

## **Commission on Disability**

**Meeting Agenda: January 10, 2024, at 5pm**

**North Berkeley Senior Center Dining 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: November 8, 2023 meeting\*
6. Approval: Order of Agenda\*

### **Commissioner Reports/Announcements**

7. Welcome and introductions by new and current Commissioners
8. February election of Commission officers

### **Staff Updates**

9. Log of Access Complaints\*
10. ADA Coordinator role and currently vacant Director of Public Works position
11. Email and voicemail sent to the Commission\*

### **Presentations**

12. Tyler Hawes, CivicBell on Virtual Speaker Cards

### **Discussion/Action Items**

13. Accessibility of speakers' lectern at City Council & BUSD meetings\*\*
14. Work Plan Updates and Developments
  - a. Review of priorities
  - b. Establishing subcommittees
  - c. Schedule of presentations to advance Work Plan priorities
15. NBSC Dining Room or NBSC Lounge – what is the CoD preferred meeting room?

### **Carried Over & Items for Future Meetings**

- a. Civic Center Subcommittee Briefing
- b. Safer pathways map of Berkeley (perhaps produced with CoAging)

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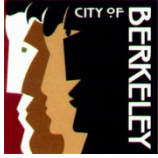
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at 1947 Center Street, 4<sup>th</sup> Floor, during regular business hours. The Commission Agenda and Minutes may be viewed on the City of Berkeley website: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

#### **Secretary:**

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

#### **Mailing Address:**

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



## Commission on Disability DRAFT Minutes re November 8, 2023 Meeting

### Preliminary Matters

1. Call to order at 5:06pm
2. Land acknowledgment read recognizing Berkeley as the ancestral, unceded home of the Ohlone People.
3. Roll Call  
Present: Chair Fischer, Commissioner Pugh, Commissioner Sun, and Commissioner Lewkowicz.  
On a Leave of Absence: Vice-Chair Walsh.  
Staff present: Thomas Gregory and a staff member, whose name I did not catch, from CM Hahn's office.  
Public present: Rani Cochran (a member of Commission on Aging), Kelly Hammargren, Anthony Tusler (presenter), and Anonymous.
4. Public Comments: no public comments regarding matters not on tonight's agenda.
5. Approval of draft minutes for October 11, 2023 meeting  
"...to approve the October 11 meeting's minutes as drafted."  
Moved by: Commissioner Pugh; seconded by: Commissioner Lewkowicz.  
Yeas: unanimous; nays: none.  
Motion passes.
6. Approval and Order of Agenda  
"...to amend the agenda as follows: move items 16 and 17 to immediately precede item 14, and move items 8 through 13 to the end of the agenda."  
Moved by: Chair Fischer; seconded by: Commissioner Lewkowicz.  
Yeas: unanimous; nays: none.  
Motion passes.

### Presentation

7. Presentation/discussion regarding Sonoma County's visitability resolution, Petaluma's visitability ordinance, and the strategies, advocacy, and processes that led to their establishment.

### Staff Updates

8. 2023 Log of Access Complaints discussed.
9. Commissioners attention called to recent email and voicemail messages to CoD from constituents.
10. ADA Coordinator Certification & Training Program (ACTCP): City's ADA Program Coordinator became ACTCP-certified in October.

11. CA law on “daylighting” briefly outlined. There was a consensus among Commissioners present that CoD would like Public Work’s Supervising Traffic Engineer to present to CoD in early 2024 regarding how the City will comply with this new state law in a manner that does not negatively impact the availability of accessible on-street parking in Berkeley.
12. ADA Transition Plan was submitted to Caltrans by 10/31/23 due date.
13. ADA Program Coordinator will be on vacation for the five business days prior to Thanksgiving.

## **Commissioner Reports/Announcements**

Various announcements from Commissioners.

## **Discussion/Action Items**

14. Consensus among Commissioners that CoD’s April 2024 meeting will need to be rescheduled if it conflicts with the observance of next year’s Eid holiday.
15. Commissioners discussed Work Plan development and the presentations/info that would likely enable CoD to advance its Work Plan priorities.
16. CM Hahn: access changes to public speaker set-up at Council meetings. There was consensus among Commissioners present that access enhancements re City processes are always welcome, that the enhancements CM Hahn contemplates should not need a resolution in order to take effect, and that Chair Fisher’s 10/13/23 email to CM Hahn reflected CoD’s position re this matter.
17. CM Robinson: permitting bicycles on sidewalks. There was a consensus among Commissioners present that the proposed ordinance that would allow people of any age to ride bicycles on Berkeley’s sidewalks is a very bad idea and that it would, if implemented, very much threaten the safety of pedestrians, especially pedestrians with disabilities.

## **Commissioners adjourned at 7:28pm.**

Minutes Approved by CoD vote on:

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Thomas Gregory, Secretary to the Commission on Disability

“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

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 this 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.

11/13/23	5 – applicant for Bridge Housing complained that Bridge's refusal to email materials to him rather than snail mail those materials to him is an ADA violation because he does not have constant access to his mailbox.	11/14/23	I offered to meet him at his mailbox weekly at a day/time of his choosing to help him access his mail until such time as he has completed all Bridge waitlist application processes.	Compliant.	Likely unsatisfied.
11/13/23	5 - Complainant claims that pushing public comment for remote participants to end of Council meeting violates ADA, and she wanted a meeting with City Clerk.	11/30/23	I explained that the new policy pertaining to public comments at Council meetings was not inherently an ADA violation and that specific folks for whom the policy would pose an access barrier could be accommodated on a case-by-case basis without changing the policy. I reiterated this info at the 11/30 meeting among myself, the Clerk, and the complainant.	Compliant.	Likely unsatisfied.
11/20/23	2 - Complainant complained that construction site at SW corner of College and Woolsey violated ADA. (It was unclear from the photos that complainant sent whether there was,	11/22/23	Construction completed and site returned to status quo ante.	Compliant.	Unknown.



	in fact, an ADA violation occurring.)				
11/20/23	Exactly the same as above, but different complainant.	11/22/23	Construction completed and site returned to status quo ante.	Compliant.	Unknown.
11/20/23	2 - Broken and debris-collecting "manhole cover" (a concrete plate covering some sort of utility-related hole in the sidewalk) on sidewalk in front of 3260 Sacramento Street.	11/21/23	Cover replaced with new cover.	Compliant.	Satisfied.
11/29/23	2 - debris blocking sidewalk on Derby just east of T'graph. (It was unclear from the photos that complainant sent whether there was, in fact, an ADA violation occurring.)	11/30/23	Debris removed and site returned to status quo ante.  Also, at a meeting among PW staff in engineering and transpo divisions, I explained the need that pedestrians (including blind pedestrians) be made aware of the obstacle prior to them needing to backtrack in order to avoid the obstacle.	Compliant.	Unknown.
12/1/23	1 - Complaint that STAIR Center was not ADA-compliant.	Not yet.	I explained the situation in much detail to complainant, acknowledging that the site was not compliant in	No compliant solution yet implemented.	Unsatisfied.

			<p>95 different ways. I explained that the issues would not be remediated until after the site's trailer-based structures were replaced with pallet-based structures, which was scheduled to happen in late FY2023-24. This complainant was part of a coalition of advocates concerned about this particular site, and on 12/20 I spent two hours at CIL discussing the issues with the coalition.</p>		
12/21/23	<p>2 – a 12/21 Berkeleyside article about a bench installed at a bus stop quoted the City's spokesperson as saying that the City will treat the unauthorized installation as a formal request for seating at that bus stop. The article strongly implied that the absence of a bench at the bus stop was an ADA violation. (In reality, the ADA does not require any benches but only requires that any</p>	12/28/23	<p>The unauthorized bench was removed and replaced with a compliant bench.</p>	Compliant.	Unknown.

	benches provided be PROWAG-compliant, which the unauthorized bench was not.)				
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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 11/1/23 message (audio available at public meeting):

Hi, Thomas this is Elizabeth. I talked about what you said and I really I just wanted to impart to you into the commission on disability, how absolutely horrific Mitchell Robinson resolution is. First of all people will not go 10 miles and hour and single file because there's no police enforcement people will drive crazy they'll go fast and there won't be any work for pedestrians to go industry as including people with disabilities are going to be forced out into the road into the street unless unless I'm mistaken and there's going to be some sort of protected wall protected industry and path because otherwise people are going to be absolutely thrown out into the street. I would like you to share this with the commission. I still would like to come up to come out against us. I think they seem incredibly week actually this is so terrible that they really need to look at why they wouldn't come out against us what about children and churches, you know, I just think Mr. Robinson doesn't have the experience of he's probably never has experience with a broken bowl was using it. You know broken light using a crunch being a parent all of the things. The wisdom that comes with middle age, and older people, you know we have that with them and we know that Pete parents with baby strollers will be knocked the side. Even though it's 10 miles and hour single filed it will not the police enforcement it will be a free for all and will lose their sidewalks and sidewalks or Metro pedestrians not for bikes. I'd like you to show that was the commission you don't have to call me back, but I wanted to let you know I was put out there. It is frankly completely ridiculous nonsense ago and really really dangerous. Thank you.

Auto-transcript of 11/6/23 message (audio available at public meeting):

Hi, Thomas, it's Elizabeth can you please give this email this little work to arena Fisher the chair of the commission on disability. Hello, Rena. I asked Thomas to do this is an HOA accommodations and Thomas I need you to do this seriously. I can't go online. I saw Rachel Robinson 028.22 item for the consent calendar and saw that the item was pulled, but it will be going to the various commissions. This is an outrageous proposal. There is no doo doo safety Wiley sidewalk. Basically was due care there is that doesn't exist there. We wouldn't have asked for a separate pedestrian passed through the aloni Greenway if everything was. Okay, we wouldn't be demanding that. Okay. The second part is you need to Thomas. I'm sorry. If you don't like this but you need to not listen to the staff person directing you how to make how to vote on things you have to have some bones about you and speak up and say. Hello, Ron. This is I talked to to blind people today who were horrified they are terrified. They will be pushed out into the roadway, you know using a white Cane blind they can't see and they could easily be run over and killed because it will be nowhere for pedestrians to go with bikes and electric scooters and electric vehicles take over the sidewalks. I understand this proposal does not include electric vehicles on the sidewalks. However, we know how things are nothing and so forth by the Berkley police around here. Otherwise, we wouldn't have been asking for a separate pedestrian pass through Cedar roads Park and Susie aloni Greenway when electric bikes and electric scooter writer see regular bikes writing a regular bikers writing on the sidewalks they will join in and the sidewalks will actually be in all actuality become bike lanes and Productions will be pushed into the road way and people will be killed is that really what your permission one.

Auto-transcript of 11/6/23 message (audio available at public meeting):

Yes, and I'm continuing also the 88 the Americans with disabilities act the states. If there is any danger then the Americans with disabilities act would cover. This of course, it's dangerous saying disabled people elderly people disability can be and the same on the same side walk with bikes going fast. And of course, we all know the electric scooters will join in so you're causing you're causing violations that don't have to have to happen. You know, yes, I'm trying to get an attorney, but I don't know if I can I'm not a Rich woman Thomas you need to not interfere with their voting decisions.

11/13/23 email message for CoD:

Carol Denney <cdenney@igc.org>

To:

- Gregory, Thomas  
Mon 11/13/2023 7:31 AM

To: The Commission on Disability

Re: Rigel Robinson's Sidewalk / Vehicle recommendations

Dear Commissioners,

I am a disabled senior. In my neighborhood the skateboards, scooters, bicycles, and unicycles we routinely try to dodge to navigate simple errands became untenable years ago. The fact that the extant laws are unenforced - but not unenforceable - does not mean that they don't matter. Unless you think, as Councilmember Robinson appears to do, that the lives and safety of disabled seniors and vulnerable pedestrians are unimportant. Unless you think, as Councilmember Robinson seems to do, that the ADA is unimportant.

This may not currently be on your agenda. Please put it on. Take a strong, early stand against this thoughtless, dangerous, unconstitutional proposal.

I am from the generation that fought and secured the federal protections of the Americans with Disabilities Act, which would be controverted by Robinson's proposal. I also fought hard, as a life-long bicycle commuter through the direct action of Critical Mass rides, for the recognition of bicycles as **vehicles**, vehicles with every right to the roadway, a recognition which has changed roadways widely in favor of bicycle safety. If safe roadways for the vehicles **that bicycles in fact are** under the law are not enough for bicyclists, by all means they should fight as hard as we did for dedicated bike lanes.

But Berkeley needs to fight much harder for its vulnerable seniors, whose voices are not covered as robustly as the nationwide bike lobby, which not only dominated honest discussion of the safety issues at Gilman and Monterey, they cost us another valuable department director literally unable to navigate the political pressure to accomplish contradictory directives.

Stand up for safety. Stand up for seniors. Stand up for the disabled and physically vulnerable of any age. Stand up for sidewalks as dedicated, safe, pedestrian walkways. Take advantage of this moment to recommend that this proposal not only be flatly rejected, but that signage and enforcement to protect sidewalks as safe spaces to walk be improved so that the legal rights we currently have are, in fact, manifest in our daily efforts to safely get to the market, the post office, the bank, etc. Bicycles, under the law, are vehicles, are capable of being lethal in the best of hands, and do not belong on sidewalks.

Sincerely,

Carol Denney  
1970 San Pablo Ave #4  
Berkeley, CA 94702  
510-548-1512

11/13/23 email message for CoD:

Commissioners,

As a senior (75 years old) who walks all over town for exercise, to attend meetings, and to run errands, I beg you to take a position against the ill-conceived changes CM Rigel Robinson is proposing to the BMC.

1. The language to allow non-electric bicycles on sidewalks on any streets that provide only sharrows (car traffic lanes marked to be shared with bicycles) or have no bike lane markings or infrastructure at all is dangerous. It encompasses almost all streets in Berkeley, whether they are heavily trafficked with cars or not. It even would apply to Bike Boulevards where they are marked as sharrows, even though those streets are specifically picked because they are low stress, and they may have other traffic calming hardscape, like barriers to car entrance.

2. The language to allow 24/7 use of public paths for transportation purposes is a blatant attempt to greenlight the use of the Ohlone Greenway, where it crosses over city park land, as a bicycle throughway, in violation of Measure L (1986), which requires that this type of change be submitted to the voters.

I understand that, as public policy, the City wants to encourage bicycle usage. It should also be encouraging pedestrian activity, but it should take into consideration the needs of the disabled and elderly. It should not do one thing at the expense of the another, especially given that the disabled and elderly are more vulnerable than cyclists.

Making sidewalks unsafe for the disabled and elderly runs the risk of making people more home bound and endangers our health in more ways than just being hit by a bike. Likewise, taking away the right of the disabled and elderly to go to a park simply to enjoy the outdoors, and making it into an exercise of risk assessment, poses the same problem

If you have not already done so, please take a strong stand against CM Robinson's proposal.

Sincerely,  
Donna DeDiemar  
1316 Albina Ave.