



**COMMONWEALTH OF MASSACHUSETTS
TOWN OF NEW MARLBOROUGH
807 Mill River Southfield Road, Mill River, MA 01244**

Minutes of the Commission on Disabilities
Town Library, New Marlborough, MA
Wednesday, February 26, 2020

Members Present: Tom Stalker, Chair/Secretary
Marsha Pshenishny, Vice-Chair
John Hotaling
Tara White, Liaison
John Pshenishny

Others Present: Joan Hotaling
Richard Long

The meeting of the Commission on Disabilities (COD) was convened at 10:31 am.

Review and approve meeting minutes for: November 6, 2019

Motion to approve: Marsha

Second: John H.

Tara abstained; all others agree.

Update on designer selection for Town Hall barrier removal project

Richard Long, Member of the Designer Selection Committee, indicated the Town applied for a CBDG grant through the Berkshire Regional Planning Commission. A joint application was filed along with Sheffield and Otis. Our portion was looking for money both for architectural design, to fix accessibility issues for Town hall, as well as additional funding for housing rehab projects. The three towns won a grant totaling more than \$1 million, with our portion at \$250,000. \$10,000 of that amount is for admin fees for this project [Barrier Removal Project].

This is a publicly funded project for design services which have to be procured by the rules of the state Design Selection Board.

We have to go through a formal selection process and the Board of Selectmen appointed a Designer Selection Committee which includes Richard, Mari (as the Town's procurement officer), Dan Doern, Scott Walker, Joyce Hackett, and Robin Gerber. Everyone selected has had some kind of experience with interior designer construction and/or architecture.

The Town has to issue an RFQ [Request for Qualifications] and the Committee hopes to have it ready by March 12, 2020. The notice for the availability of the RFQ would be posted on COMMBUYS [state procurement site] as well as advertised in a newspaper.

The committee anticipates the selection process to be completed by April 27, 2020.

Once the selection process is completed the contract would be agreed upon and the design process would begin immediately after.

The Architectural Barrier Removal Project includes ingress and egress, emergency lighting and signage, external access, parking access, internal access to facilities such as restrooms. It may or may not include an elevator. An elevator would be required if the restrooms are located downstairs. If there is a restroom located upstairs, then external access to both upstairs and downstairs would need to be addressed, and no elevator would be required.

We will work with Berkshire Regional Planning to apply for construction funding, but that wouldn't cover all costs and the Town will have to make a decision to pick up a portion of the cost.

The RFQ selection process is not a bid, but a qualifications-based process.

The actual design fee would be \$80,000, which is a flat lump sum which includes all designs as per the project.

Once the design phase is completed a new committee would be formed called the Design Review Committee. They would sit with the selected firm to look at which schematic would be recommended for selection.

Richard expects the design to be completed by the end of the year and then the question would be as to when we go to bid and into what fiscal year it's going to fall. We would need time to apply for grants to help cover project costs, with expected construction to be in FY22.

Discuss article for Five Village News

Tara's suggested corrections: on the second page, first paragraph, third line down, "There is an established process and requirements under the law for resolving a grievance. procedure is available to resolve complaints." Tom indicated these two sentences should be redone. Tara suggests deleting the rest of it after the period. For the paragraph beginning with "last year", the second line down "The project aims to deliver a design to remove accessibility and use barriers in our Town Hall." It should read "a design to remove barriers".

FY 21 Budget Request

Tom is going to request the same amount requested last year. No money was used last year. Last year we requested \$50 for mileage, \$25 for stamps, \$100 for conferences or training, and \$50 for office supplies; for a total of \$225.

Action Concerning Non-Discrimination Notice on Town Meeting and Event Postings

Tom would like to make a formal action regarding the Non-Discrimination Notice on event postings. The action would be sent to the Board of Selectmen.

The first action would be: I move the following action, that we recommend to the Board of Selectmen that the following be added to all meeting agendas, event notices, bid notices, applications (for instance, employment); The Town of New Marlborough does not discriminate on the basis of disability. If you are disabled and require special accommodation, please contact the Board of Selectmen (413-229-8116), preferably 7 days before the activity or event.

The next action has to do with the overall advertising of our non-discrimination notice. I move the following action be recommended to the Board of Selectmen, that the Town's Notice Under the

Americans With Disabilities Act (non-discrimination notice) be provided as a public notice on the Town's website, posted at Town facilities, posted in the legal section of local newspapers.

Tara inquired as to when the notice should be posted in the legal section of a newspaper. Tom indicated this only needs to be advertised once.

Set date for next meeting

The next meeting will be posted for March 25, 2020 at 10:30 AM.

Adjourn

Tara made a motion to adjourn with Marsha second. All agreed.

Prepared by:

Tom Stalker, Chair/Secretary

Commission on Disabilities

2020 marks the 30th anniversary of President George H.W. Bush signing the Americans with Disabilities Act into law. Findings and Purposes of ADA Amendments Act of 2008, Pub. L. 110-325, § 2, Sept. 25, 2008, 122 Stat. 3553, provided that: (a) Findings; Congress finds that - (1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage; (2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers.

Small towns offer a variety of essential programs and services that are fundamental to the public and to everyday American life. Although the range of services offered by small towns varies, it is essential that people with disabilities have the opportunity to participate in the programs and services that towns offer. Applying for a building permit or business license, playing ball in the local park, marching in the Memorial Day parade, attending an annual street festival or a town meeting, or calling 9-1-1 for emergency police, fire, or rescue all are typical town programs, activities or services covered by the Americans with Disabilities Act or ADA.

The ADA gives people with disabilities an equal opportunity to participate in the mainstream of public life offered to all Americans.

In May 2018 the Town Meeting voted to accept the provisions of MGL Chapter 40 Section 8J and establish a permanent Commission on Disabilities (COD) to cause the full integration of participation of people with disabilities in New Marlborough. The current members of the COD are: Tom Stalker, Chair/Secretary; Marsha Pshenishny, Vice-Chair; John Pshenishny; John Hotaling; Tara White, Liaison to the Board of Selectmen. Mission Statement: The Mission of the Commission is to increase opportunities and remove barriers for people with disabilities by facilitating full and equal participation in all aspects of life within the Town of New Marlborough. Our Commission works toward compliance with Title II of the ADA within our Town. With this in mind, the Commission seeks to influence public policy by advising and working with the Board of Selectmen, other Town committees, ADA, and all departments on issues impacting persons with disabilities and their families, as well as the legal requirements to be met. We seek to educate and inform on disability issues and encourage all persons with disabilities to participate fully in the activities and governance of our Town.

Simultaneously, the Berkshire Regional Planning Commission (BRPC), on behalf of the Town, developed a Title II: Self-Evaluation and Transition Plan. The self-evaluation is a comprehensive review of all programs, activities, and services operated by the public entity. The transition plan lists the physical barriers that limit access and indicates the methods to remove the barriers and make the facilities accessible.

Title II of the ADA applies to State and local governments, including towns and townships, school districts, water districts, special purpose districts, and other small local governments and instrumentalities. It prohibits discrimination on the basis of disability in all services, programs, and activities provided by towns. Thus, people with disabilities must have an equal opportunity to participate in and benefit from a town's services, programs, and activities. To accomplish this, the ADA sets

requirements for town facilities, new construction and alterations, communications with the public, and policies and procedures governing town programs, services, and activities.

The COD developed a Notice Under the Americans With Disabilities Act (required non-discrimination notice) as well as a required Grievance Procedure Under the Americans with Disabilities Act.

The Notice indicates: If you need auxiliary aids and services for effective communication (such as a sign language interpreter, an assistive listening device or print material in digital format) or reasonable modification to programs, services or activities contact the Board of Selectmen as soon as possible, preferably 7 days before the activity or event. A grievance procedure is available to resolve complaints. Upon request, this notice is available in alternative formats such as large print or Braille. Board of Selectmen, 807 Mill River Southfield Road, Mill River, MA 01244; Phone: 413-229-8116; Email: nmbos@newmarlboroughma.gov

The Grievance Procedure indicates: Complaints concerning discrimination on the basis of disability by the Town of New Marlborough may be sent to the Board of Selectmen, 807 Mill River Southfield Road, Mill River, MA 01244; Phone: 413-229-8116; Email: nmbos@newmarlboroughma.gov. The Board of Selectmen will contact the complaint within 15 calendar days after receipt of the complaint to discuss the complaint and will respond in writing within 15 days of the discussion. Any unresolved complaints or issues may be filed with the US Department of Justice, 950 Pennsylvania Avenue, NW, Civil Rights Division, Disability Rights Section 1425 NYAV, Washington, D.C. 20530, Fax: (202) 307-1197. You may also file a complaint online at www.ada.gov/complaint/. If you have questions about filing an ADA complaint, please call: ADA Information Line: 800-514-0301 (voice) or 800-514-0383 (TTY).

In 2018 a grant was awarded to the Town for the purchase of hearing assistive devices. A significant segment of the Town of New Marlborough's resident population is disenfranchised from full participation in Town governance because of hearing impairment. Town facilities have inadequate provision of hearing assistance for such individuals in public meetings, whether regular Select Board meetings, various Town committee meetings, and, critically, the annual Town Meeting. This circumstance creates a barrier to full and informed participation in public meetings. This grant helped to remove this barrier.

In 2019 the annual Town Meeting took place at the fire station in Southfield. This move allowed for full accessibility and participation by all.

In 2019 a grant was awarded to the Town for design of the Town Hall ADA Barrier Removal Project. The project aims to deliver a design to remove accessibility barriers in our Town Hall. Currently, our Town Hall has limited access to Town meetings and essential services. Creating a design to reverse that is consistent with Massachusetts Sustainable Development Principles by promoting greater opportunity and encouraging equity. A large percentage of our Town's population is elderly or disabled, and many individuals cannot access the Town Hall for essential services and meetings. The proposed barrier removal project will render the Town Hall easily accessible to those with physical disabilities by promoting access to critical services including the police station, Town meetings, voting, tax collection, and more. The proposed scope of the project consists of: Accessible Parking; Accessible Route from the parking to the building; Vertical Access between floor inside the building; Accessible restrooms; Accessible entry/egress at both the lower and main levels.

For a copy of our Title II: Self-Evaluation and Transition Plan or for any other inquiries, please contact Tom Stalker, COD Chair/Secretary at tstalker62@gmail.com.