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March 10, 2020 Meeting  
Springfield Fire Academy  
100 Grochmal St. in Springfield, MA

## Board of Building Regulations and Standards (BBRS)

Chairman Crowley, opened the regular meeting at approximately 10:07 a.m.

Chairman Crowley took roll call as follows:

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

\* David Sullivan participated as the designee for DPL Commissioner, Layla D'Emilia.

\*\* Jen Hoyt participated as the designee for State Fire Marshal, Peter Ostroskey.

### General notes on format of these minutes

- These minutes represent general points of discussion by members and audience participants during the regular meeting session. 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 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.

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### Regular Meeting

1. **BBRS Regular Minutes Review\Vote** February 11, 2020 BBRS draft meeting minutes. Dan Walsh explained the draft minutes today's packet vary from the version of the document emailed ahead of today's meeting and reviewed the differences. On a **MOTION** by Kerry Dietz, seconded by Jen Hoyt, it was a unanimous vote to approve the February 11, 2020 meeting minutes for the Board of Building and Regulations and Standards as amended. John Couture abstained (**EXHIBIT B**).
2. **BOCC Minutes Review\Vote**. On a **MOTION** by Michael McDowell and seconded by Steve Frederickson, it was a unanimous vote to approve February 4, 2020, Building Official Certification Committee (BOCC) meeting minutes. (**EXHIBIT C**).
3. **Review\Discuss** BBRS statutory authority, open meeting law requirements and ethics obligations. Dan Walsh explained each board member has been given a handbook in the past which includes all the information being reviewed today and walked through a

Power Point summarizing this information (**EXHIBIT D**). The first slide gave the board makeup provided in G.L. 143 Section 94, the boards authority in G.L. 43, Sections 92 and 94 to 100, and how each board member appointment happens G.L. 143 Section 93. The next topics included reviewing requirements for conducting meetings; Chapter 30A Hearings for public boards including the rules, deliberations, and decisions. Next, a review of the Open Meeting Law, the Public Records Law and the exemptions. Lastly, the group reviewed the Conflict of Interest Law.

4. **Discuss** 10<sup>th</sup> edition 2021 I-Codes adoption. Dan Walsh explained the draft Memorandum in today's meeting packet, which includes eight pages of a document emailed to each member of the Board. The emailed version consisted of an additional 34 pages, which provides information published by the International Code Council, summarizing the changes to the 2015 I-Codes reflective in the 2018 I-Codes version. Dan also summarized the draft Memorandum (**EXHIBIT E**). He reviewed the timetable for developing the 10th edition based on the 2021 I-Codes, and that the draft memo considers the final versions of the I-Codes expected to be available 2020, mid-year or later. The process covered in the draft memo includes public hearings and time for the promulgation process and targets these processes to take at least 12 months to complete. This timetable brings the process into mid-year 2021. Should the Board approve a six-month concurrency period, the 10th edition code would come into full force about January 2022. The Board had a general discussion about the adoption process. Some expressed interest in creating a 1&2 dwelling code study group and wondered whether the staff working on the Fire Study Group were known at this time. Some expressed appreciation that Rob Anderson would be helping with the process as he brings a lot of institutional knowledge to this effort. Jen Hoyt talked about her concern that staff might be overburdened and suggested the advisory committees should pick up more of the I-Code chapters. Some spoke about all members of the Board can participate in all the processes. Chairman Crowley closed the discussion.
5. **Review\Discuss** recommendation to the AG's office regarding Brookline Article 8.39 Prohibition on New Fossil Fuel Infrastructure. Chairman Crowley recognized Ben Kaufman, who spoke on behalf of Representative Tommy Vitolo. Mr. Kaufman commenced his comments by urging the Board to take no action because of his opinion that open meeting law requirements as to the posting of today's meeting were not complied with. Specifically, he felt the meeting was not posted within the required timeframes. He also questioned this topic concerning the Town of Brookline is discussed in Western Massachusetts since the meeting location makes it challenging for interested citizens from Brookline to attend. He thereafter read from a letter authored by Representative Vitolo asking the Board to restrict its comments to policy matters related to the Brookline Article (**EXHIBIT F**). Chairman Crowley asked Board Counsel to speak to the posting of today's meeting and the requirements for advertising the meeting. Board Counsel Charles Kilb talked about the meeting posted on Thursday, March 5, 2020, and that the agenda slightly was adjusted Friday, March 6, 2020, before 10 am which conforms to the open meeting law requirements. Counsel Kilb also explained this is the last meeting of the Board before the time to provide comments to the AG's office will expire. Chairman Crowley spoke about this meeting date and location was decided by the Board last December. Some members of the Board concurred this meeting date and location established for some time.

Chairman Crowley then recognized Board Counsel Charles Kilb, who spoke about receiving a request to bring the Brookline Article 8.39 to the Board's attention. Counsel Kilb explained the Board has an opportunity to provide the AG's office guidance on the building code implications that the Ordinance seems to touch but urged the Board not to discuss the policy implications. He urged the Board not to debate whether Article 8.39 is good or not suitable, as the sole concern at this time is not whether this is a good policy but whether, from a legal perspective, this is the appropriate method of addressing the concerns. Counsel Kilb spoke about the time issue, and the Board is not scheduled to meet before the AG would need to have received input. Counsel Kilb suggested he would comprehensively review the Ordinance and the legal analysis now, but the Board could give him the approval to send written guidance to the AG's office with the assistance of the Chairman, this guidance document being specific to the issues discussed at this meeting.

Counsel Kilb explained that the Ordinance creates a new definition of onsite infrastructure as it attempts to regulate piping from a utility meter at the house to an appliance. The Ordinance bans piping between a fossil fuel source and the appliance, and it further speaks to the building inspector prevented from issuing a building permit for this work, the Ordinance does not prohibit the installation of fossil fuel appliances or piping supply said fuel to a property. The Ordinance appears to conflict with the BBR's authority by attempting to regulate building permits, which is problematic because the building code does not regulate when and when not to use fuel. Legal Counsel indicated that building permits are governed by M.G.L. c. 143 and 780 CMR, not local ordinances.

Chairman Crowley spoke about the Ordinance attempting to regulate the building permit is a reach into G.L. 143, and he believes this Board should have Counsel advise the A.G. about this conflict and this in isolation of any other potential issue. Jen Hoyt did not agree, and she is not willing to vote on this today without seeing a written draft and being allowed to edit that draft with the assistance of other DFS staff. Legal Counsel noted that ideally the Board would have more time to vet the matter, but to ensure its comments reach the AG's office in time, action was necessary today. He requested the Board take the time at this meeting to fully understand the matter and not vote until every aspect of its opinion is understood, as the written notice is going to be based solely on the matters discussed. Mike McDowell thinks the Ordinance reaches into G.L. 143 as described and was concerned that the Board may lose its opportunity to comment if action is not taken. John Couture believes this is our opportunity to help the AG's office answer municipalities' interest in regulating matters governed by the building code.

On a MOTION by Mike McDowell, seconded by John Couture, to have Board Counsel, who will work with the Chair, to provide the A.G.'s office guidance on the BBRS's concern that the Ordinance attempts to regulate functions under the BBRS authority, stipulated in G.L. 143. After a brief discussion, it was a unanimous vote. Jen Hoyt abstained.

6. **Discuss** 127 new Construction Supervisor Licenses (CSLs) issued in the month of February 2020. Staff reported everything is in order. No further action taken.

7. **Discuss\Vote** CSL Average Passing Score\Medical\Military\Age or Continuing Education Requirements.

- **Medical:** Rene C.Ovitt CS-022073  
James Mulvey CS-074916

On a MOTION by Michael McDowell, seconded by John Couture, it was unanimously voted to grant Rene C.Ovitt CS-022073 and James Mulvey CS-074916 each a medical waiver.

- **Other:** Steven B. Curtis CS-059434 Waver 6hr. in person training.

On a **MOTION** by Jen Hoyt, seconded by John Couture it was majority voted to Steven B. Curtis CS-059434 waver 6hr. in-person training. Mike McDowell opposed.

8. **Adjourn.** On a **MOTION** by Kerry Dietz, seconded by Jen Hoyt it was unanimously voted to adjourn the regular meeting at about 11:50 am.

#### **EXHIBITS:**

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- A. Meeting Agenda.
- B. Minutes for the February 11, 2020 Board of Building and Regulations and Standards (BBRS) meeting.
- C. Meeting minutes for the February 4, 2020 Building Official Certification Committee (BOCC).
- D. Power Point Handbook review.
- E. Transition to 10th edition 2021 I-Codes.
- F. Representative Tommy Vitolo correspondence.