

Mayor's Advisory Committee on Accessibility

November 17, 2015, 4:00 – 6:00 pm

City Hall, Conference Room 12

AGENDA

Introductions

Announcements

Public Forum

Accessible Private Parking Discussion, Ed Paquin & Mark Montalban

Waterfront Accessibility Discussion, Emma Allen

Next Steps

Adjourn

Burlington Committee on Accessibility

November 17, 2015

City Hall, Room 12

Minutes

Committee Members Present: Michael Watson, Elaine Zimmerman, Ralph Montefusco, Emma Allen, Shelly Waterman, Cleary Buckley, Tom Charbonneau, Ned Holt

Committee Members Absent: Ron Redmond, Sam Handy

Others Present: Kesha Ram (committee staff), Ed Paquin (Disability Rights Vermont), Mark Montalban, Nate Besio, Maddy Hansen, Maggie Mae Whittemore

Meeting commenced at 4:03 pm.

Public Comment

None

Announcements

Nate announced the VCIL Holiday Open House in Burlington on December 8 from 1-3 pm. Elaine updated the group on her effort to bring Jon Killacky to the January meeting. Maddy and Maggie Mae are students observing from St. Michael's College.

Waterfront Accessibility Discussion, Emma Allen

As the Parks Department begins a new round of review of waterfront events, they are seeking input. Kesha will send the accessible meeting/event checklist the Committee created. There will be 70 new parking spaces near the skate park, which is scheduled to open November 23. To meet minimum ADA standards,

there will be three accessible parking spots. There was concern that would not be enough for events or large group activities.

Accessible Private Parking Discussion, Ed Paquin & Mark Montalban

Mark Montalban relayed his story verbally, which is represented in a letter in the supporting documents. Ed Paquin identified himself as an advocate, but emphasized that he is not an attorney and cannot give legal advice. He shared that police have the authority to enforce accessible parking violations on private property. They have discretion in the matter. A dispute with a private citizen who complains about a lack of enforcement to a business owner would need to go through the Human Rights Commission or Department of Justice for private parking. The Committee would like to hear from BPD Parking Enforcement in the near term to get updated statistics and understand the situation better.

Wayfinding Sign Placement, Elaine Zimmerman

There is a wayfinding sign being placed in front of Sotto Enoteca and What Ales You? on the corner of St. Paul and Main Streets that is concerning because of heavy pedestrian traffic and lines, along with bike racks and a grate, on that corner. Ned will look into it with Laura Wheelock from DPW.

Next Steps

The Committee will decide in early December if members want to hold a December meeting or wait until January.

Meeting adjourned at 5:37 pm.

November 17, 2015

The answer to the question: "could the police enforce violations of accessible parking spaces on private property" is that yes the police can enforce violations of title 23 section 304a and 1749 listed below. It does not appear to matter if the accessible space is on private or public property.

From Vt. Stat. Ann. tit. 23, § 304a (West)

(e) A person, other than a person with a disability, who for his or her own purposes parks a vehicle in a space for persons with disabilities shall be fined \$200.00 for each violation and shall be liable for towing charges. He or she shall also be liable for storage charges not to exceed \$12.00 per day, and an artisan's lien may be imposed against the vehicle for payment of the charges assessed. The person in charge of the parking space or space for persons with a disability or any duly authorized law enforcement officer shall cause the removal of a vehicle parked in violation of this section. A violation of this section shall be considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

From 23 VSA § 1749. Penalty

(a) The penalty which may be voluntarily paid by any person so violating any ordinance regulating metered parking in the town shall be \$1.00. For other violations involving parking a penalty not to exceed \$5.00 for the first violation and not to exceed \$15.00 for the second or subsequent offense within 30 days of a previous violation shall be paid. Other violations of the ordinances of the town shall be punished in the manner prescribed by law.

(b) Notwithstanding subsection (a) of this section, a person violating a parking ordinance for persons with disabilities may be fined not more than \$25.00 for each offense. (Added 1961, No. 103, § 9; amended 1977, No. 249 (Adj. Sess.), § 2, eff. April 19, 1978; 1981, No. 5; 2013, No. 96 (Adj. Sess.), § 147.)

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Burlington Accessibility Advisory Council
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Dear Members of the BAAC,

I present this following information with sadness that business awareness of ADA Compliance concerning handicapped parking and its enforcement is very lacking and likely will drive Burlingtonians away from using their services (it has concerning one major business in our neighborhood). Our family has a small business using homestead good and providing education classes out of our home. This is a new business, Green Acres Homestead, LLC, incorporated last year. We try to support local business and utilized the Hills Aces Hardware store just a mile down the road from our home. It is a business I have used since moving here in 1987 and my wife Becky has used since childhood and her family before her. Though reviewing our expenses in 2014, we actually spent around \$5900 at that store and until we stopped going there as of July 31st of this year, we had spent \$3600. Now the reason why we have stopped buying from this business and find ourselves paying for items out of the city of Burlington.

On July 14th, I witnessed a person park in a handicapped zone with no permit visible, either on the license plate or tag behind the review mirror. I entered the store (which I was planning on purchasing more items), and notified the cashier. She said that the boss was gone and she was not going to notify the customer to move her car. I then called the Burlington Police who told me it was on private property and there was nothing they could do. I went inside and the cashier was not helpful and did not have the number to give me for calling the owners of this business lease (Ethan Allen Shopping Center). I then asked the woman directly at the register and she told me that she forgot to put up her brother's tag and that she still uses it when she was in a rush. I asked her why she parked there and she just smiled. I left the hardware store quite frustrated. When I returned on Monday, I noticed the boss was very distant, but I was too busy to check in with him. After two weeks of getting the cold shoulder, I checked in with him. He told me he heard of what happened and he considered that what I did was harassment of a customer and that I could take my business with him. I tried to connect with him and share the experience of friends disabled and the challenges they faced when handicapped parking spaces were taken from them. He just walked off.

Over the next 4 weeks, really the month of August, I talked with the Ace Hardware general office in Illinois, and was assured they would do something to help. Finally the last call at the end of August, I was told it was an independent business and the two people who manage the store had my number to call me. I spent the month of September, calling the store, being kept on hold, and finally told they were not available. I actually went into the Ace store on Mallet's Bay to get some items and met one of the North Ave employees. He was so uncomfortable serving on me that he asked me to go to another person. That was the last straw and our family will never use this business again, even traveling several miles out of the way, out of our neighborhood, to get the customer service, we all deserve.

Sincerely,

Mark Montalban