

# SUNSET AUDIT REPORT

2018-S1

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Americans With Disabilities Act Advisory  
Commission

Department of Health and Human Services

August 10, 2018

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# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 10, 2018

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2018-S1, Americans With Disabilities Act Advisory Commission, Department of Health and Human Services**, for your review. A brief summary of the report is presented below.

In accordance with Assembly Ordinance Number 2011-64(S-1), Section 14, we have performed a sunset audit of the Americans With Disabilities Act Advisory Commission. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Americans With Disabilities Act Advisory Commission should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Assembly should consider reauthorizing the Americans With Disabilities Act Advisory Commission until January 2019. The Americans With Disabilities Act Advisory Commission is fully staffed. However, the term for one Americans With Disabilities Act Advisory Commission member expired on October 14, 2017, but this member continues to serve on the Americans With Disabilities Act Advisory Commission. In addition, the Assembly should consider holding a work session with the Americans With Disabilities Act Advisory Commission to discuss its role and recent activities to help determine if the Americans With Disabilities Act Advisory Commission should be reauthorized beyond January 2019.

The Americans With Disabilities Act Advisory Commission will sunset on October 14, 2018, unless reauthorized by the Assembly.

Michael Chadwick, CIA, CICA  
Director, Internal Audit



# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 10, 2018

**Sunset Audit Report 2018-S1**  
**Americans With Disabilities Act Advisory Commission**  
**Department of Health and Human Services**

**Introduction.** We have performed a sunset audit of the Americans With Disabilities Act (ADA) Advisory Commission (Commission) as required by Assembly Ordinance Number 2011-64(S-1), Section 14 which states:

*“The Municipal Clerk shall notify the Assembly and the Mayor by assembly memorandum at least 120 days prior to the sunset of any board or commission, and an ordinance for reauthorization shall be introduced through the Assembly Chair with the assembly memorandum. The assembly memorandum shall include direction to the Office of Internal Audit to audit the board or commission under Anchorage Municipal Code section 3.20.110 D.3. and 4. The Office of Internal Audit shall report its findings to the Mayor and Assembly at least 60 days, prior to sunset, prior to vote by the Assembly on reauthorization.”*

**Objective and Scope.** The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Commission should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained

provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was performed during the period of May through July 2018.

**Overall Evaluation.** Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Assembly should consider reauthorizing the Commission until January 2019. The Commission is fully staffed. However, the term for one Commission member expired on October 14, 2017, but this member continues to serve on the Commission. In addition, the Assembly should consider holding a work session with the Commission to discuss its role and recent activities to help determine if the Commission should be reauthorized beyond January 2019.

## **SUNSET FACTORS**

The following factors were used in our evaluation and are presented for information to the Mayor and Assembly:

**1. Name of Commission.**

Americans With Disabilities Act Advisory Commission

**2. Sunset Date.**

October 14, 2018

**3. The purpose and goal of the Commission.**

*Anchorage Municipal Code (AMC) subsection 4.60.240B., Americans With Disabilities Act Advisory Commission, states "The commission shall:*

1. *Review the Americans With Disabilities Act in order to maintain a clear and comprehensive understanding of federal legislation addressing all forms of discrimination against individuals on the basis of disability.*
2. *Make recommendations to the mayor and assembly for the adoption, change or repeal of municipal laws, rules, regulations, restrictions or other matters affecting the individuals with disabilities community.*
3. *Act in an advisory capacity to the mayor and the assembly in matters of policy concerning implementation by the municipality of the Americans With Disabilities Act.*
4. *Report at least annually to the mayor and the assembly on individuals with disabilities issues and progress in relevant areas such as employment and public and private accommodations.*
5. *Identify municipal facilities and employment procedures that require modifications and advise the mayor and assembly of those issues.*
6. *Undertake efforts to open and maintain channels of communication with the disabled community of the municipality and to periodically hold hearings on matters of importance to that community, the Anchorage community as a whole, and the municipal government.*
7. *Carry out educational and public relations programs designed to create public awareness.*
8. *Perform such other powers and duties as the assembly may refer from time to time.”*

4. **Have Commission members been appointed?**

*AMC subsection 4.60.240A. states “There is established an Americans With Disabilities Act Advisory Commission consisting of seven members, with three members from active disability organizations and four members of the community.”*

**Audit Finding.** Currently, the Commission is fully staffed. However, at three Commission meetings from March 2018 through May 2018, eight Commission members were accounted for in the Commission’s meeting minutes, one more Commission member than allowed by AMC subsection 4.60.240A. Terms for two of these Commission members had expired. One of these

Commission members was recently informed that she was no longer a member of the Commission.

<u>Commission Member</u>	<u>Most Recent Assembly Confirmation</u>	<u>Term Expiration Date</u>
David Ziemer – Community	10-27-15	10-14-18
Ian Miner – Community	3-7-17	10-14-18
Michael Merritt – Active Disability Organization	6-27-17	Expired 10-14-17
Holli Yancey – Active Disability Organization	2-13-18	10-14-20
Brittney Howell – Active Disability Organization	2-13-18	10-14-20
Johnnie Templeton, Jr. – Community	2-27-18	10-14-18
Bonnie Lucas – Community	2-27-18	10-14-19

Source: Assembly Memorandums

5. **Are the terms of the Commission members current?**

*AMC section 4.05.040, Terms, states “Except as otherwise specified in this Code, the regular term of each member of a board or commission is three years commencing on October 15 of the year in which appointed and ending three years thereafter on October 14, provided however, to avoid a vacancy until new appointments can be made and confirmed, an appointed member's term is extended until a new appointment is confirmed or a maximum of 120 days which ever occurs first. The terms of initial or subsequent appointments to a board or commission shall be staggered so that, as nearly as possible, a pro rata number of its members shall be appointed each year of the established regular term of office.”*

**Audit Finding.** The terms for six of the seven Commission members are current. The term for the remaining Commission member expired on October 14, 2017, but this member continues to serve on the Commission.

**6. Are positions deemed vacant after the maximum number of absences?**

*AMC subsection 4.05.060A., Attendance requirements; vacancies, states “. . . a vacancy shall occur if a member during any 12-month period while in office:*

- 1. Is absent from three regular meetings without excuse;*
- 2. Is absent from:*
  - a. six regular meetings; or*
  - b. eight regular meetings for members of the planning and zoning commission, platting board, or zoning board of examiners and appeals; or*
- 3. Fails to attend a two-thirds majority of the regular meetings.”*

Note: Attendance requirements found in AMC subsection 4.05.060A. were amended on April 24, 2018, by Assembly Ordinance Number 2018-31, as amended. According to Assembly Counsel, this ordinance is effective prospectively. As a result, the amended changes did not affect this sunset audit for the period beginning January 2017 and ending June 2018. AMC subsection 4.05.060A. cited above is the language prior to the April 24, 2018, amendment.

**Audit Finding.** No members were absent from three regular meetings without an excuse within any 12-month period from January 2017 through June 2018.

No members were absent from six regular meetings within any 12-month period from January 2017 through June 2018.

All members attended at least two-thirds of the regular meetings within any 12-month period from January 2017 through June 2018.

**7. Does the Commission meet regularly?**

*AMC section 4.05.090, Meetings, states “A board or commission shall hold regular monthly meetings at such time and place as may from time to time be designated by the board or commission, but meetings need not be held if no business is pending. Boards and commissions*

*shall advise the public of their meeting schedules, or publicly advertise their meetings where necessitated by statutory requirements. The chairman of a board or commission, or the municipal employee who is designated as an ex officio member of the board or commission pursuant to section 4.05.140, or a majority of the board or commission, may call a special meeting of the board or commission. Meetings of all boards and commissions shall be open to the public, except for an executive session, from which the public may be excluded.”*

**Audit Finding.** From January 2017 and through June 2018, the Commission met 15 times. Meetings are publicly announced on the Commission’s website and on the Municipality of Anchorage’s (Municipality) Public Notices website.

**8. Are minutes taken and published?**

*AMC section 4.05.130, Reports, minutes and public hearing records, states “A board or commission shall keep minutes of the board or commission proceedings, and such minutes shall record the vote of each member physically present upon every question formally presented to the board or commissions for its consideration. The minutes shall be maintained in the custody of the municipal agency which supplies staff support to the board or commission and shall be a public record, open to inspection by any person.”*

**Audit Finding.** Meeting minutes were taken at each Commission meeting. The public can obtain meeting minutes from the Municipal ADA Coordinator. Only the January 10, 2017, meeting minutes are available on the Department of Health and Human Services’ website.

**9. Do meetings have action items or other business?**

*AMC subsection 4.60.240B. states “The commission shall:*

1. *Review the Americans With Disabilities Act in order to maintain a clear and comprehensive understanding of federal legislation addressing all forms of discrimination against individuals on the basis of disability.*
2. *Make recommendations to the mayor and assembly for the adoption, change or repeal of municipal laws, rules, regulations, restrictions or other matters affecting the individuals with disabilities community.*
3. *Act in an advisory capacity to the mayor and the assembly in matters of policy concerning implementation by the municipality of the Americans With Disabilities Act.*
4. *Report at least annually to the mayor and the assembly on individuals with disabilities issues and progress in relevant areas such as employment and public and private accommodations.*
5. *Identify municipal facilities and employment procedures that require modifications and advise the mayor and assembly of those issues.*
6. *Undertake efforts to open and maintain channels of communication with the disabled community of the municipality and to periodically hold hearings on matters of importance to that community, the Anchorage community as a whole, and the municipal government.*
7. *Carry out educational and public relations programs designed to create public awareness.*
8. *Perform such other powers and duties as the assembly may refer from time to time.”*

**Audit Finding.** From January 2017 through June 2018, the Commission did not issue any resolutions. However, in February 2018, the Commission provided the Mayor its 2017 Annual Review. This report was provided to the Assembly at the July 17, 2018, Assembly meeting. In addition, in March 2018, the Commission provided a letter of support for the Department of Health and Human Services to continue to administer the Aging and Disability Resource Center. Moreover, a review of meeting minutes identified several reports and presentations made to the Commission. These reports and presentations were made by individuals and entities such as PeopleMover/AnchorRides, the Municipality’s Transportation Inspector, Anchorage Equal Rights Commission, the Municipality’s ADA Coordinator, and EasyPark. Other items discussed at Commission meetings included topics such as snow removal, a

proposed name change for the Commission, planning for an Anchorage disability pride celebration, taxi cab access, and the Commission's Facebook page. Commission minutes included few action items.

Finally, the June 2018 Commission meeting minutes stated that, "There is a discussion of the recommendation of the commission and the potential of the sunset of the commission. The commission was in place because the MOA did not have a designed [sic] ADA Coordinator and the commission may need to review the role and goals of the commission now that the MOA has an ADA Coordinator."