

**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF NEW MARLBOROUGH  
COMMISSION ON DISABILITIES  
807 MILL RIVER SOUTHFIELD ROAD, MILL RIVER, MA 01244**

Minutes of the Commission on Disabilities  
Town Hall, New Marlborough, MA  
Tuesday, February 19, 2019

Members Present: KellyAnne McGuire, Chair  
Tom Stalker, Vice-Chair  
Marilyn Fracasso  
John Hotaling  
John Pshenishny

Members Absent: Prudence Spaulding

Others Present: Patricia Mullins, Berkshire Regional Planning Commission  
Marsha Pshenishny

Called to order at: 5:10 p.m.

Pat Mullins from Berkshire Regional Planning Commission

- ADA self-evaluation and transition plan as it pertains to grant application in partnership with Sheffield and Otis
- Town is applying for a CBDG grant to
  - o Good size housing rehab program
  - o Sheffield and New Marlborough each separately asking for funds; NM to do design work on the town hall to improve its ADA accessibility
    - We need to submit with the application a number of documents that support that request, including a copy of the self-evaluation plan
    - District Local Technical assistance grant, Will Sikula assisted us in putting the self-evaluation together
    - Provisional vote of acceptance of plan with the understanding that it is never permanent, can be added to over time, the costs change over time, no rule about how often it is revised
    - Tom: it is up to the Board of Selectman to accept it, not the Commission on Disabilities; we sent our feedback to Will but he said it was up to the CoD to work on it, so it fell halfway through; school was not in the report, the school should be in the report, even if it is just mentioned, we're not sure which version you have, town owns the school but it is part of the district, should be mentioned but that the day-to-day comes up at the school district level, checked with Jeff Dougan at Massachusetts Office of Disability, any ADA changes is technically up to us, we wanted it to be broader, but Jeff says that it is ok, some other reports gave the town more information, town wants to renovate town hall, but our main thrust is to make it accessible, the report needs to help us now
    - Pat: resend email of feedback to transition plan, if you agree that making this building accessible is a priority

- Tom: we did put things in, and Will rejected it. John did a couple pages of suggestions that Will said was going to be included in the appendix, but we didn't see it included in the report
- KellyAnne: voting and attending town meeting is our priority
- Pat: this grant asks for the funding to do those designs and the estimate that we got from EDM. The estimate will include the requirements that it will take and the commission, designer selectman, give time for those discussions to happen, provide a couple of options for how to do the work to make the building; most often the changes on an old building don't make it look like it was original
- Tom: rearranging the building according to the EDM specs does not address the issue
- Pat: so you don't feel like it makes the statement that voting and town hall is a priority? This is a compelling argument.
- Tom: the town is changing it's website, one part of our report says "most documents are in pdf," there should have been a part in our report about the website; if this had been part of the report then we could show that we are making progress in accessibility to be compliant
- Pat: the Board of Selectman is defensive about the building not being compliant, I walk a fine line, it takes a lot of resources to make these old buildings accessible, we don't want to say that we are breaking the law. How do they make the website accessible?
- Tom and KellyAnne: they got a quote from the company about a package to make it accessible
- Pat: we worked on the ADA self-evaluation plan in Greenfield but it didn't come up
- Marilyn: we had plans done – in the 90s – but then they were gone
- Pat: I can't guarantee that if you get this grant that you will get money to fund the project the next year; DHDC funded us working on the Ramsdell Library designs
- KellyAnne: That is another example of where the information included in the report was not accurate: our library actually does have a handicap accessible door and lowered counters, but this is not acknowledged in the self-evaluation
- Tom: is the library held to the laws at the time, or laws after it was built? We can't tell which standards the buildings are being held to.
- Pat: do you feel that Will's information is wrong?
- Tom: the information that is added is inappropriate – Alvin shoveling the sidewalk does not seem relevant
- Pat: is the path sloped to the appropriate grade?
- Tom: much of it doesn't make it to the self-evaluation, didn't change priorities when we made recommendations, programs are evaluated in other reports, also include the sheet that was sent to all of the committees to fill out about ADA, to at least be able to respond if someone needs special accommodation
- Pat: since the deadline is March 8<sup>th</sup> and that Jeff Dougan said it was acceptable, if there could be a process to upgrade some of these things over the next few months, based on what you are telling me, the reason I am not too concerned is that there is a long process, I agree that this document should be able to stand on its own and needs to be as good as it can be because there are other ways that the town can apply for, we need to accept it

- Tom: we passed it on to the Board of Selectman
- Pat: wanted to hear from you what the root of the problem is
- Tom: it's always a draft, it will always be tweaked and added to
- Pat: when Will was working on it, I did not have enough oversight, I admit that there was not enough editing, oversight; Will might have been overwhelmed with the scope of the project; if we are working on something and it is not the best product, we want to take another look at it, with some edits and general ones, you know more about this than I do
- Tom: we need a direction, we have no ADA coordinator right now, at least one person needs to be a paid coordinator, we have no direction, how do we start this process?
- Pat: an architect or a designer would have to decide the priority of how things get updated to meet requirements, MA didn't anticipate that the town would make these decision on their own, one of the reasons Sheffield's was successful was because they have an ADA coordinator, she wrote a good transition plan; CBDG grant can't remodel the building, the first priority is to make it ADA accessible
- Tom: evaluation of services, pamphlets, etc. is not evaluated; there are seven items to do as a commission on disabilities; an action plan was not included in it
- Pat: the grant that paid for Will's part of this project is closed, when NM did this previously it was probably on my advice, the housing rehab is the easiest to write, can we find some funds to help with a rewrite
- John: everyone is asking about getting people in, but are we looking at people getting out? [in the event of an emergency]
- Pat: this is useful because during the design process meeting it will be helpful; now that you've explained your satisfaction with the report I can move forward with the grant; I don't want to over promise in terms of doing an edit, but an edit would be a reasonable thing to do
- Tom: it's further down on our agenda but I've spoken to Jim Mazik which we will discuss with Michelle
- Pat: town will be required to go out to bid for that work, the amount it takes to bid constricts how much time the contractor has to do the work; the procurement process done correctly takes about half that time; grant awarded in December and work done by June 30<sup>th</sup> ; public funds and need to go through MA procurement requirements; Jim does good work and this could be a better document; w/o 100% design the state does not want to give you money; is it allowable to do it piecemeal
- John H: would it be a good idea to have another town like Sheffield to help with guidance
- Pat: I know what the process is once you get the funding, when an architect comes in he is legally responsible for what changes; writing it well with your input was needed to do it well
- Tom: we didn't even know who was involved at town hall
- Pat: some of that can be chalked up to Will's inexperience
- Tom: the first time we had a public review we were given six days
- Pat: I will take your dissatisfaction back, the state is strong on if you are getting CBDG funds that you are compliant, Peg McDonna is a planner is at BRBC, age-friendly program, we have a rapidly aging population in Berkshire

County, she has a different take on it, she will pick up another one of these projects; let's agree to move forward with this grant application; thank you, I appreciate it, maybe we will spend more time with you moving forward

Reviewing minutes from 10.25.18

- Motion to accept the minutes: Marilyn, John H. second
- Motion passed all in favor

Minutes from the joint COD/BOS meeting will be prepared for the next meeting.

Grievance policy

- Handed out two samples from the Mass Office on Disability or the New England ADA center
- Filled out with Tom Carmody listed as ADA Coordinator because we needed to prove we had one to apply for the grant last year, Tom is gone so we are using the Board of Selectman
- Tom: would like to approve the short version, it is up to us to develop this, it is up to the ADA coordinator but since we don't have one then it is up to us, and then it will be up to the Board of Selectman to use it.
- KellyAnne: what happens if there is no action from the Town? [when someone submits a grievance]
- Tom: the town does its best, but if there is no action then the person can go to the Department of Justice
- Marilyn: why don't we put that for information purposes only so that if someone doesn't get action than that they can go further?
- Tom: let's add it to the bottom: "any unresolved complaints/issues may be brought to the Department of Justice." Include contact information.
- John H. moves, John P. seconds. Motion passes unanimously.

Non-discrimination procedure

- The town's non-discrimination procedure
- Replace the first paragraph of the short one with the first paragraph of the long one
- Adopted date and revision date should be on the bottom of each document
- Motion: Marilyn, John P. motion passes

Mission Statement

- Marilyn, motion to accept with corrections and modifications, John P. seconded
- Motion passes unanimously

Update on MoD grant received

- Tom: We're received notification from them that we are ok to purchase equipment, Mari has to put it out to bid, once we do that we can purchase equipment
- KellyAnne: who is responsible for installing it?
- Tom: we are, should just plug in upstairs. Downstairs, a microphone sits on the table and will send a signal to everyone who has the device.
- John H: will it connect to phone?
- Tom: it will send a wireless signal to the device, and will pick up the sound from the conference call; the set-up can be taken anywhere; it should be used by all of the committees; we are getting 20 devices; they would need to bring the equipment to a meeting; I did have

concern about plugging it in upstairs; for the most part, using the microphone should take care of the issue; ask Chris Thompson for help; we have people we can ask; it just simply plugs in

- Has to be purchased by June 30th and the paperwork submitted

Discuss change of venue of upcoming town meetings to Sheffield

- Mari has been in contact with school in Sheffield
- The way I read it, they are only taking about moving the annual town meeting, it is going to go in the cafeteria;
- John H: it is not ADA accessible
- Tom: she's assured me that it is accessible
- All they need to do is call a brief town meeting to change the date so that we can have it in the auditorium which is fully accessible
- Tom: asked Sharon, it looks like in the 5 Village News that it is in Sheffield, it is in the minutes that they approved to meet in Sheffield that night; I did bring up the parking issue
- Marsha: made a suggestion to the Board of Selectman that we have a town meeting on April 8<sup>th</sup>, let's put it on that warrant to change the date of town meeting
- Tom: they can't just have one meeting over there, it needs to be every meeting
- Marsha: we could have a bus to take people over to the meeting in Sheffield
- Tom: we need to send a letter with our concerns and suggestions to the Board of Selectman
- Marsha: there is going to be a special election, why couldn't they add it to the ballot?
- Tom: we need to impress it upon them now that they need to go to a different facility for every meeting
- KellyAnne: I will draft a letter. What are the issues?
  - o seats are low, sounds ricochets, change the date about town meeting, holding meetings here, need to go to a compliant space, in order to move the annual town meeting we need to have a meeting to change the date (change the date until the time that the town hall is accessible – upon which time we can move it back), changing the date is the most simple thing to do, has to be ADA compliant because we can get in trouble if we move to another space that is not compliant, parking issue with two towns; auditorium is compliant; recommend that in communication with a Section 504 coordinator to be sure that the facility is fully ADA compliant;
- Tom: the superintendent told me it is compliant

Communication with Board of Selectman regarding ADA coordinator search

- Tom: communicate with Board of Selectman that this is what we are looking for
  - o Title II part needs to be paid, Title I part can be volunteer, according to Jeff Dougan
- Tom will send description of ADA job to Board of Selectman with recommendation that this job description be adopted; we're still interested in being a part of the process of reviewing the applications and being involved in the hiring process
- John: I want someone who lives in town, just not someone who gets the paycheck
- Tom: we will look into the residency requirement; don't want to put a limit on a residency; let's find out about how much they get paid, and add information to the email
- KellyAnne: I would rather cast a wider net and have someone really interested and knowledgeable than hire someone just because they live in New Marlborough
- Motion to pass job description with adjustments, and send along with letter to Board of Selectman, indicate that this is part of the process of hiring, also give them salary information: made by Tom, seconded by Marilyn; motion passes

#### Discuss participating remotely for Commission on Disability meetings

- We can participate remotely, only one person has to be in the meeting, everyone can call in as long as they can hear, quorum does not have to happen physically
- John H.: they are open to the public?
- Tom: yes, one person is here, we are the only Commission that can do this

#### Discuss Commission on Disability membership and associate membership

- Tom: there is an interest in associate membership; for other committees in other towns there are associate members; this could be added to the bylaws if this is something that we want to pursue; for quorum purposes it would be challenging; since we don't vote or make policy, associate members would add valuable input; we don't have a bylaw about this; if we had interested people they could join as regular members leave; the town might have to make a bylaw that town commissions could have associate members; there are other towns that have associate members on other committees; it would be a way to draw members in
- Marsha: would associate members be appointed by the selectman?
- Tom: we'd have to decide
- John H: people could be interested but not want to commit to the commission
- KellyAnne: recommend that we look into it but not prioritize it until we get through our other priorities
- KellyAnne: let's work towards getting an article in the 5 Village News to bring publicity to the commission
- Marsha: we need to have information on the website
- Tom: will look further into this; it might be too much involved
- Marsha: town report?
- Tom: all of the commissions are supposed to provide a report; we don't have a mailbox
- KellyAnne: will pursue, send an email to Mari/Michelle

#### Discuss ADA consultant

- Tom: passed out email from James Mazik; to have an update done on our ADA self-evaluation and transition plan; the CBDG are not ADA people; Jim can work with us; if we decide to pursue the planning grant that will pay for his services, we could include the funds to cover him, and he would be able to bid on the project; it sounds like Pat is committed, but is she knowledgeable; I want to get your ok for KellyAnne and I to talk to Michele to go over what it is all about and discuss can we go ahead with this; I have no idea what the cost is to produce these, I don't know
- Marilyn: he hasn't given a price yet?
- Tom: he needs to figure out what it entails to do the report
- Marilyn: I didn't realize that BRPC didn't have ADA knowledge
- John H: is the town OSHA approved?
- Tom: that is more on the job but not necessarily ADA; I don't know; that would be a good question to ask
- KellyAnne: since BRPC does not have the ADA knowledge, it would make sense for us to have someone do the self-evaluation who knows the law; a better report will give us a better opportunity to apply for grants later
- Marilyn: go ahead
- Tom: it might not come to anything but at least we can try

Discuss letter/communication to the Board of Selectman requesting a board member be appointed as the liaison to the COD

- Tom: send a note asking them who our liaison is, per the Massachusetts Office on Disability; I will send an email

New Marlborough MA Website Project

- Tom: gives out copies of information of the email exchange with Sharon about website accessibility; Section 508 of the code says that they have to be compliant; it is not up to us to say whether it is our priority, it is up to us to advise; the company gave a quote

New Business

- Tom: we need to do a bylaw for our commission; Do we need to have ten meetings? According to Jeff it is up to us. The number ten came from the Massachusetts Office on Disability (MOD) was arbitrary; we can decide what we want it to be.
- Sample bylaws put out by the MOD
- Take samples home and look at them; discuss at next meeting to figure out number of meetings and number of members; look into associate members to include in bylaws
- Do want to have meetings here or at the library? The MOD and the Attorney General office both say that it is illegal to have meetings in a space that is not accessible.
- Tom: We are here to advice; we need to advice the Board of Selectman that they run the risk of being held accountable by the Department of Justice and the Office of Civil Rights

COD discussed the timing for our next meeting, which is March 8, 2018 @ 5:00pm at the Town's Library.

Motion to adjourn: John H. motion, John. P. second