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CHARLES BORSTEL
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Board of Building Regulations and Standards (BBRS)

January 8, 2019 Meeting
The Boston Society of Architects (BSA)
290 Congress Street – Suite 200 – Boston - 02210

Chairman, John Couture, opened the public hearing portion of the meeting 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	<input type="checkbox"/> present ✓ 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 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.

1. **BBRS Minutes.** On a **MOTION** by Kerry Dietz seconded by Rich Crowley it was unanimously voted to approve the minutes for the December 11, 2018 Board of Building and Regulations and Standards (BBRS) meeting as submitted (**EXHIBIT B**).
2. **BOCC Minutes.** On a **MOTION** by Kerry Dietz seconded by Rich Crowley it was unanimously voted to approve the minutes for the November 7, 2018 Building Official Certification Committee (BOCC) meeting as submitted (**EXHIBIT C**).
3. **BOCC Minutes.** On a **MOTION** by Kerry Dietz seconded by Steve Frederickson it was unanimously voted to approve the minutes for the December 5, 2018 Building Official Certification Committee (BOCC) meeting as submitted (**EXHIBIT D**).

On discussion, Kerry Dietz noted that item number 7d in the November meeting describes a situation similar to the Town of Douglas issue and questioned whether or not the minutes should be approved.

OPSI Counsel, Charles Kilb, noted that the two cases are different in that point 7d describes a situation in Everett wherein a consulting service has been hired to assist the duly appointed building commissioner with inspection procedures relating to an unusual and complex casino project whereas the Town of Douglas had proposed only to employ a consulting service, absent an appointed building official. Also, approving the minutes simply means that members agree that they provide an accurate accounting of what transpired during the meeting.

4. **Review\Respond** to open meeting law violation claims made by Town of Douglas Administrator, Matthew J. Wojcik and draft response denying said claims (**EXHIBIT E**).

Rob Anderson explained that the letter alleges several violations of open meeting law practices, including:

- Failing to appropriately post the meeting notice; and
- Failing to sufficiently detail the meeting topic.

Rob explained that OPSI Counsel, Charles Kilb, drafted a response, dated January 9, 2019, addressing the allegations that must be reviewed and approved by Board members.

Counsel Kilb summarized contents of the response indicating that the December 11, 2018 agenda had indeed been posted timely to the OPSI\BBRS website and, remains available at the site; copies were forwarded to Administration and Finance (ANF) and the Secretary of State's regulation division. With reference to specificity of the agenda item, Counsel Kilb explained that the letter received by Massachusetts Federation of Building Officials (MFBO) President, Robert Borden, alleged certain activities were taking place in the Town of Douglas in violation of general law c. 143, §3. The agenda item was intended to initiate discussion by Board members in order to craft a response to MFBO and appropriately follow-up with Town of Douglas authorities, if warranted.

Counsel Kilb further explained that Rob Anderson had attempted to call Douglas Town Administrator, Matthew Wojcik, on several occasions, but was not able to get through and/or leave a message. Rob wanted to speak with Mr. Wojcik to determine the veracity of claims made in the letter. Failing to contact Mr. Wojcik by phone, Rob sent an email message informing him of concerns, attaching the MFBO letter, and letting him know that Board members would discuss the matter during the December meeting.

OPSI did not receive a response from the Town of Douglas until just prior to the meeting on December 11th when someone called Rob to let him know that a town representative would attend the meeting. Accordingly, the representative was afforded time to speak during the meeting. It was information provided by the employee that prompted action by the Board. Prior to that, Board members were not certain whether or not allegations outlined in the MFBO letter were true.

In short, Counsel Kilb explained that claims of open meeting law violations are unfounded in his view. Nonetheless, the charges have to be addressed with the complainant and Office of the Attorney General (AG). Ultimately, the AG will determine whether any laws were violated.

Following a brief discussion wherein 2 typographical corrections were noted, on a **MOTION** by Rich Crowley seconded by Kerry Dietz it was unanimously voted to approve contents of the letter.

5. **Review\ Ratify** letter sent to Town of Douglas Administrator Matthew J. Wojcik on December 20, 2018 regarding the Town's obligation to employ and designate a Building Commissioner who meets the BBRs' certification requirements and noting that no business entities are so certified (**EXHIBIT F**).

Counsel Kilb explained that he drafted the referenced letter to Mr. Wojcik as directed by the Board's action during the December meeting. The letter was issued over Rob's signature as division chief but should be reviewed by Board members and ratified as accurate.

Following a brief discussion, on a **MOTION** by Kerry Dietz seconded by Rich Crowley it was unanimously voted to ratify contents of the letter.

6. **Review\ Vote** approval of the 2018 International Energy Conservation Code (IECC) as modified by Massachusetts proposed amendments, inclusive of the Stretch Energy Code, in accordance with Massachusetts General Law (MGL) c143, §94(o). The 2018 IECC may be viewed @ <https://codes.iccsafe.org/content/IECC2018P2>.

Energy Advisory Committee (EAC) Chairman, Ian Finlayson, distributed and reviewed EAC minutes for the January 3rd meeting (**EXHIBIT G**). Ian noted that Board members approved draft amendments back in August. However, in the interim, several proposals were submitted via the November and December hearings and EAC members have reconsidered certain portions of the August draft based on actions taken by the International Code Council (ICC). Ian reviewed each enumerated code change referenced in the minutes, explaining that EAC members have made recommendations on some, but not all proposals. Accordingly, the EAC plans to meet at least one more time in order to present a final, coordinated amendment package for the Board's consideration.

Rich Crowley noted the Board's desire to lessen the number of amendments to the I-Codes and questioned whether any of the proposed Massachusetts will be submitted to ICC for review?

Ian noted that many of the Massachusetts amendments currently proposed will be submitted for consideration of inclusion in the 20121 IECC.

Rich asked for a listing of the proposals that will be submitted to the ICC.

Kevin Rose from National Grid indicated that at least 2 residential and 1 of the commercial proposals will be forwarded to the ICC for review.

In response to questions from Kerry Dietz, Ian explained that electric vehicle (EV) charging station requirements remain part of the proposed amendments and there are very few changes proposed to the Stretch Energy Code at this time, although there may be additional amendments proposed to the stretch code at a later date.

Kerry noted that it is often difficult to understand and explain stretch code requirements to clients and requested that, as we move forward, every effort is made sort out details to make it easier for the end user to understand and apply.

Recognizing that the EAC still has work to do to complete a final, comprehensive amendment package, a **MOTION** was made by Kerry Dietz seconded by Rich Crowley to table action until at least the February meeting to allow sufficient time for the EAC to complete its review.

On discussion, Chairman Couture indicated that he wanted the final amendment package to be distributed to Board members at least 2 weeks prior to the February meeting so that they are able to review and make not of any questions.

Following discussion, the **MOTION** was unanimously voted approved.

7. **Discuss Progress Towards Tenth Edition 780 CMR.** Rob Anderson indicated that all established technical committees are continuing their review of 2018 I-Codes and related Massachusetts amendments.
8. **Review** presentation of the *International Green Construction Code* (IgCC). The 2018 IgCC may be viewed @ [https://codes.iccsafe.org/category/I-Codes?year\[\]=2018&page=2](https://codes.iccsafe.org/category/I-Codes?year[]=2018&page=2).

Dottie Harris, ICC Vice President, Government Relations, reviewed a *PowerPoint Presentation* relating to requirements of the *International Green Construction Code* (IgCC) (**EXHIBIT H**). Dottie explained that that green building technologies are increasingly being introduced into traditional building codes. The IgCC addresses (*among other things*):

- Optimum site selection in consideration of energy conservation;
- Innovative water conservation methods;
- Advanced energy efficiency methodologies;
- Renewable energy resources;
- Indoor environmental quality; and
- Resource conservation.

Dottie noted that the overall intent of the IgCC is to offer a strong and successful energy conscious code to help create the best communities for today without compromising the needs of future generations.

9. **Discuss Progress of the Manufactured Buildings Study Group.** OPSI Manufactured Buildings Director, Dan Walsh, gave an overview of the group's efforts indicating that they have not completed all necessary steps, but have scheduled a meeting for January 25th with hopes of drawing the effort to a close.

Dan reiterated that there has been a lot of public participation during study group meetings and that suggested procedural and regulatory changes reflect suggestions made by attendees of the public meetings. Dan reviewed concepts developed by study group members that concentrate

on appropriately educating those involved in the process as to expectations and differences that may be encountered during a manufactured building project versus a conventionally built structure. Better, more detail education is intended for Third Party Inspection Agents (TPIAs), installers of manufactured building product, licensed construction supervisors, and code enforcement officials.

OPSI Building Inspector, Gordon Bailey, raised a question relating to whether or not homeowners may be allowed to monitor construction following set of the manufactured building product. Inspector Bailey noted that there has been varied opinions on this matter offered over the years and requested that clear and consistent guidance be offered as part of this review effort.

Both Cheryl Lavalley and Kerry Dietz noted that the role of the TPIA must be more clearly defined and TPIAs need to be held accountable when deficiencies are discovered. Kerry Dietz further noted that TPIAs should be work for and on the behalf of building owners, not the manufacturers.

Dan noted that these and other matters will be reviewed during the next meeting.

10. **Discuss approval of 152 new CSLs issued in the month of December, 2018.**

Board members acknowledged approval of the new CSLs issued in the month of December, 2018.

11. **Discuss\Vote** Draft FAQ for Residential Code pertaining to Sections R105.3.1.1, R322, AJ101.3 (EXHIBIT I).

Eric Carlson from the Department of Conservation and Recreation (DCR) introduce the topic noting that Board members began review and discussion of the topic during the December meeting, but deferred action to allow a bit more time to consider the matter. Eric explained that he, and others from his office, work closely with Federal Emergency Management Agency (FEMA) representatives regarding coastal zone issues. Eric noted that he provides education to building code enforcement officials and others regarding coastal matters and substantial improvements to buildings located in the flood plain. Eric explained that the FAQs attempt to clarify issues raised at varied trainings.

Chairman Couture noted that code requirements should not discourage renovation of buildings, whether or not located in the flood plain. It is often difficult for a typical home owner to comply with flood plain provisions.

Eric explained that the FAQ presents information excerpted directly from federal guidelines and are offered to ensure that everyone is clear as to FEMA requirements for flood plain construction.

Jen Hoyt noted that the FAQ provides clear and helpful guidance and therefore made a **MOTION** to approve the draft as written. Kerry Dietz seconded to **MOTION**.

Following a brief discussion, it was unanimously voted to approve the **MOTION**.

12. **Discuss CSL Average Passing Score\Medical\Military\ Age or Continuing Education Requirements.**
None this month.

13. **Review\Approve** CSL Exam Transition Team members.

Rob Anderson noted that work must begin soon on the Construction Supervisor License (CSL) exam transition from the ninth to tenth edition code. Rob noted that Board members approved the make-up of the transition team for the last iteration of the code, but noted requested change to the make-up for the current effort (*in red text*).

- Mark LaPointe, Building Inspector, OPSI
- John Bennett, Building Inspector, OPSI
- Paul Ormond, DOER
- Desmond Stewart, Prometric
- **Henry Fontaine, Municipal Building Inspector**
- Michael Duffany, Builder
- Robert Anderson, BBRS
- Dan Walsh, OPSI Staff

14. **Review\Approve** Dave Sullivan to serve as BBRS representative for February BOCC meeting.

Rob Anderson explained that, due to changes in the BBRS meeting schedule for 2019 and other matters, there are a few conflicts that need to be addressed. The first relates to the scheduled February 5th Building Official Certification Committee (BOCC) meeting. Rob noted that in addition to the BBRS schedule, OPSI is providing mandatory Amusement Device Safety Training to its inspectors during week of February 4th through 8th. The weeklong training is required to maintain national inspection certification status for the inspectors. OPSI Building Inspector, William Horrocks, serves on the BOCC as the Board's representative. In order to allow the meeting to take place with Board representation, Rob requested that OPSI Assistant Chief of Inspections, Dave Sullivan, be appointed to serve in place of Inspector Horrocks during the February meeting.

On a **MOTION** by Rich Crowley seconded by Kerry Dietz it was unanimously voted to approve the appointment of Assistant Chief Sullivan as requested.

15. **Review\Discuss** Board of Building Regulations and Standards Member Handbook including reminders regarding the Open Meeting Law.

Rob Anderson confirmed that all Board members have received copies of the member handbook and encouraged that they peruse its contents, most particularly the Board's statutory powers and duties as established by MGL Chapter 143, §§93 through 100.

16. **Vote** BBRS chair and vice-chair.

- On a **MOTION** by Rich Crowley seconded by Rob Anderson it was unanimously voted to elect John Couture to a second term as Board Chair.
- On a **MOTION** by Jen Hoyt seconded by John Couture it was unanimously voted to elect Kerry Dietz to a second term as Board Vice Chair.
- On a **MOTION** by John Couture seconded by Rob Anderson it was unanimously voted to elect Rich Crowley to a second term as Board Second Vice Chair.

17. **Discuss other matters not reasonably anticipated 2 business days in advance of meeting.**

None this month.

18. **Adjourn.** On a **MOTION** by Jen Hoyt seconded by Kerry Dietz it was unanimously voted to adjourn the meeting at approximately 12:14 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. Minutes for the December 11, 2018 Board of Building and Regulations and Standards (BBRS) meeting.
- C. Minutes for the November 7, 2018 Building Official Certification Committee (BOCC) meeting.
- D. Minutes for the December 5, 2018 Building Official Certification Committee (BOCC) meeting.
- E. January 9, 2019 letter addressing open meeting law violation claims made by Town of Douglas Administrator, Matthew J. Wojcik.
- F. December 20, 2018 to Town of Douglas Administrator Matthew J. Wojcik regarding the Town's obligation to employ and designate a Building Commissioner who meets the BBRS' certification requirements.
- G. EAC minutes for the January 3, 2019 meeting.
- H. **PowerPoint Presentation** relating to requirements of the *International Green Construction Code* (IgCC)
- I. Draft FAQ for Residential Code pertaining to Sections R105.3.1.1, R322, AJ101.3.