

Wichita/Sedgwick County Access Advisory Board

Wednesday, March 24, 2021

Zoom Virtual Meeting

10:00-11:30 a.m.

Voting Members Present

Brian Powers	Ronald Tracy
Stacy Fuller	Sean Beebe
Crissy Magee	Tom Page
David Calvert	Nate Hinkel
Katherine Bergamsco	Gary Janzen
Lisa Vayda	Craig Perbeck

Voting Members Not Present

Brian Held	Grady Landrum
Chris Rea	Jayne Otis
Clark Stevens	Kenny Hinkle
David Pracht	Michelle Pryor
Dee Nighswonger	Raven Alexander
Dorsha L, Kirksey	Steven Walters
Dr. David Waldie	Susan Ternes
Ed Koon	Thomas Kell
Elvia Barraza	Tiffany Nickle
Elvia Barraza	

City/County Staff Present

Gary Janzen
Paul Leeker

- I. **Welcome, Announcements, and Introductions:**
 - a. Brian Powers opened the meeting by welcoming all in attendance. Roll call and introduction of members.
- II. **Meeting Minutes:**
 - a. There was no move to approve the February minutes due to lack of quorum
- III. **Committee Updates:**
 - a. Transit
 - b. Building
 - i. Gary Janzen mentioned that in April that City of Wichita staff will be present to talk about the OJ Watson Park Events Center
 - ii. Janzen noted that there will also be discussion of what MABCD does in reviewing plans for ADA compliance
- IV. **New Business:**
 - a. Powers asked David Calvert if there was an education committee under the WSCAAB in the past
 - i. Calvert answered in the affirmative
 - ii. Powers indicated that he would like to send a request to any member of the WSCAAB to join the education committee
 - iii. This committee would deal with outreach to the broader community
 - iv. The need for this will become more apparent as this meeting progresses
 - v. Powers articulated that the work of the WSCAAB needs to be disseminated more broadly to the community at large
 - b. Accessibility Issues/City ordinance/educational opportunities:
 - i. Gary Janzen provided an update about the meeting Andrew Crane had with City Council members and County commissioners. It was a meeting about passing an ordinance that would allow people to call 911 if they were refused service due to the presence of a service animal. Gary Janzen stated that he wanted to look into an educational campaign with businesses.
 - ii. Andrew Crane expressed a desire to get a City ordinance passed to ensure a quick response to violations, and possible violations, of the ADA. Crane mentioned that he spoken with a colleague who was able to get ordinances adopted by other municipalities.
 - iii. Thomas Page thanked Gary for spearheading the educational campaign. Page emphasized that this process was geared towards service animals—and not guide dogs specifically. Page held that the presence of a police offer to serve as a mediator between the customer and the business owner might defuse a negative situation. An ordinance could protect a business owner from “low-hanging” lawsuits. Page noted that Andrew Crane was doing some good work getting meetings set-up.
 - iv. Gary Janzen wanted to thank both Thomas Page and Andrew Crane for the work they were doing. Janzen mentioned that the Wichita Police Department was starting to look at some training for their officers to make them aware of state/federal laws and allow them to relay that information to business owners. The City of Wichita is NOT currently considering the creation of an ordinance.

The Wichita Police Department is not interested in adding something to their plate. Gary Janzen felt that there were a number of things could be done on the educational front to redress the issue. Janzen wanted to emphasize that he was not minimizing the problem of denying service to people using service animals.

- v. Brian Powers asked about the number of such complaints regarding refusal of service to customers with service animals
 1. Thomas Page answered he received between 3 and 5 such complaints annually.
- vi. Brian Powers asked if there any municipalities that had adopted an ordinance similar to the one being proposed by Crane and Page.
 1. Page answered that the state of Missouri has a state statute that allows municipalities to enforce laws regarding service animals.
- vii. David Calvert asked about the penalties associated with the Missouri law.
 1. Page answered that the Missouri statute simply allows municipalities to enforce these laws—they are not required to enforce them. As such, there is no penalty attached to refusing enforce ordinances.
- viii. Brian Powers asked if this discriminatory behavior would fall under current ordinances?
 1. Janzen answered there are other ordinances that would allow for the police to be called. However, these ordinances would move the issue beyond the question of refusal of service.
- ix. Thomas Page argued that even if this discussion does not lead to an ordinance, it might well become a policy
- x. David Calvert mentioned that one of the easiest methods to communicate with business owners is to send an email with a printable attachment that can be affixed to a front door/near the entrance of the business. Anecdotally, Calvert mentioned that he was aware of a case in which someone claimed that two pit bulls were service animals.
- xi. Powers affirmed that business owners wanted, and make every effort, to comply with necessary regulations and laws. Powers asserted that we need business to support our economy. Powers felt that someone should be speaking for business owners in the context of this conversation.
- xii. David Calvert mentioned that he probably filed more ADA complaints than any other lawyer. Locally, he has had to file only one lawsuit against a local business. The last thing he wants to do is to file a suit against a local business. Calvert noted that attorney fees can be the difference between turning a profit and suffering a loss for the year. Given the current economic circumstances it could mean the difference between staying in business or going out of business. In Calvert's experience if a business owner is informed/educated about a violation they are willing to fix the problem quickly.
- xiii. Katherine Bergamsco pointed out that she had seen of service animals. She has had to go to Veteran Affairs police to have dogs removed from the base because the "guide" dogs were not actual service animals. The presence of fake service animals creates a problem. It is a difficult spot for business owners to be in.

Education is important, but each case needs to be considered on its own merits. She has recommended to clients that they retire their service animals for a number of reasons: the animals are unclean, poorly maintained, ill-trained, etc. In some cases the service animals function more as pets and less as service animals. Bergamsco noted that education needs to be both about informing business owners AND service animal users. Education works more effectively than ordinances.

- xiv. Stacy Fuller pointed out that Envision offers more than white cane training. They would be happy to work with businesses on education about ADA compliance and would gladly work to sort this issue out without creating more disruption.
- xv. Powers thanked everyone for the discussion. He acknowledged this will be an ongoing discussion—but, they are off to a good start due to the shared efforts of the WSCAAB. Powers thanked Andrew Crane for bringing this issue to the attention of the Wichita/Sedgwick County Access Advisory Board.
- xvi. Sean Beebe had one comment—if an ordinance is not created that has teeth what impact will education alone have on business owners' behavior.
 - 1. David Calvert pointed out that the teeth are to be found in the ADA. The ADA has very big, very costly teeth.
 - 2. Brian Powers pointed out that this is a civil remedy.
 - 3. Calvert was not aware of any statute that criminalizes this behavior.
- xvii. Katherine Bergamsco asked if there was a list of violators of the ADA.
 - 1. Janzen answered that he had not seen any such list.
- xviii. Janzen reasserted that in both cases that Andrew Crane had mentioned the situation did not result in a denial of service. The owners simply asked him questions. Questions that they were legally entitled to ask.
- xix. Thomas Page recalled that earlier in the discussion it was mentioned that fake service animals could be removed from a business. What is the protocol for doing so?
 - 1. Bergamsco noted that you are allowed to ask what the service animal does. The service animal MUST perform a service for you that you CANNOT do for yourself. If the dog is barking, snarling, filthy/dirty it does not have to be allowed in the business. Service animals must be well-kempt and well-trained.
- xx. Powers felt that people were reasonable, business owners were reasonable, and that a clear enumeration of current policy would go a long way to redressing the issue.

V. Other:

- a. Lisa Vayda asked if the Board of Elections have been contacted.
 - i. Powers answered that they had not been contacted. But, that they would be contacted and a report would be given at the next meeting of the WSCAAB
- b. Craig Perbeck had been contacted by the University of Kansas regarding accessible entertainment within the County. Perbeck sent them Crissy Magee and Gary Janzen's contact information.

- i. Lisa Vayda felt that the list of accessible entertainment venues should be provided to the Visit Wichita organization.

VI. Adjournment