

MINUTES	Wednesday, November 17, 2021 at 4:00 p.m.	
Disability Awareness and Accessibility Review Board Meeting	City Hall Culture Collaboration Room 224 W. 9 th Street Sioux Falls, South Dakota or by teleconference at 1-408-418-9388, Access Code 187 118 6391##	

BOARD MEMBERS PRESENT: Tana Zwart, Sarah Jorgensen, Cathleen Zepeda, Morgan Jackson, Kati Seymour, Patricia Herman present. Nicholas Kummer, Carolyn Ly-Donovan, Delores Lipp not present.
STAFF PRESENT: Sharla Svennes, Lyndsey Meier, Elise Rasmussen

CALL TO ORDER

A quorum being present, Zwart called the meeting to order at 4:07 p.m.

ADOPT THE AGENDA

A motion was made by Seymour and seconded by Jackson to adopt agenda. Motion passed by a vote of 6-0.

APPROVAL OF MINUTES

A motion was made by Seymour and seconded by Jackson to approve the minutes from October 2021 meeting. Motion passed by a vote of 6-0.

PUBLIC INPUT

None.

NEW BUSINESS

- A. **Board Introductions:** The Board welcomed newest member, Patricia “Pat” Herman who has been appointed for a three-year term.
- B. **Artability Preparations:** Discussion held regarding catering and funding. Independent Living Choices has committed to donating \$250, which will be used towards catering. Zepeda will look into catering options and update the board at January’s meeting. Jorgensen shared that the last event had approximately 75-100 people and Zwart reminded the board that next year’s event correlates with first Friday festivities which could impact attendance. Lifescape offered to provide easels for displaying artwork. Board discussed presenting awards to artists, including best of show and people’s choice. A motion was made to present awards at Artability event. 3 Yeses: Seymour, Herman, Zwart. 2 Noes: Jorgensen, Zepeda. Morgan abstained. Motion passed. Seymour will develop process for presentation of awards and Herman will develop

process for purchasing artwork. Board determined there are no restrictions on art applicants being from outside the Sioux Falls area. Board reviewed and made minor modifications to marketing materials, which they will start disbursing after posting on City website.

- C. **Handicap Accessible Parking Sign Campaign:** Discussed private, local businesses possibly displaying signage. Discussed diversifying photographs to include all ages and mobility issues. Will continue agenda item.
- D. **Review of Bylaws:** The Board reviewed bylaws, as required annually by ordinance. Discussion was held with no changes suggested.
- E. **Winter Meeting Schedule:** Board discussed conducting solely virtual meetings for January and February 2022. Motion was made by Zwart and seconded by Seymour to adopt exclusively virtual meetings for upcoming winter months. Motion passed unanimously.

READING OF COMMUNICATIONS TO THE BOARD

None.

REPORT OF ADA COORDINATOR

The Human Relations Office currently has 34 active cases. Of those cases, 14 of them, or approximately 41% are disability related complaints; four cases involving housing, seven relating to employment, and two concerning public accommodations.

November 10, 2021: Department of Justice (DOJ) filed an ADA lawsuit against Uber for charging “wait time” fees to passengers who, because of disability, take longer than two minutes to get in their Uber car. In April 2016, Uber began charging passengers wait time fees in a number of cities, eventually expanding the policy nationwide. The complaint alleges that Uber violates the ADA for failing to reasonably modify its wait time fee policy for passengers who, because of a disability, need more than two minutes to get in an Uber car. Passengers with disabilities may need additional time to enter a car for various reasons and the lawsuit alleges that even when Uber is aware that a passenger’s need for additional time is clearly disability-based, Uber starts charging a wait time fee at the two-minute mark. The lawsuit seeks relief from the court, including ordering Uber to stop discrimination against individuals with disabilities; order Uber to modify its wait time fee policy to comply with the ADA; train its staff and drivers on the ADA; pay money damages to people subjected to illegal wait time fees; and pay a civil penalty to vindicate the public’s interest in elimination disability discrimination.

July 16, 2021: An 8-member jury in Green Bay, Wisconsin awarded over \$125 million in an EEOC disability discrimination case against Walmart. The jury found the retailer failed to accommodate Marlo Spaeth, a longtime employee with Down Syndrome, and then fired her in July 2015 because of her disability. Spaeth had worked for the company for 16 years and when her longstanding work schedule was adjusted it caused her significant difficulty. When she requested her schedule be readjusted by 60 to 90 minutes, Walmart failed to act on the request and instead fired her. The jury also found that Walmart turned down Spaeth’s later request to be rehired because of her disability or because of their need to accommodate her disability. Such alleged conduct violates the Americans with Disabilities Act (ADA) and the EEOC filed its lawsuit after first attempting to reach a pre-litigation settlement through its voluntary conciliation process. The jury deliberated for three hours following the four-day trial awarding Spaeth \$150,000 in compensatory damages and \$125,000,000 in punitive damages.

OPEN BOARD DISCUSSION

None

ADJOURNMENT

Motion made by Herman and seconded by Seymour to adjourn meeting. Meeting adjourned at 4:51 p.m.

NEXT MEETING

January 26, 2022 (exclusively virtual)

Respectfully submitted,

Lyndsey Meier
Human Relations Specialist