the parks and facilities and city services** information on the website to reflect City plans regarding our recommendations, and to note which sites are accessible or will be made accessible.

Website

The title II regulation requires that all public communication used by the City be available to people with disabilities. Many people with vision impairments use websites every day with the aid of technical equipment.

The City is required to evaluate its website and make necessary changes so that the website can be read by that type of equipment.

A link at the US Department of Justice website offers guidance on this. The City IT staff should become familiar with this issue. Go to <http://www.ada.gov/websites2.htm>. The City can also check the accessibility of its website at a free service. Link to Cynthia Says at http://www.icdri.org/test_your_site_now.htm and test your website.

33. **Evaluate the City website** and make changes so that the information on the site is accessible to people with disabilities.

Maintenance Buildings

In individual site reports, we address the maintenance areas. As noted earlier, the City can apply a different standard to spaces used only as employee work areas. City maintenance staff should receive training in regard to the application of the **approach, enter, and exit** strategy so that they understand the reason for the various requirements.

34. **Train maintenance staff supervisors** in accessibility concepts that are applicable to the maintenance building.
35. **Implement recommendations regarding parking, accessible route, changes in level, gaps, doors, and alarm systems** at the maintenance areas.

Playgrounds

The **minimum required** of the City by title II of the ADA is that the "program" of playgrounds be accessible to residents. This is measured by the "program access test" described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing playgrounds should be made accessible. Again, a good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included 20 playgrounds. Of these, two are accessible and one is being replaced, and the new model will be accessible as new playgrounds at any time in the future must comply with the 2010 Standards. We recommend access to four more.

The Program Access Chart, along with City of Helena Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the City is close to an accessible playground. [[City of Helena Playgrounds Map](#)]

36. **Make the corrections** so the playground at the site below **remains** accessible:
- **Barney Park (new play area)**
 - **Centennial-Bausch Park**
 - **Mountain View Park**
37. **Make the corrections** so the playground at the site below **becomes** accessible:
- **Lockey Park**
 - **Selma Held Park**
 - **Waukesha Park**
38. **Leave as is** the playgrounds at the parks named below, and when future alterations or renovations occur at those sites, make them accessible.
- **Batch Softball Fields**
 - **Cherry Park**
 - **Clinton Park**
 - **Cunningham Park**
 - **Heritage Pioneer Park**
 - **Jaycee Park**
 - **Kay McKenna Park**
 - **Leo Pocha Park**
 - **Memorial Park (2)**
 - **Northwest Park**
 - **Ramey Park**
 - **Skelton Park**
 - **Wesleyan Park**
39. **Advertise the accessible playgrounds** in the City website and publications. This is an important way to make the public aware of opportunities, and complies with the section 35.106 notice requirement in the title II regulation.

Tennis

The **minimum required** of the City by title II of the ADA is that the “program” of tennis be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

City of Helena

Access Audit and Transition Plan Conclusions and Recommendations

December 15, 2015 page 13

For similar multiple sites, no guidance is given as to how many existing tennis courts should be accessible. We recommend that at least one of every three be accessible.

There are 13 courts and eight are accessible. ***We recommend no new access.***

The Program Access Chart at the end of this section, along with the City of Helena Tennis Map, illustrates the areas where work is recommended so that every resident of the City is close to an accessible tennis court. [[City of Helena Tennis Map](#)]

40. ***Make corrections*** cited in reports so the tennis courts below ***remain*** accessible:

- ***Barney Park (4)***
- ***Kay McKenna Park (4)***

41. ***Leave as is*** the courts at the following sites:

- ***Lockey Park (4)***
- ***Mountain View Park***

42. ***Advertise the accessible tennis courts*** in City website and publications.

Volleyball

The ***minimum required*** of the City by title II of the ADA is that the “program” of volleyball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing volleyball courts should be accessible. We recommend that at least one of every three be accessible.

There are three courts and one is accessible. ***We recommend no new access.***

The Program Access Chart at the end of this section, along with the City of Helena Volleyball Map, illustrates the areas where work is recommended so that every resident of the City is close to an accessible volleyball court. [[City of Helena Volleyball Map](#)]

43. ***Make corrections*** cited in reports so the volleyball court below ***remains*** accessible:

- ***Mountain View Park***

44. ***Leave as is*** the courts at the following sites:

- ***Centennial-Bausch Park (2)***

45. ***Advertise the accessible volleyball courts*** in City website and publications.

Basketball

The *minimum required* of the City by title II of the ADA is that the “program” of basketball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing basketball courts should be accessible. We recommend that at least one of every three be accessible.

There are 11 courts and five are accessible. ***We recommend access no new access.***

The Program Access Chart at the end of this section, along with the City of Helena Basketball Map, illustrates accessible ball fields so that every resident of the City is close to an accessible basketball court. [[City of Helena Basketball Map](#)]

46. ***Make corrections*** cited in report so the courts below ***remain*** accessible:

- ***Barney Park***
- ***Cherry Park***
- ***Heritage-Pioneer Park***
- ***Mountain View Park***
- ***Ramey Park***

47. ***Leave as is*** the courts at the following sites:

- ***Clinton Park***
- ***Cunningham Park***
- ***Lincoln Park (3)***
- ***Lockey Park***

48. ***Advertise the accessible basketball courts*** in City website and publications.

Baseball

The *minimum required* of the City by title II of the ADA is that the “program” of baseball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing baseball fields should be accessible. We recommend that at least one of every three be accessible.

There are 16 fields and three are accessible. ***We recommend access to four more fields.***

The Program Access Chart at the end of this section, along with the City of Helena Baseball Map, illustrates accessible ball fields so that every resident of the City is close to an accessible ball field. [[City of Helena Baseball Map](#)]

49. **Make corrections** cited in report so the ball fields below **remain** accessible:

- **Centennial-Bausch Park (3 of 4)**

50. **Make corrections** cited in report so the ball fields below **become** accessible:

- **Kindrick-Legion Field**
- **Lockey Park**
- **Ramey Park (2)**

51. **Leave as is** the ball fields at the following sites:

- **Barney Park**
- **Batch Softball Fields (4)**
- **Centennial-Bausch Park (1 of 4)**
- **Lincoln Park**
- **Northwest Park (2)**

52. **Advertise the accessible ball fields** in City website and publications.

Athletic Fields

The **minimum required** of the City by title II of the ADA is that the "program" of athletic fields be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing athletic fields should be accessible. We recommend that at least one of every three be accessible.

There are three fields and none are accessible. **We recommend access to one field.**

The Program Access Chart at the end of this section, along with the City of Helena Athletic Fields Map, illustrates accessible fields so that every resident of the City is close to an accessible athletic field. [[City of Helena Athletic Field Map](#)]

53. **Make corrections** cited in report so the athletic field below **becomes** accessible:

- **Centennial-Bausch Park**

54. **Leave as is** the athletic fields at the following sites:

- **Northwest Park (2)**

55. **Advertise the accessible athletic fields** in City website and publications.

Trails

The **minimum required** of the City by title II of the ADA is that the “program” of trails be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing trails should be accessible.

We recommend that a minimum of one area of every three be accessible. We saw 10 trails and two are accessible. **We recommend access to two more.**

The issue of trail access is not yet settled as a final and enforceable standard. There is significant guidance from the US Access Board, and we have applied it here to City trails.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend City continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, along with the City of Helena Trail Map, illustrates the areas where work is recommended so that every resident is close to an accessible trail. [[City of Helena Trail Map](#)]

56. **Make corrections** cited in the reports so the trails below remain accessible:

- **Centennial-Bausch Park**
- **Nature Park**

57. **Make corrections** cited in the reports so the trails below become accessible:

- **Donaldson Park**
- **Janet Park**

58. **Leave as is** the trails at the following sites:

- **Dale Harris Park**
- **Meatloaf Hill**
- **Mt. Helena Park**
- **Nob Hill Open Space**
- **Northwest Park**
- **Reber Park**

59. **Advertise the accessible trails** in City website and publications

Picnic Areas

The **minimum required** of the City by title II of the ADA is that the “program” of picnicking be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing picnic sites should be accessible. There 13 picnic areas and six are accessible.

We recommend no new access. Many of these sites need accessible tables or other minor corrections.

The issue of picnic area access is not yet settled as a final and enforceable standard.

There is significant guidance from the US Access Board, and we have applied it here to City picnic areas.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the ***final guideline*** that exists today. That said, we recommend City continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the City of Helena Picnic Areas Map, illustrates accessible picnic areas so that every resident of the City is close to an accessible picnic area. [[City of Helena Picnic Areas Map](#)]

60. ***Make corrections*** needed to ***maintain or create access***, including adding tables, to picnic areas at:

- ***Barney Park***
- ***Centennial-Bausch Park (1 of 2)***
- ***Cherry Park***
- ***Kindrick-Legion Field***
- ***Lockey Park***
- ***Mountain View Park***

61. ***Leave as is*** the picnic areas at the following sites:

- ***Centennial-Bausch Park (1 of 2)***
- ***Cunningham Park***
- ***Dale Harris Park***
- ***Meatloaf Hill***
- ***Nob Hill Open Space***
- ***Reber Park***
- ***Robinson Park***

62. ***Advertise accessible picnic areas*** in the City website and publications

Public Feedback

An integral part of the self-evaluation of sites and facilities, and the development of a transition plan, is the involvement of the public. This is tentatively scheduled for February 17, 2016. RAC President John McGovern will facilitate this meeting.

The purpose of the meeting is to briefly review our findings and to seek public feedback. The community can provide valuable feedback regarding accessibility priorities and preferences.

Transition Plan

The City must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal.

Barriers should be removed as soon as is possible. Phasing the work to be done allows for access to occur and makes the best use of the resources of the City of Helena.

In the view of DOJ, the recreation design requirements were available to the City since 2004, if not earlier. Enforcement staff has said at meetings and in conversations that work should have already been underway to identify and remedy access deficits.

We recommend work in three phases. We also note the work we recommend need not occur in a category titled City Option. Should the City plans change, or should other resources become available, the corrective work needed at these sites is known. We acknowledge that each phase likely requires three or more fiscal years for completion.

We have made cost **references** for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. The final design, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

The total of retrofit work we recommend is \$3,355,622.75. We believe it can be implemented over a period of 11 years.

In Phase One, we recommend work in the amount of \$901,438.75. Generally, the work in this Phase falls into two categories: easy to do with existing staff and resources (low-hanging fruit), and old requirements (such as parking) at sites otherwise accessible. The City should decide how many years are required to complete a phase. ***Here we would suggest that Phase One is a three-year process.***

In Phase Two, we recommend work in the amount of \$1,065,371.00. Generally, the work in this Phase includes changes to recreation amenities, such as playground surfaces, ball fields and athletic fields. The City should decide how many years are required to complete a phase. ***Here we would suggest that Phase Two is a four-year process.***

In Phase Three, we recommend work in the amount of \$1,388,813.00. Generally, the work in this Phase falls into two categories: elements not yet addressed by a final Standard, such as trails, and elements where correction is complex or costly. The City should decide how many years are required to complete a phase. ***Here we would suggest that Phase Three is a four-year process.***

City of Helena
Access Audit and Transition Plan Conclusions and Recommendations
December 15, 2015 page 19

We identified work in the amount of \$1,335,105,25 in City Option. This is work at a site or element with access deficits where we believe the City already meets the program access test and need not make these sites accessible, until later altered for another purpose.

Conclusion

The City of Helena has a variety of recreation facilities and sites, and other municipal facilities. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical in every municipal infrastructure. The City takes steps towards accessibility every year and that undoubtedly helped.

The City should determine to what extent it will act on our recommendations and any staff recommendations. Access work should occur every year during the transition plan.

While no one can say with certainty how long the City can stretch these projects, the City should make access retrofits an ongoing part of its annual plans and budgets. The US Department of Justice officials have said work must be completed as soon as is possible.

Be certain to understand that the City could be forced to accelerate its pace. Making access work a high priority is critical.

Your strategy should definitely address the common issues identified in this report.

The City of Helena should be commended for undertaking this task. Although this access audit and the transition plan are both mandated tasks, many of your neighbors have not completed these steps.

In closing, thanks again to the staff at the City for their cooperation and spirit. All of the team at our firm enjoyed working with them. We acknowledged you, Elroy, for your assistance earlier, and we do so again here.

Call me at Recreation Accessibility Consultants at 224/293-6451 if there are any questions. Thanks again for inviting us to work with the City of Helena.

Submitted by

John N. McGovern, J.D., President
Recreation Accessibility Consultants LLC

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