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Board of Building Regulations and Standards (BBRS)

August 10, 2021 Meeting

The Division of Professional Licensure Office
1000 Washington Street - Boston, MA 02118

This was a virtual Microsoft Teams meeting.

Chairman Crowley opened the meeting @ approximately 10:17 a.m. and took roll call as follows.

Richard Crowley, Chair	✓ present <input type="checkbox"/> absent	Kerry Dietz	✓ present <input type="checkbox"/> absent
John Couture, Vice Chair	✓ present <input type="checkbox"/> absent	Steve Frederickson	✓ present <input type="checkbox"/> absent
Lisa Davey	✓ present <input type="checkbox"/> absent	Kent Vinson	✓ present <input type="checkbox"/> absent
Cheryl Lavalley	<input type="checkbox"/> present ✓ absent	Layla D'Emilia*	✓ present <input type="checkbox"/> absent
Michael McDowell	<input type="checkbox"/> present ✓ absent	Peter Ostroskey*	✓ present <input type="checkbox"/> absent
Susan Gleason	✓ present <input type="checkbox"/> absent	Patrick Woodcock*	✓ present <input type="checkbox"/> absent

* *Jen Hoyt participated as the designee for State Fire Marshal, Peter Ostroskey. David Sullivan participated as the designee for Division of Professional Licensure Commissioner, Layla D'Emilia. Ian Finlayson participated as the designee for Department of Energy Resources Commissioner, Patrick Woodcock.*

General notes on format of these minutes

- *These minutes represent general points discussed by Board members and/or attendees. The minutes are not intended to be a verbatim account of discussions.*
- *Votes are noted as **MOTION** by, seconded by, and whether it was a unanimous or split vote.*
- *Agenda topics, as numbered, may/may not be in the same order as they appear on the meeting agenda.*
- *The meeting agenda is listed as **EXHIBIT A**; others are listed sequentially as addresses during the meeting.*

1. **BBRS Minutes.** On a **MOTION** by Kent Vinson, seconded by Lisa Davey, it was unanimously **VOTED** by **ROLL CALL** to approve the minutes for the July 13, 2021 Board of Building and Regulations and Standards (BBRS) meeting (**EXHIBIT B**). Susan Gleason abstained.
2. **BCAB Minutes.** On a **MOTION** by, Kerry Dietz seconded by Kent Vinson, it was unanimously **VOTED**, by **ROLL CALL** to approve the May 18, 2021, June 3, 2021, June 22, 2021 and the July 1, 2021 Building Code Appeals Board (BCAB) minutes as submitted, (**EXHIBIT C**). During the discussion portion of this item, Kerry Dietz pointed out a typo in the June 3, 2021 draft under case 21-0042. The relief sought is from 780 CMR R322.1.6.

3. **BOCC Minutes.** On a **MOTION** by Kerry Dietz, seconded by Lisa Davey, it was unanimously **VOTED** by **ROLL CALL** to approve the June 1, 2021 Building Official Certification Committee (BOCC) minutes as submitted (**EXHIBIT D**).
4. **Review/Vote** Conservation Law Foundation (CLF) 2021 IBC & IRC changes to address climate change. Chairman Crowley recognized Saritha Ramakrishna who spoke about CLF's request that the Board adopt three changes to some of the 2021 I-Codes to address flood risks from climate change as part of the 10th edition state building code (**EXHIBIT E**).
 - A. Redefine "flood hazard area" to allow local adoption of forward looking or current extent maps, to allow municipalities to substitute forward-looking or observed data in the Base and Residential codes in lieu of using Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.
 - B. Increase minimum freeboard/elevation requirements to account for sea level rise. This change is in line with what many municipalities in the Commonwealth have voluntarily elected to do through local zoning.
 - C. Strengthen the variance granting process for new construction or substantial improvement/damage within flood hazard areas by aligning with FEMA standards by adopting Section G106 of Appendix G - Flood Resistant Construction of the 2021 ICC, and an adapted version of the language in Section R.104.10.1 in Chapter 1 of the 2021 ICC Residential Code to reflect the criteria outlined in Federal regulation and guidance so that all Massachusetts state and local communities comply with National Flood Insurance Program (NFIP) guidance. BBRs should undertake these changes in accordance with its statutory mandate.

Saritha Ramakrishna explained that climate change is certain to affect the health and safety of residents in the Commonwealth and the BBRs updating code standards to reflect this new reality fits within its duty under the statute (G.L 143, Sec. 94). The CLF proposal aims to address issues within the existing code that relate to flood risk. Beyond the BBRs legislative charge to protect the safety of residents, it can ensure that Massachusetts is a leader in promoting safe, resilient development, as it has been with energy and emissions reduction. She talked about communities across the nation go through different types of climate risks, and for this reason, encouraging for climate resilience code provisions at the International Code Council would not be ineffective.

Chairman Crowley talked about FEMA on target to adjust its rate schedule this fall to a system which considers the building location on the property which will more accurately assesses the risks that the building might be exposed to during flooding events. He also talked about commercial building systems such as flood proofing are more resilient to the effects from flooding. Saritha Ramakrishna spoke about the FEMA Maps not a representative of risks to flooding and believes municipalities should have the access under the codes to assess their own risks. Chairman Crowley spoke about FEMA can revoke a municipality's access to National Flood Insurance Program but only if the community has made significant changes to applying the FEMA Maps, and he spoke about a process available to municipalities that allows them to petition FEMA for changes to the FEMA Map using data it has collected.

Ian Finlayson and Kerry Dietz spoke about referring the proposals to the Coastal Advisory Group. Saritha Ramakrishna talked about having already provided their proposals to the Coastal Zone Management folks who asked for some state wide data which supports the proposals that they could use.

Anastasia Nicolaou, Vice President of Policy & Public Affairs for the Commercial Real Estate Development Association spoke about sending the proposals to the Coastal Advisory Subgroup. She does not support incorporating into the state building code provisions which allow municipalities to substitute and/or define its own flood risks as this will fracture the uniformity of the state wide building code.

On a **MOTION** by Kerry Dietz, seconded by Ian Finlayson, it was unanimously **VOTED** by **ROLL CALL** to send the CLF recommendations to the Coastal Subgroup. Ian Finlayson added to have CZM and DEP provide comments to the Coastal Subgroup.

5. **Discuss** technical advisory committee appointments, FPDF and Chapter 34. Chairman Crowley informed the board that Michael Grover has been serving as the building official from a city on the Existing Buildings Technical Advisory Committee for many years has retired from the City of Cambridge. He intends to appoint Michael Tusino, Building Commissioner for the City of Framingham, as this is the Massachusetts Federation of Building Officials recommendation to backfill the seat. Chairman Crowley also informed the board that he intends to appoint Dan Walsh as Chair to the FPDF to finish up its work reviewing portions of the 2021 I-Codes the board has assigned it. Chairman Crowley recognized Bob Carasitti who objected to staff serving as the committee chair. Jen Hoyt spoke about the FPDF staff seat was already filled by Jeff Putnam. John Nunnari spoke about the legislature got involved with BBRS business after the removing Ian Finlayson from the Energy Advisory Committee. Chairman Crowley indicated he would take the comments under advisement, and hold off on appointing a committee chair at this time.
6. **Discuss\ Vote** 10th edition based on the 2021 I-Codes. State Building Inspector Gordon Bailey started with the Base Code Chapter 1 recommendations and explained the proposal has been updated to include the comments from last month's meeting (**EXHIBIT F**). He also reviewed the color scheme that he used to help the board identify the changes; black-colored font represents the current 9th edition language, red-colored font represents new language, and red-colored font with grey highlight represents DFS recommendation. He began by reviewing the updates he made from individual board members requests offered during last month's meeting which included reviewing the Base Code up to Section 107.2.8. He also offered some suggestions Kerry Dietz sent before the meeting. One suggestion related to 107.2.2 strike shop drawings, he will add language to Section 107.3.1 for the drawings to be submitted to the building official and fire chief simultaneously which prompted a discussion about the benefits and harms to requiring submissions be given at the same time. The pluses include both can choose to start their review at the same time, but the minuses include a messy appeals process. Inspector Bailey reviewed from the point he had left off at last month's meeting and completed his review of the Base Code Chapter 1 recommendations. During this part of his review, Kerry Dietz asked about defining Building Permit Valuation, Section 109.3. She spoke about the inconsistencies with applying this section of the code. Steve Fredrickson talked about removing this section of the code and letting the municipalities decide for themselves how each will determine the value of the work. Kerry Dietz asked what happens after the 2 business days referenced in section 110.3. Inspector Bailey spoke about appealing the lack of action to BCAB. The group discussed some of the proposed changes to Table 110, and in particular short term rental issues related to Air B&B uses in residential dwellings. Inspector Bailey offered a short term rental definition for the Board to consider.

SHORT TERM RENTAL: A Dwelling unit or Sleeping Unit complying with the registration requirements of M.G.L. 64G or one that is required to comply with the registration requirements of M.G.L. 64G

Steve Fredrickson suggested clarifying the portions of the building to view during inspection (i.e., common spaces, means of egress, etc.) which happen by way of Section 110. Jen Hoyt spoke about having Board Counsel provide a legal opinion to put the state building code because the issues is complicated.

Inspector Bailey talked about the proposed changes to the Certificate of Occupancy Section 111, and the Article 87 which reorganized some executive offices in 2017 included requiring non-residential buildings larger than 10,000 square feet must have building commissioning acceptance documentation prior to issuing of the certificate of occupancy.

Kerry Dietz talked about the local appeals board the language is not clear in Section 113.4 with respect to the path. It appears an applicant would need to seek local relief first and then go to the BCAB. She asked that legal take a look at the section to see if clarifying language should be considered.

Inspector Bailey started reviewing Residential Code Chapter 1 (**EXHIBIT G**). He explained that the numbering in both chapter 1's are the same. As a result of that coordination, several sections were moved and renumbered. There are also a few sections that are listed as "reserved" in order to keep the numbering the same. Efforts were taken to keep the original language of the 9th edition. New language, moved sections, and numbering changes are in red. Proposed changes by DFS are identified in red font with grey highlight. Due to time, Inspector Bailey's review stopped at Section R105.2.1.

7. **Discuss** 143 new Construction Supervisor Licenses (CSLs) issued in the month of June 2021. Board members acknowledged the number of newly issued CSLs.
8. **Discuss CSL Average Passing Score\Medical\Military\ Age or Continuing Education Requirements.**
On a **MOTION** by Dave Sullivan, seconded by Lisa Davey, it was unanimously **VOTED** by **ROLL CALL** to reinstate Stephen G. Rochette CS-102491 due to medical reasons.
9. **Adjourn Session.** On a **MOTION** by Jen Hoyt, seconded by Kerry Dietz, it was unanimously **VOTED** by **ROLL CALL** to adjourn the meeting @ approximately 1:00 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. July 13, 2021 Board of Building and Regulations and Standards (BBRS) meeting minutes.
- C. May 18, 2021, June 3, 2021, June 22, 2021 and the July 1, 2021 Building Code Appeals Board (BCAB) minutes.
- D. June 1, 2021 Building Official Certification Committee (BOCC) meeting minutes.
- E. BBRS Proposal 52721.
- F. 10th 780 CMR Base code Chapter 1 DRAFT 08-11-2021.
- G. 10th 780 CMR Residential Chapter 1 DRAFT 07-07-2021