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CHARLES BORSTEL
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Board of Building Regulations and Standards (BBSR)
August 14, 2018 Regular Meeting
Division of Professional Licensure (DPL)
50 Maple Street in Milford

Chairman, John Couture, opened the public hearing at approximately 1:10 p.m.

Chairman Couture took roll call as follows:

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

* Jen Hoyt (JH) participated as the designee for State Fire Marshal, Peter Ostroskey.

General notes on format of these minutes

- 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.

The meeting was divided into 2 parts. The first part was a public hearing to hear testimony on Code Change Proposal number 5-9-2018 that had been voted approved via emergency action during the Board's June 5th meeting. The following is meant to provide a synopsis of testimony. It is not meant to be a verbatim account.

1. **Proposal Number 5-9-2018.** Consider deleting item number 2 under Section 2603.5.5 to coordinate with final amendments made to Sections 1403.5 and 1407.10.4 of the ninth edition code.

Chairman Couture opened the meeting and Rob Anderson explained that, during the June 5th meeting, on a **MOTION** by Kevin Gallagher seconded by Jen Hoyt it was voted in the majority to approve deleting item number 2 via emergency action. This portion of the meeting is intended to serve as the public hearing necessary following an emergency vote where Board members could decide to affirm their June 5th vote or take other reasonable measures based on testimony received. Counsel Charles Kilb further explained that, if Board members did not take any action, the language would default to what was printed in the October, 2017 version of the ninth edition code.

American Institute of Architects (AIA) representative, John Nunnari, read a statement on behalf of the Building Enclosure Council (BEC). The statement, in part, indicated that the exceptions to 780 CMR, Section 2603.5.5 were proposed after lengthy and thoughtful deliberations with BBRs staff and the Fire Prevention\Fire Protection Committee (FPFP). The exceptions were proposed to be withdrawn in reaction to the Grenfell Tower Fire in London. The statement continued to site that the panels used on the Grenfell Tower were not fire-rated and the building was not equipped with an automatic fire sprinkler system, neither which would be allowed under the Massachusetts code exceptions. Eliminating the exceptions, the statement continued, would result in poorer energy and moisture resistance performance in certain building types and therefore, the council advocated that the exceptions remain as approved for the final draft ninth edition code.

Following the BEC's statement, on a **MOTION** by Jen Hoyt seconded by Kerry Dietz it was voted in the majority to affirm the emergency action taken during the June 5th meeting.

On discussion, Jen Hoyt indicated that the matter had been discussed at length and Board members had taken appropriate action based on information known. If differing data is revealed as we segue towards the tenth edition, perhaps discussions can continue.

Rich Crowley expressed that Energy Advisory Committee (EAC) Chairman, Wagdy Anis, offered solid guidance relative to the matter, explaining that the exception requires insulation products to be encapsulated to prevent rapid fire burn. Rich further indicated that the situation that occurred in London could not occur in buildings constructed as authorized by the exception for reasons identified in the EBC statement.

Kerry Dietz asked International Code Council (ICC) Vice President of Government Relations, Dottie Harris, whether or not the ICC is examining the issue. Mr. Harris confirmed that the ICC is discussing the matter and there may be a code change offered in the future.

Following discussion, the motion to affirm the Board's June 5th emergency action was voted approved with Mike McDowell and Rich Crowley voting in opposition.

On a MOTION by Kerry Dietz seconded by Rich Crowley, it was unanimously voted to adjourn the public hearing @ approximately 1:33 p.m. and move to regular business items.

2. **BBRS Minutes.** On a **MOTION** by Rich Crowley seconded by Jen Hoyt it was unanimously voted to approve the minutes (**EXHIBIT B**) for the June 5th, 2018 Board of Building Regulations and Standards (BBRS) meeting as submitted.
3. **BOCC Minutes.** On a **MOTION** by Kerry Dietz seconded by Steve Frederickson it was unanimously voted to approve the minutes (**EXHIBIT C**) for the June 6th, 2018 Building Official Certification Committee (BOCC) meeting as submitted. Chairman Couture also wished to recognize committee members for their work.
4. **Proposal Number 5-1-2018** – Consider adopting 2018 International Energy Conservation Code (IECC) & Discuss Stretch Energy Code Provisions.

Department of Energy Resources (DOER) Deputy Director for the Energy Efficiency Division, Ian Finlayson, reviewed a *PowerPoint* presentation and associated amended pages to the ninth edition residential and commercial code as part of the transition to the 2018 IECC (**EXHIBIT D**). Massachusetts General Law (MGL) c 143, §94(o) requires the BBRs to move towards the most recent version of the IECC within one-year of its issuance and Mr. Finlayson was requesting approval of final amendments so that the new draft code could be advanced to public hearing

On discussion, Kerry Dietz noted that choices listed under Section C406.1 of the revised code language provides 11 options for buildings following both the ASHRAE and IECC models whereas the *PowerPoint* slide references only 6 choices. Kerry advocated for the greater number of choices and Ian agreed.

Rich Crowley indicated that there is still a lot of confusion regarding solar ready roof requirements and suggested that an FAQ be drafted and issued to help clarify. All agreed.

Rich also noted that proposed revisions to the 2018 IECC provides for electric vehicle (EV) charging stations. Rich suggested removing the provisions prior to advancing the code to public hearing. Chairman Couture echoed Rich's suggestion, indicating that the matter has been repeatedly discussed and should not be made part of the code. Resultantly, a **MOTION** was made by Rich Crowley seconded by Mike McDowell to remove EV charging station requirements from the draft and approve the remainder for advancement to a public hearing. The motion failed to pass.

A **MOTION** was then offered by Kevin Gallagher seconded by Kerry Dietz to approve the entire draft as submitted and reviewed by Mr. Finlayson so that the matter may be further discussed as part of a public hearing.

On discussion, Counsel Kilb reminded Board members that the draft should at least substantially reflect language that members intend to adopt as part of the new energy code; that is not to imply that changes cannot be made due to convincing testimony at a hearing or as otherwise decide by Board members, but to the extent possible, the code language reviewed at hearing should be representative of Board desires.

Following a short debate, the motion was approved via a majority with Chairman Couture, Rich Crowley, And Mike McDowell voting in opposition and Rob Anderson abstaining from the vote.

5. **Proposal Number 5-2-2018** – Consider adopting Appendix Q of the International Residential Code pertaining to Tiny Houses.

On a **MOTION** by Rich Crowley seconded by Kevin Gallagher it was voted in the majority to advance Appendix Q forward as an amendment to the ninth edition of the code, independent of the tenth edition effort.

On discussion, Rob Anderson indicated that Board members should refrain from making changes to the ninth edition if the effort is to advance to a tenth edition based on the 2018 I-Codes. Jen Hoyt and Kerry Dietz agreed that it becomes awkward and confusing and, by their estimation, there still may be some issues to be resolved with other agencies relating to tiny houses and it makes more sense to review further as part of the tenth edition revision.

Following discussion, the motion was approved via a majority of Board members with Rob Anderson, Jen Hoyt, and Kerry Dietz voting in opposition.

6. **Proposal Number 5-3-2018** – Consider adopting an amendment particular to Micro Units presented by Mike DiMascio.

Mr. DiMascio presented revisions to his original proposal that was submitted as part of the May statutory public hearing basing changes on language that currently exists in the code relative to efficiency units. Mr. DiMascio noted that micro units as described in his proposal are really just smaller versions of what the code already defines as efficiency units.

Kerry Dietz noted the proposal still needs to clarify what is intended for light and ventilation and was concerned about conflicts with other code bodies. Other Board members also indicated that the proposal needs further refinement.

Following discussion, on a **MOTION** by Rich Crowley seconded by Kerry Dietz it was unanimously voted to table the measure for another 30 days to allow Mr. DiMascio further time to address concerns raised.

7. **Tenth Edition 780 CMR.** Rob Anderson reported that Energy Advisory Committee (EAC), Fire Prevention\Fire Protection Committee (FPFP) and Existing Building Committee (EBC) members have reviewed whether or not it is possible to advance towards the 2018 I-Codes to comprise 780 CMR Tenth Edition within one-year determining that it was possible. Rob indicated that Structural and Geotechnical Advisory Committee members had not yet met, but would weigh-in shortly.

Massachusetts Federation of Building Officials (MFBO) President, Robert Borden, indicated that it is unfair to advance so quickly recognizing that there has been little training on the current version of the code and will likely not be much more for a new version which causes confusion and frustration among building code enforcement officials and code users.

8. **Flood Resistant Construction.** Audience member\Department of Conservation and Recreation Representative, Eric Carlson, indicated that there is some ambiguity in the commercial (base) code with regard to the referenced topic. Mr. Carlson had proposed a series of FAQs relating to the residential code that were reviewed and approved by Board members at a previous meeting and he has revised the FAQs to address similar issues of concern in the commercial code.

Following a brief discussion, on a **MOTION** by Jen Hoyt seconded by Lisa Davey it was unanimously voted approve the commercial (base) code FAQs as written (**EXHIBIT E**).

9. **New Construction Supervisor Licenses.** On a **MOTION** by Kerry Dietz seconded by Susan Gleason it was voted in the majority to approve 267 new construction supervisors licenses (CSLs) issued during the months of June and July, 2018. Rich Crowley and Mike McDowell abstained from the vote.

10. **New Construction Supervisor Licenses Vote Policy.** Rob Anderson introduced the topic of creating a policy relative to voting approval of construction supervisor licenses, indicating that Rich Crowley has been advised not to vote a license for any person whom he had as a student.

Counsel Kilb noted that Board members have several options to consider; perhaps the simplest is not to vote approval of licensees. In explanation, he noted that BBRS staff currently and have for a long time process license applications as they are filed and the monthly vote merely acknowledges that the licenses have been issued. Since Board members have tasked staff with issuing licenses daily in accordance with established procedures, a monthly vote of approval is not necessary. Instead, Board members can be informed of licenses issued each month and discuss any issues they may have relative to the process, but do not need to vote approval of the licenses, thereby negating the issue raised by Mr. Crowley.

Following discussion, on a MOTION by Rich Crowley seconded by Kerry Dietz it was unanimously voted to approve a change to the process that does not require a monthly vote of the Board relative to construction supervisor licensees. Board members would still discuss any issues as part of the regular agenda, but would not vote on license approval.

11. **Renewal of Construction Supervisor Licenses.** Further to the discussion above, Rob Anderson indicated that BBRS staff have, for a long time, carried out all duties pertaining to the renewal of construction supervisor licenses (CSL). CSL continuing education requirements became effective in 2013 just as the then Department of Public Safety (DPS) had acquired a new software system called My License Office (MLO) to process licenses. As part of the renewal process, it was decided that all continuing education courses would be logged into MLO. Although it made some sense, it has become burdensome, redundant and unnecessary over the years. Now that the BBRS is under the umbrella of the Office of Public Safety\Division of Professional Licensure (DPL), the CSL renewal process may be changed to follow DPL policies concerning monitoring and auditing licensees for continuing education rather than logging information into the system. Rob just wanted to make Board members aware of the potential change.

Board members agreed that staff should use the most expeditious process as they see fit. However, Mike McDowell raised a concern that checking whether or not a CSL also possesses a Home Improvement Contractor (HIC) registration has also slowed-down license production considerably. Mike protested that the process is unnecessary and the construction supervisor licensees are unfairly targeted. Chairman Couture agreed that the matter should be further investigated and that Board members should reach-out to appropriate legislators to see if the program should be revised or eliminated.

12. **Construction Supervisor License Exceptions.** Rob Anderson also reviewed each of the varied reason why a construction supervisor may request reinstatement of license beyond a typical renewal cycle. Rob indicated that 780 CMR, Section 110.R5.2.4 allows reinstatement for a number of reasons including medical or military interference with a candidate's ability to renew a license and even an age consideration. Rob wished to make it clear to Board members that, when reviewing an application for renewal due to a medical or military reason, the candidate does not need to make-up delinquent continuing education credits whereas an age consideration candidate does. Board members agreed that the policy is clear in the regulation and is being correctly applied by staff under the exception categories.

13. **Vehicular and Pedestrian Bridges.** Rob Anderson withdrew the request for interpretation.

14. **Construction Material Safety Board (CMSB).** Rob Anderson identified that a request had been made to re-establish the CMSB. Rob identified that the CMSB was active for a number of years, but was disbanded mostly due to the ageing-out of members. Rob indicated that membership was very helpful in viewing new products for code compliance and, with new technologies developing rapidly, suggested it may be a good idea to reconstitute the committee.

Following a brief discussion, Board members agreed to consider the request once membership credentials are established. Some suggested that membership should include, among others, an architect, building official, general contractor, and someone knowledgeable in sustainability and health care issues.

15. **Construction Supervisor License Exceptions.** On a **MOTION** by Kevin Gallagher seconded by Kerry it was unanimously voted to approve the following reinstatement requests. Approvals of Mr. Arroyo and Skowyra were contingent upon receipt of recommendation letters as required by 780 CMR, Section 110.R5.2.5.

- a.) Richard Truehart CS-015556 (*age*)
- b.) Robert Squillante CS-083556 (*medical*)
- c.) Horman Carcamo CS-080811 (*medical*)
- d.) Edward Mottau CS-074827(*medical*)
- e.) Ruben Arroyo (*Average Passing Score*)
- f.) Adam Skowyra (*Average Passing Score*)

16. **Meeting Schedule.** Kevin Gallagher asked if Board members were still scheduled to meet in western MA later in the year as he would like to invite scientist who has studied recent reflected light fires. Rob Anderson explained that he had hoped to convene a western MA meeting in September but was unable to secure space.

17. **Adjourn.** On a **MOTION** by Kerry Dietz seconded by Jen Hoyt it was unanimously voted to adjourn the meeting @ 3:48 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. June 5, 2018 Board of Building Regulations and Standards (BBRS) meeting minutes.
- C. June 6, 2018 Building Official Certification Committee (BOCC) meeting minutes.
- D. IECC *PowerPoint* presentation and associated code revisions.
- E. Flood resistant construction FAQs.