

Commission on Disability
Meeting Agenda: November 8, 2023, at 5pm

North Berkeley Senior Center, Aspen Room
1901 Hearst Avenue, Berkeley, CA 94709

Preliminary Matters

1. Call to Order by Chair Fischer
2. Land Acknowledgment recognizing Berkeley as the ancestral, unceded home of the Ohlone People
3. Roll Call by Secretary
4. Public Comments

At this point in the meeting, the public may comment about any item not on the agenda. Public comments regarding agenda items will be heard while the Commission is discussing the item. Public comments are limited to three minutes per speaker.
5. Approval of draft minutes: October 11, 2023 meeting*
6. Approval: Order of Agenda*

Presentation

7. Anthony Tusler on passing the Sonoma County ADU visitability resolution.*

Staff Updates

8. 2023 Log of Access Complaints*
9. Email and voicemail sent to the Commission*
10. ADA Coordinator Certification & Training Program
11. CA law on "daylighting"
12. ADA Transition Plan has been submitted to Caltrans
13. ADA Program Coordinator vacation dates

Commissioner Reports/Announcements

Discussion/Action Items

14. Amend meeting calendar for 2024
15. Work Plan Updates and Development
 - a. Presentations to advance Work Plan priorities
16. CM Hahn: access changes to public speaker setup at Council meetings
17. CM Robinson: permitting bicycles on sidewalks.

Carried Over & Items for Future Meetings

- a. Civic Center Subcommittee Briefing
- b. Safer pathways map of Berkeley (perhaps produced with CoAging)
- c. Recruiting new CoD members

Adjournment

- * **Written material included in packet.**
- ** **Written material to be delivered at meeting.**
- *** **Written material previously distributed.**

PUBLIC ACCESS TO AGENDA

Agenda posted: 1) on the bulletin board at Old City Hall (2134 MLK Jr. Way); 2) North Berkeley Senior Center (1901 Hearst Avenue); 3) City of Berkeley website ([link](#))

A complete monthly agenda packet is available for public review by clicking the V symbol to the right of the monthly minutes PDF at <https://berkeleyca.gov/your-government/boards-commissions/commission-disability>. Physical agenda packets are reviewable during business hours at the Berkeley Central Library (2090 Kittredge St.) and at 1947 Center Street, 4th Floor.

ADA ACCOMMODATIONS

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including remote participation, auxiliary aids or services, please contact the **ADA Program Coordinator at (510) 981-6418 (V) or (510) 981-6347 (TDD)** at least 72 hours before the meeting commences. Please refrain from wearing scented products to this meeting.

PUBLIC RECORD INFORMATION

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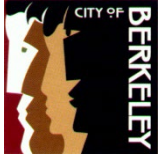
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at 1947 Center Street, 4th Floor, during regular business hours. The Commission Agenda and Minutes may be viewed on the City of Berkeley website: <http://www.cityofberkeley.info/commissions>.

Secretary:

Thomas Gregory
Public Works Department
(510) 981-6418
E-mail: tgregory@berkeleyca.gov

Mailing Address:

Commission on Disability
c/o Thomas Gregory
1947 Center Street
Berkeley, CA 94704



**Commission on Disability
DRAFT Minutes re October 11, 2023 Meeting**

Preliminary Matters

1. Call to order at 5:22pm
2. Land acknowledgment read recognizing Berkeley as the ancestral, unceded home of the Ohlone People.
3. Roll Call
Present: Chair Fischer, Commissioner Pugh, and Commissioner Sun.
Absent: Commissioner Lewkowicz.
On a Leave of Absence: Vice-Chair Walsh.
Staff present: Thomas Gregory and Guillermo Campos.
Public present: Ben Gould, Carole Marasovic, and Anonymous.
4. Public Comments:
 - a. Ben Gould spoke about plans for an upcoming citizens' ballot initiative to improve City streets, sidewalks, and other public rights-of-way via a parcel tax; Ben invites all interested constituents to contact him at ben@bengould.org.
 - b. Carole Marasovic spoke of the need for staff at the City's various shelter sites (and, for that matter, staff everywhere) to effectively serve clients who are illiterate and/or who have cognitive disabilities, providing reasonable accommodations as appropriate.
5. Approval of draft minutes for September 13, 2023 meeting
"...to approve the September 13 meeting's minutes."
Moved by: Chair Fischer; seconded by: Commissioner Pugh.
Yeas: unanimous; nays: none.
Motion passes.
6. Approval and Order of Agenda
"...to approve the October draft agenda as is."
Moved by: Chair Fischer; seconded by: Commissioner Sun.
Yeas: unanimous; nays: none.
Motion passes.

Staff Updates

7. Updates
 - a. Regarding the 6/8/23 entry of the Complaints Log, Commissioners present wanted an ETA regarding when the Commissioners' Manual would be revised to be fully compatible with screen reading software and therefore in compliance with the ADA. The secretary told Commissioners that the City expected to make a revised version available by a not-yet-determined date in 2024. There was a consensus among Commissioners present that

this target was unacceptable as the document currently violates the ADA requirement that City web content be accessible to users of screen readers. In addition, since the remediation requires simply deleting already blacked out text this is a small task that should be done as soon as possible.

- b. Recent messages addressed to the Commission were considered and discussed.

Commissioner Reports/Announcements

8. Chair Fischer led discussion re follow-up communications with constituents who engage with the Commission.

Discussion/Action Items

9. Vote for desired 2024 Commission calendar.
“...that this Commission’s 2024 meeting schedule be: 2nd Wednesdays of the month (except for August and December) at 5pm at the North Berkeley Senior Center, in the Aspen Room if it’s available.”
Moved by: Chair Fischer; seconded by: Commissioner Sun.
Yeas: unanimous; nays: none.
Motion passes.
10. Commissioners discussed strategies for recruiting new CoD members.
11. Commissioners continued to discuss Work Plan objectives and strategies for achieving those objectives, including the need to timely book key guest presenters, both staff and non-staff, to provide CoD with info needed to effectively pursue Work Plan goals.

Commissioners adjourned at 7:45pm.

Minutes Approved by CoD vote on:

Thomas Gregory, Secretary to the Commission on Disability



County of Sonoma
State of California

THE WITHIN INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE.

ATTEST: JUL 25 2018

SHERYL BRATTON, Clerk/Secretary
BY Woodson
DEPUTY CLERK/ASST. SECRETARY

Date: July 24, 2018

Item Number: 20

Resolution Number: 18-0296

4/5 Vote Required

**Resolution of the Board of Supervisors of the County of Sonoma, State of California,
Encouraging the Construction of Homes Meeting Voluntary Visitability Standards**

Whereas, in January, 2005, the oldest of the baby boomers turned 60. In the next 15 years, Sonoma County's senior population between 60 and 79 is expected to balloon from 64,859 to 127,641; and

Whereas, 31% of people 65 and older, and 7% of people age 18-65, have mobility disabilities, in addition to the thousands of people who experience temporary mobility limitations each year; and

Whereas, Visitability is an inclusive design approach that integrates a limited number of crucial accessibility features, such as a no-step entry, doorways that allow at 32 inches clear passage, and at least a half bathroom on the main floor, into newly-built homes; and

Whereas, the cost of constructing a home with basic accessibility features is minimal, while the cost and disruption associated with retrofitting a home to include such features are substantial; and

Whereas, housing characterized by Visitability promotes social stability, productivity and sustainability through provision of a safer, more accommodating home environment, enabling residents to weather life's changes and "age in place" without being dislocated from one's family or community; and

Whereas, the overwhelming majority of housing in Sonoma County does not have even minimal accessibility features; and

Whereas, 5,100 homes in Sonoma County were destroyed by the October, 2017 fires, adding to the already limited housing; and

Whereas, the County has demonstrated its commitment to promoting "aging in place" and to account for the diverse needs of all segments of the population;

Resolution #18-0296
Date: July 24, 2018
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Now, Therefore, Be It Resolved the Sonoma County Board of Supervisors urges all homeowners, builders, and architects to include at least basic Visitability in all new housing construction in both the public and private sectors; and

Be It Further Resolved that a designated County permitting agency make available, with all housing construction permits, information on the features, benefits and ways to achieve Visitability.

Supervisors:

Gorin: Absent	Rabbitt: Aye	Zane: Aye	Hopkins: Aye	Gore: Absent
Ayes: 3	Noes: 0	Absent: 2	Abstain: 0	

So Ordered.

2023 Log of Access-related Complaints Received by CoB

Subject matter key:

1 = built environment (facilities and their adjacent paths of travel)

2 = built environment (pedestrian rights of way)

3 = digital content

4 = effective communications/signage

5 = programs, services, and activities

Date Complaint Lodged	Lack of Access Pertaining To	Date the City deemed a solution was implemented	Nature of solution	Solution's level of compliance with law	Complainant's level of satisfaction with solution
5/12/23	5 – letter to City Attorney and City Clerk, that City must change accommodations for disabled Commissioners that require publicly posting addresses and opening homes to public; based on the legal opinion of the SF City Attorney that the Brown Act must defer to the ADA, Title II	7/7/23 (or sooner)	N/A as City did not see a need for any solution other than providing reasonable accommodations as needed.	Litigation pending	Unsatisfied

Internal

6/8/23	3 – Commissioners' Manual not fully accessible via screen reader.	not yet	On 6/13/23, the City Clerk wrote: "My office will plan to create a version of the Manual that blacks out the text entirely and works with screen readers."	Once implemented, solution will be compliant.	Yet to be satisfied.
6/8/23	3 – same as above, but with additional concern that much more content on City website could be out of compliance with WCAG.	6/14/23	On 6/14, the City's Digital Communications Coordinator wrote that all City-generated web content meets WCAG standards. Re content on the City's website generated by third parties (e.g., Granicus), the City will insist that these third parties ensure that their content meets WCAG, and specific City staff are responsible for ensuring that these third parties cure any identified instances of non-compliance.	Assuming solution is implemented consistently on an ongoing basis, it is compliant.	Unknown (but likely not very satisfied).
6/16/23	5 – grievance that following Brown Act would defeat the purpose of one's accommodation to teleconference into Commission meetings.	7/3/23	For the City to waive Brown Act requirements, an accommodation dependent upon the submission of medical documentation was offered to complainant.	Litigation pending.	Unsatisfied.

6/23/23	5 – letter from attorney saying that the City has imposed unsafe conditions on accommodations for disabled Commissioners and must allow Brown Act obligations to yield to ADA obligations when the two statutes appear to conflict.	7/7/23	City Attorney's office responded to complainant with letter stating that the City is following the law as the law is understood by the City.	Litigation pending.	Unsatisfied.
7/26/23	5 – no curb cut connecting parking lot with sidewalk adjacent to John Hinkle Park.	not yet	The City's Supervising Civil Engineer has claimed responsibility for performing this remediation. No ETA available yet. Thomas will seek ETA in mid-October. As soon as Thomas has an ETA, he will share with complainant. Update: the tentative ETA is late December of 2023.	Not yet applicable...when a solution is implemented, it will be compliant.	Not yet applicable.
8/28/23	1 – constituent complained that The Stegmann Trail at Cesar Chavez Park is too bumpy and out of compliance.	9/5/23	PRW staff informed complainant of existing plans to render the trail ADA compliant tentatively scheduled to commence in Sep2024.	Not yet applicable, but solution, once implemented, will be compliant.	Satisfied.

10/4/23	5 – constituent complained that when teleconferenced into a public meeting as a reasonable accommodation, the audio was inadequate. This constituent was to be Zoomed into the meeting but, due to faulty wifi, they were phoned in instead.	10/6/23	The relevant City staff will not use the venue in question again but will instead use only City-controlled venues where the wifi will presumably work.	Compliant so long as future venues don't experience wifi interruptions. Note: the event facilitator says that the complainant's every word was either audible or else was audibly relayed verbatim. Thus access to a means of expressive communication was compliant on the day of event. If the complainant could not hear adequately as a result of the equipment used by the City, then there was insufficient access to a means of receptive communication.	Unsatisfied.
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Internal

10/24/23	3 – a low-vision constituent complained that the content of a non-screenreader-friendly doc posted to City website was not accessible to her.	10/26/23	Staff mailed complainant a large-print hard copy of document.	Re WCAG: not compliant. Re programmatic access: compliant.	Unknown.
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The above list does not reflect accommodation requests that were promptly approved and met to the requester's satisfaction.

Auto-transcript of 10/4/23 message (audio available at public meeting):

Hi, Thomas, it's Elizabeth. I got marinas email and so their goal is a safe shared path and I want to reiterate that's impossible please share this with Rena Fisher. Hello, Ms. Fisher. Thank you for your correspondence. I've asked Thomas to deliver this to you because I can't go online due to disability there is no ways of safe. I passed shared by he's heavy electric bike vehicles and pedestrians and people with disabilities and the elderly, et cetera. Can be safe it really has to be a separate path. I'm very disappointed in the commission on disability for not standing up. For what's right. I'm shocked that you think it's safe to share a path of people have different abilities and disability, but I'm not surprised since you since you.

Auto-transcript of 10/4/23 message (audio available at public meeting):

Oh, hi, Thomas this is Elizabeth please continue this for sure Fisher, yes sure for sure that it cannot a shared houses all of the different vehicles on a project Street and path cannot be made safe industrious people with disabilities everyone needs to be in a separate pedestrian path. I really ashamed of your decision to not stand up for what is right and although I'm not surprised given who appointed you we will continue on and we will obtain a separate pedestrian past. So people don't have to be worried about getting run over or hit by electric bikes and we will celebrate pedestrians from these vehicles. It's shameful that the commission took the stand and didn't come out and say, yes people need to be separate and needs to be safer. It. Just isn't safe because of the heavy Motors the electric bikes or so heavy people tell me all the time the same nearly got hit like every day. There's a new story of some of the who a new incident of someone who just nearly got hit. I mean unless you're trying to kill off people, then you would have a separate pedestrian past. So shame on you shame on the Thomas for not supporting people and the disabled community and the community of large, we will prevail and we will have our sub group health and shame on you for not coming out about separate say pedestrian Crossing people need to be able to cross all of those streets Gillman Hopkins Road. Cedar was safe pedestrian Crossing not everyone was thrown into the same mixed. We don't want to see people killed. I'm sorry that it seems you do thank you very much.

Auto-transcript of 10/4/23 message (audio available at public meeting):

Oh, hi, Thomas I wanted to adjust Ms. Fisher once more I can't email please pass this on to her. Okay. Hello, Ms. Fisher is who Elizabeth Star again. I am not going to have anything to do with the commission on disability. I see how extremely weak you are I'm ashamed of view as chair person to take such a weak position when people are seriously almost getting run over and hit every day. I will not be recommending people come to your meetings anymore and the other commissions that this will go to I believe will come out against it. So many people even people who ride bikes are saying in the community I saying. Yeah, we want pedestrians to be separate because we don't want to run you over we don't you just better to separate pedestrians out. It's not just pedestrians here. You are saying it's okay, you're okay. It was a blind person being in this huge speed away with every kind of heavy motorized bike you're okay with them being hit, so and all the different disability and the Elders honestly shame on you and when you make these kinds of decisions and I know your commission is very weak and doesn't hold much power but I used to be on it and I thought I would

try when you make these kinds of decisions. It only makes people who do community activism like our little Group. They got our heels and harder. So we will prevail and I bet. You'll secretly be happy when you have a private I suffered a pedestrian past to be on to be safe because we'll have done all the work that you should have done. I do not want to contact to you anymore. I won't and please do not correspond with me. I am certainly disgusted with that commission Thomas shame on you you you know are lucky to be able bodied Thomas but at any point you could have a bike accident and become a quadriplegic would you really seriously want to be in the same path with these heavy electric bikes and scooters running you over it's so hypocritical and I am thoroughly disgusted with you as well. We're not going to deal with you anymore. Yeah, you are really out to lunch thanks for your help or not help as it stands.

Auto-transcript of 10/4/23 message (audio available at public meeting):

Hello, this is Elizabeth I want you to give this to Irina at Fisher and for you to know yourself today. I was sitting on the bench. It's Peter Rose Park doing my activism about the separate pedestrian path little girl, maybe I don't know two years old and her little bike. She's pretty little was nearly is a very close call. She was almost hit by maybe a 12 or 13 year old boy driving very wild. We've it was just being kind of wild and crazy and very fast and you know, she was terrified her mother, they were very worried and saying why isn't there was something separate for kids or anyone volleyball and so that's what we're trying to do and. There there are a lot of people around there just saying you know license a safer, so you didn't even think about the commission on disability and I know how weak they are and you you're not thinking about little kids is little kid playgrounds their they take the path to get to the playground how can they do it safely if bikes and electric bikes and all these various vehicles are nearly hitting them. I mean this was a 13 year old boy on a regular bright, but he was driving records sweep and you know he Barry he was really lucky to move over quickly Becky almost is very close split second knocking down and she's a little worried about kids. Can you people think of any of this anyway know you're sick of hearing from me Rena. I'm ashamed are you you should be ousted from the disabled community your horrible Thomas you should be fired. Don't worry? I'm not going to call him anymore. But I want you people to know how your decisions I heard could really hurt people a little girl was almost run over by a big heavy bike today because he refused to have anything separate now or in the future. It is really really shameful.

Auto-transcript of 10/4/23 message (audio available at public meeting):

Thomas this is Elizabeth. This isn't the correct number to call back. I'm at 510-220-4647 you don't have to call back at all, but I'd really like you to relay this one more time to read it Fisher and yourself and don't understand how a blind person could possibly be safe and this a lowly Greenway safety modernization plan. As you have it you say I saw her email I received your email and the thing about the safety share the road signs well great, but how's the blind person's supposed to read anything and you're throwing them in the middle of chaos with these heavy scooters and heavy electric bikes. I mean, what kind of disabled person or disable coordinator would think this is. Okay. Where's your moral Compass and I'd like you to pass this on to her. I won't bother you anymore, but and I'm not trying to Gill trip you, but it seems ethically and morally disgusting and wrong. What you're proposing? What you're accepting? Please pass it onto his Fisher. I won't call you anymore. You don't need to call me back disregard. This number this is the appropriate number. I'm just letting you know, I think about how this would be for a blind person really what is wrong with you people.

Auto-transcript of 10/15/23 message (audio available at public meeting):

Hi, Mr. Gregory this is Elizabeth Star listen and I want you to please pass this onto what's her name is Rena at Fisher to both of you to know that we had a transportation experts look at the Diablo engineering group plan for the Aloni Greenway modern is Cynthia modernization plan. I live right near Hopkins and Peralta. It's terrifying to hear what he said you said, it's a very pro bike. You'll like that Thomas but it's very anti, pedestrian safety. So people with disabilities regular pedestrians parents who throwers kids are going to be really unsafe Crossing Peralta and Hopkins because of the wages plan is designed and the problem with the commission on disability are coming out against it and playing into it and saying that we're you know, we're okay, we can join in with the busy, you know the busy bike people and whatever it's going to hurt people people are going to be killed. It's a horrible design and very anti. Pedestrians so I wanted you to know and please pass this on to him is Fischer. We're not done with this. Okay. We're not going to let it happen. We're working really hard, but you guys need to know more or less what you're saying that it's okay for people who are vulnerable or not just the pedestrian to be run over the plan is set up Peralta way across Hopkins. We're project students will be much more easily be run over we had a transportation expert look at this and said this is way more dangerous than anyone even new so how can you people would be. Okay. With that it's very shameful.

10/18/23 email message:

Hi Timothy,

Would you share the following letter with the Commission on Disability?

Thank you!

Dear Commissioners,

I'm excited to share with you that a new citizen's initiative to fix Berkeley's streets and sidewalks is currently in the works, and to invite you to submit your comments and feedback on the proposed draft language before November 1st, 2023.

Over the past six months, a number of community groups and stakeholders have come together to draft a new parcel tax to fill some of the gap left by the failure of last year's Measure L.

Our proposed tax would aim to improve Berkeley's streets to "good" quality, or a Pavement Condition Index (PCI) of 70; fix the backlog of damaged sidewalks; and work to eliminate fatal and severe traffic crashes on city streets (Vision Zero), all within 12 years.

We're still working out some of the details of the proposed measure, and would love to get input and suggestions from members of this commission before the end of October. We are particularly looking to ensure that money from this tax supports and facilitates mobility and safety for disabled Berkeley residents, and would welcome your suggestions.

The draft language is available at <https://tinyurl.com/BerkSafeStreets>. Feel free to submit comments and questions directly on the Google Document, or to send them by email to me at ben@bengould.org. I am also happy to set up a 1:1 meeting with any commissioner to review and discuss verbally.

Thank you, and we look forward to your input!

Ben Gould
Steering Committee member, Berkeley Citizens for Safe Streets

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Ben Gould
ben@bengould.org
(510) 725-9176

Auto-transcript of 10/19/23 message (audio available at public meeting):

Hi, Thomas this is Elizabeth you don't need to get back to me about the commission on Aging. We're just going to send letters. We can't go in there and even if the lock changes. I don't think we would do the soon. So anyway. I did want to point that out to you please share this with the chair of the commission on disability, you know in the plan the loan any plans the bikes are getting protected power, you know protected bike Path pedestrians. I'm not getting anything not getting a protected pat and not getting any minimal path at all do you people not see the difference in that and that discrimination and Abel with the agents attitude. If bikes are having your protection path pedestrian should at least have equally a protected path. If it can't have that the minimal should be an 88 compliant pedestrian path for safety and I'll tell you why it's at North Berkeley Park. Development, so they're going to have deeply affordable units and so that would be units for disabled people and elderly people who are not going to be able to keep up the parents of a fast moving shared path. They're going to be separate this because of their blind disabled elderly. They can't they won't be safe in the past that can't keep up with if you're on a walker a cane we can barely keep keep up as it is so to say the bikes get a protected path on my Street peralta Avenue, it's going to really mess up our parking and everything and to not give the pedestrian to anything not only not a protected past, but no Capital is completely able is and horrible and I'm I'm really ashamed of those commissioner's please tell on this thank you.

Auto-transcript of 10/31/23 message (audio available at public meeting):

Hi, Thomas this is Elizabeth. Okay. So I don't have the actual actual item number, but there is an item by Rachael Robinson regarding basically, what it says between the lines that elderly and disabled people aren't allowed on the sidewalks. Okay. So. Okay. I would like you to forward this to rina Fisher. Hello, Rena Fisher. Thomas is forwarding this because I as an eta accommodation there was an item that will be coming up sponsored by Rachael Robinson savings disabled people have no right to be on sidewalks on the electric scooters and electric bikes. So not only do we not have the safe pedestrian past. We have no rights to be anywhere anymore. If this is past I would like this to be brought to the commission on disability. Thank you. Elizabeth Star. Okay, Thomas please give that to her and really this item comes up you know, if you read between the lines that I don't think the lines of that hard to read between we have a former Mayor working on this with us saying this is really unconstitutional and horrible and it's extreme. So we would like the commission on disability come out against us thank you very much 510-220-4647. Thank you for passing that to rina Fisher. Thank you.