



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts
Division of Professional Licensure
Office of Public Safety and Inspections
1000 Washington Street • Boston • Massachusetts • 02118

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER
AFFAIRS AND BUSINESS
REGULATION

LAYLA D'EMILIA
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

November 10, 2020 Meeting
Via Teleconference

Board of Building Regulations and Standards (BBRS)

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
Vacant	<input type="checkbox"/> present <input type="checkbox"/> absent	Lisa Davey, Vice Chair	✓ present <input type="checkbox"/> absent
Cheryl Lavalley	<input type="checkbox"/> present ✓ absent	Steve Frederickson	✓ present <input type="checkbox"/> absent
Layla D'Emilia or designee *	✓ 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.*

*** *Vice chair John Couture signed in about 10:35 am.*

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.*

Public Hearing Portion

*The following is meant to provide a synopsis of proposals reviewed and related discussions.
It is not meant to be a verbatim account.*

Roll Call. Chairman Crowley opened the meeting about 10:04 am. by taking, roll call. Board members noted as present above, responded as to present when Chairman Crowley called their name.

Public Hearing. In keeping with tradition, Chairman Crowley opened the public hearing by inviting any member of the legislature or representative of another governmental body to testify out-of-order on any code change proposal. Representative Vitolo spoke about Massachusetts signing into law the Global Warming Solutions Act in 2008 to address Climate Change by developing emission reduction targets and plans and measuring progress toward goals. Reducing onsite carbon emissions from buildings fits these goals. Representative Vitolo

also spoke about Massachusetts adopting in 2008 The Green Communities Act to expand investment in energy efficiency measures that will reduce electricity demand and deliver energy savings to residents and businesses, and focusing on investment in energy efficiency programs. He would like to see the stretch energy code stretched further, and the BBRs has the expertise to do this. He would like to see the BBRs consider eliminating combustions from the code and consider electrification. The EZ Code is an excellent option to achieve this. The BBRs has an opportunity to address carbon reduction.

Chairman Crowley called for testimony relating to:

- **Proposal Number 11-01-2020** – Consider changes to the IECC R403.6, R406.3 and the Reference Standard ANSI/RESNET/ICC 301 (**EXHIBIT B**).

Proponent: Ian Finlayson, Department of Energy Resources.

Ian Finlayson explained these changes do some of the same things that the Board offered to clarify code language to users of the 2018 IECC. The issue relates to the way that energy rating index software people interpret the code.

Chairman Crowley called for testimony relating to:

- **Proposal Number 11-02-2020** – Consider adding to the IECC Chapter 2, Sec 202 – Definitions, and adding a new Sec C405.2.10 - Exterior Luminaires (**EXHIBIT C**).

Proponent: James Lowenthal, MA Chapter International Dark-Sky Association.

Proponent James Lowenthal, President Massachusetts Chapter of the International Dark-Sky Association, talked about reducing light pollution, and uncontrolled exterior lighting and how these conditions affect the animals' health. He explained that the proposal brings principles of light pollution into the building code.

Alex Baker, Illuminating Engineering Society, Nancy Morrison, and John Barentine, Director of Public Policy for the International Dark-Sky Association, spoke in support of the proposal. Reducing light pollution reduces energy.

Leo Smith spoke about helping the State of Connecticut adopting code language requiring shielding exterior lighting.

MIT's Wallace Astrophysical Observatory Site Manager in Westford, Timothy Brothers, lives in Pepperrell, spoke about his concerns with the impacts of light pollution, and supports the proposals. He believes municipalities are adopting light pollution by-laws because the state is not providing leadership.

Chairman Crowley called for testimony relating to:

- **Proposal Number 11-03-2020** – Consider new language for Chapter 115, Appendix AA (**EXHIBIT D**).

Proponent: Darren Port, Northeast Energy Efficiency Partnership.

Proponent Darren Port with Northeast Energy Efficiency Partnership referred to the proposal as Energy Zero Code Version 2.0. He spoke about his proposal reflects an update to the stretch code and offers a prescriptive compliance path to net-zero. It is simpler to use and put forward a simplified regulatory assessment for compliance. Mr. Port talked about the proposed technical requirements work since buildings have been built to the proposal's requirements. From a generally feasible perspective, the requirements work with renewable energy sources. Two independent legal firms have reviewed the proposal, and it does not conflict the laws and regulations of the Commonwealth of Massachusetts. Mr. Port believes the prescriptive pathway has no cost impacts on design cost.

John Couture asked Darren Port why the construction market is not using if the proposal requirements do not increase cost. Mr. Port thinks some that builders making use of the standard, and it is a trend as the Commonwealth moves towards carbon neutrality.

Mark Sandeen, Select Board, Town of Lexington, urged the board to update the Stretch Energy Code to include net-zero.

Ellen Watts and architect with Architerra's supports the proposal, and it provides optimal requirements such as heat pump and solar supports.

Hank Keating, President at Passive House Massachusetts, supports the EZ Code proposal, and we need it for Massachusetts to meet global warming solutions initiatives.

Christopher Cook Chief, Environment, Energy and Open Space at the City of Boston supports developing a net-zero energy code. He talked about the City considering putting net-zero in its zoning code.

Hannah Payne, Climate Change Program Manager, City of Somerville, spoke for Somerville and Cambridge. Ms. Payne talked about the need to lower carbon emissions from buildings, reducing energy usage, and lower carbon emissions. She supports the EZ Code proposal and thinks the BBRs needs to pursue a residential version.

John Odell, head of Worcester's Department of Energy and Asset Management, echoed everything said.

Wellesley Sustainable Energy Committee member Fred Bunger spoke about his town has net-zero energy guidelines for municipal buildings. The procedures include renewable energy sources and electrification.

Newton's Department of Sustainability Director, Ann Berwick spoke their climate action plan includes carbon neutral by 2050. Newton needs the code to require net-zero for the City to make its goal.

Williamstown Selectwoman Anne O'Connor supported the BBRs adopting a net-zero Stretch Energy Code and spoke about creating jobs.

Lead for Sustainable Framingham, Aimee Powelka, supports developing a net-zero Stretch Energy Code.

Julie Janiski, Principal at Buro Happold, supports the code, including net-zero.

Karen Luther, Executive Director for the Northeast Hearth Patio and Barbeque Association, spoke in opposition to the proposal. Her association believes in lowering energy usage but believes in a balanced approach.

Lexington Town Meeting member Tina McBride spoke in favor of the EZ Code.

Lexington Town Meeting member Cynthia Arens supports a net-zero Stretch Energy Code.

Amy Latva-Kokko, a member of the Town of Andover Green Advisory Board, supports the EZ Code proposal.

Michael McDowell spoke about the current state building code gets people safe buildings, and it is a minimum standard. The current code has envelope requirements, and air exchange requirements prevent mold, and more. Pollution from emissions come from other things than buildings.

Chairman Crowley called for testimony relating to:

- **Proposal Number 11-04-2020** – Consider amending the Stretch Energy Code for base code structures (**EXHIBIT E**), and
- **Proposal Number 11-05-2020** – Consider amending the Stretch Energy Code for residential code structures (**EXHIBIT F**).

Proponent for both: Mike Turns, MA Program Administrators.

Proponent Mike Turns explained both proposals intend to have the Stretch Energy Code regulate additions and alterations in residential and commercial buildings differently. Some of the provisions taken from the 2021 International Energy Conservation Code and the New York stretch code. He believes many of the provisions in the proposals are already being achieved in most projects.

On a **MOTION** by John Couture, seconded by Michael McDowell, it was unanimously voted to close the public hearing portion of the meeting @ approximately 11:50 a.m. Roll call: Susan Gleason, David Sullivan, Jen Hoyt, Steve Frederickson, Kerry Dietz, Richard Crowley, Michael McDowell, and John Couture all voted in the affirmative.

Regular Meeting Portion

1. **BBRS Minutes.** On a **MOTION** by David Sullivan seconded by Michael McDowell it was a unanimous voted to approve the minutes (**EXHIBIT G**) for the October 13, 2020 Board of Building Regulations and Standards (BBRS) meeting as submitted. Roll call: John Couture, Steve Frederickson, Kerry Dietz, David Sullivan, Jen Hoyt, Susan Gleason, Michael McDowell, and Chairman Richard Crowley all responded in the affirmative.
2. **Vote** draft BCAB meeting minutes. On a **MOTION** by Kerry Dietz and seconded by David Sullivan, it was a unanimous vote to approve the September 03, 2020, September 22, 2020, and October 01, 2020, draft BCAB meeting minutes (**EXHIBIT H**). Roll call: John Couture, David Sullivan, Jen Hoyt, Susan Gleason, Steve Frederickson, Kerry Dietz, Michael McDowell, and Chairman Richard Crowley all responded in the affirmative.
3. **Discuss\Vote** Flood Standards Study Group. Chairman Crowley recognized Joy Duperault who talked about a revised request to have the Board organize a group to look at the 2021 I-Codes as part of the 10th edition adoption process (**EXHIBIT I**). She explained her interest to have the Board establish a new group for this work.

Dan Walsh explained that as part of the September 2020 meeting, the Board discussed a similar request. At that time, Chairman Crowley expressed interest broaden the Coastal Subgroups mission to include this work. He assigned staff to look into and provide the Board with a recommendation. Dan Walsh explained that subgroups generally have representatives from both government and non-government groups, and the current Coastal Subgroup includes industry and government representatives. He recommended assigning the work associated with examining the flood standards in the 2021 I-Codes to the Coastal Subgroup.

Chairman Crowley recognized Lealdon Langley, who spoke about his interest to have a different group look at the flood standards in the 2021 I-Codes.

Chairman Crowley recognized Rebecca Haney, who spoke about having the Board establish a new group to look at the flood standards. She would prefer not to have this work assigned to the Coastal Subgroup, and looking at the 2012 I-Codes can be done in parallel.

Kerry Dietz asked who the people on the Coastal Subgroup are. Dan Walsh went through the different industries that have representatives include; Home Builders, Commercial Developers, an Architect, the City of Boston, a municipal Building Official, a FEMA representative, a DEP representative, DCR representatives, and CZM representatives.

On a **MOTION** by Michael McDowell and seconded by Susan Gleason, it was a unanimous vote to have the Coastal Subgroup review the flood standards found in the 2021 I-Codes and make recommendations to the Board regarding Massachusetts specific amendments for the 10th edition of the Massachusetts Building Code. Roll call: Lisa Davey, John Couture, Steve Frederickson, David Sullivan, Jen Hoyt, Michael McDowell, Susan Gleason, Kerry Dietz, and Chairman Richard Crowley all responded in the affirmative.

4. **Discuss/Vote** meeting dates and locations for calendar year 2021. Susan Gleason suggested the February meeting date should be February 9 (**EXHIBIT J**). On a **MOTION** by John Couture and seconded by Michael McDowell, it was a unanimous vote to approve the BBRs Meeting Dates 2021 as amended. Roll call: Lisa Davey, John Couture, Steve Frederickson, David Sullivan, Jen Hoyt, Michael McDowell, Susan Gleason, Kerry Dietz, and Chairman Richard Crowley all responded in the affirmative.
5. **Discuss** Construction Contractor Services Certification. Dan Walsh explained the draft changes to the Control Construction Contractor Confirmation document to prevent wage theft (**EXHIBIT K**).

Chairman Richard Crowley talked about changing the control construction document to influence contractors' decisions about the labor they hire. Contractors paying labor as a subcontractor rather than at the labor rate contributes to the underground economy. The proposed changes will get contractors to make different decisions about how they treat their labor.

Kerry Dietz talked about the architect's role does not include monitoring how the contractor handles their labor. She expressed concern that the changes make the architect the arbiter.

Susan Gleason is opposed to the proposed language. She believes the documents are intended to confirm compliance with the building code. Other government entities deal with how contractors treat their hired labor.

Michael McDowell agreed with Susan Gleason. The proposal goes outside the scope of our authority. He expressed concerns that the BBRs does not have the authority to enforce as proposed.

Steve Frederickson spoke about the workers' compensation requirements appears outside the Board's authority, but submitting this documentation with building permit applications is required.

6. **Discuss/Vote** a Medical and an Age reinstatement. Dan Walsh reported Mr. Matson's application is in order. On a **MOTION** by Michael McDowell seconded by John Couture, it was unanimously voted to approve the following reinstatement requests.
 - a. Kevin Maston CS-095547 (*Medical*).

Roll call: Lisa Davey, John Couture, Steve Frederickson, David Sullivan, Jen Hoyt, Michael McDowell, Susan Gleason, Kerry Dietz, and Chairman Richard Crowley all responded in the affirmative.

b. Icie Jones CS-033258 (Age).

Dan Walsh reported that the Icie Jones age reinstatement application meets the criterion with exception of the continuing education requirement. The expiration provisions in the code for age reactivation stipulates; renewal application, certificates of continuing education from expiration date of the license, and the fee. Ms. Jones has acknowledged not having taken the required education but wanted her application be put before the BBRS without any of the continuing education.

On a **MOTION** by Michael McDowell seconded by John Couture, it was a unanimous voted to deny the application. Roll call: Lisa Davey, John Couture, Steve Frederickson, Jen Hoyt, Michael McDowell, Susan Gleason, Kerry Dietz, and Chairman Richard Crowley all responded in the affirmative. David Sullivan abstained.

7. **Adjourn.** On a **MOTION** by David Sullivan, seconded by Michael McDowell it was unanimously voted to adjourn the regular meeting at about 12:40 p.m. Roll call vote: Susan Gleason, David Sullivan, Jen Hoyt, Richard Crowley, Kerry Dietz, Michael McDowell, and voted in the affirmative. John Couture and Lisa Davey were not available for the vote.

EXHIBITS:

- A. Meeting Agenda.
- B. Proposal Number 11-01-2020 – Consider changes to the IECC R403.6, R406.3 and the Reference Standard ANSI/RESNET/ICC 301.
- C. Proposal Number 11-02-2020 – Consider adding to the IECC Chapter 2, Sec 202 – Definitions, and adding a new Sec C405.2.10 - Exterior Luminaires.
- D. Proposal Number 11-03-2020 – Consider amending Chapter 115, Appendix AA.
- E. Proposal Number 11-04-2020 – Consider amending the Stretch Energy Code for base code structures.
- F. Proposal Number 11-05-2020 – Consider amending the Stretch Energy Code for residential code structures.
- G. October 13, 2020 meeting minutes.
- H. Meeting minutes for the BCAB September 03, 2020, September 22, 2020, and October 01, 2020.
- I. Flood Standards Study Group memo 10-29-20 final.
- J. BBRS Meeting Dates 2021 Draft.
- K. Contractor CC Doc. 9th edition conformation letter Draft 10-31-2020