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Board of Building Regulations and Standards (BBRS)

March 12, 2019 Meeting

Springfield Technical Community College (STCC) - Building 2 Room 703-704

1 Armory Square in Springfield, 01105

Chairman, John Couture, opened the public hearing portion of the meeting at approximately 10:10 a.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	<input type="checkbox"/> present ✓ 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 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 Mike McDowell it was voted in the majority to approve the minutes for the February 5, 2019 Board of Building and Regulations and Standards (BBRS) meeting as submitted (**EXHIBIT B**).

Rob Anderson, Lisa Davey, and Kevin Gallagher abstained from the vote.

2. **BOCC Minutes.** On a **MOTION** by Mike McDowell seconded by Kevin Gallagher it was unanimously voted to approve the minutes for the January 2, and February 5, 2019 Building Official Certification Committee (BOCC) meeting as submitted (**EXHIBIT C**).

On discussion, Chairman Couture asked OPSI Building Inspector, William Horrocks, who serves as the Board's representative of the BOCC, if there are any concerns regarding BOCC business. Inspector Horrocks expressed security concern with *Pronto* building official certification exams made available through the *International Code Council* (ICC) that allow candidates to take exams via their home computer.

ICC Vice President of Government Relations, Dottie Harris, indicated *Pronto* exams are offered to candidates for convenience, particularly those who live in rural areas of the country. Ms. Harris assured members that candidates are monitored by strict protocols while taking the exam and pass rates are comparable to convention computer-based exams.

Chairman Couture indicated that he did not want to stray too far from the agenda due to its length. Therefore, he ask to suspend discussions on the issue until the next meeting.

3. **Review\Vote** 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), and recent comments received regarding adoption of new energy code. The 2018 IECC may be viewed @ <https://codes.iccsafe.org/content/IECC2018P2> (EXHIBIT D).

Summary of General Discussion of Energy Advisory Committee (EAC) Make-up:

Chairman Couture indicated that he and Vice Chair, Kerry Dietz, attended a high level meeting, with gubernatorial staff and others, concerning the new energy code where it was agreed that electric vehicle (EV) and other requirements should be more fully reviewed before adoption.

Rich Crowley indicated that energy code language is too complex and local contractors are still getting requests to increase structural strength of roof framing members to accommodate solar ready requirements of the code. Rich raised concerns regarding the make-up of the Energy Advisory Committee (EAC).

Chairman Couture asked if we should review membership at a coming meeting.

Kerry Dietz cautioned that Board members rely on volunteers to serve on the varied advisory committees. Further, she suggested that, if Board members determined it necessary, all advisory committee make-up should be reviewed, not just the EAC.

Jen Hoyt expressed that each committee is comprised of learned, technically competent individuals. In particular, the EAC has many forward-thinking members who engage in thoughtful debate during its meetings. Jen suggested that, if Board members are not satisfied with information coming from advisory committees, better direction should be provided to committee membership.

Chairman Couture expressed deep concern that we are spending enormous amounts of time on energy consumption aspects of the code and little time on other equally important matters.

Massachusetts Federation of Building Officials (MFBO) President, Robert Borden, concurred that energy code issues are extremely complex and time consuming which challenges plan review and inspection resources at the local level.

EAC Chairman, Ian Finlayson, identified that the committee includes an impressive array of engineers and other industry professionals and agreed that better guidance to advisory committee members is probably needed.

Rich Crowley concluded that he believes Board members should review the make-up of each advisory committee to ensure appropriate representation.

Summary of Discussion Specific to Adoption of the 2018 IECC with Massachusetts Amendments:

American Institute of Architects (AIA) representative, John Nunnari, presented two (2) letters to Board members; one from endorsed by 49 members of the Massachusetts legislature urging Board members to vote adoption of new code requirements (**EXHIBIT E**) and one from leaders of the electric utility sectors with a similar message (**EXHIBIT E**). Mr. Nunnari echoed opinions expressed in the letter indicating that Board members have reviewed proposed, new energy provisions on numerous occasions and that it was time for a vote as indicated on the Board's agenda.

Commercial Real Estate Development (NAIOP) CEO, Tamara Small, expressed that her organization has also submitted a letter (**EXHIBIT G**) identifying that there is still a great deal of concern with regard to proposed energy provisions, as well as confusion. Ms. Small identified that NAIOP has received extensive feedback from developers, owners, architects, engineers and code consultants who have concerns with proposed requirements.

Ms. Small acknowledged the commonwealth's obligation to adopt the latest version of the IECC within one year of its publication, she and NAIOP membership are concerned that many of the Massachusetts proposed changes go beyond requirements of the 2018 IECC. Ms. Small also emphasized NAIOP's continued position that electric vehicle (EV) readiness requirements should be a market-based option for consumers, not a code mandate.

Audience members, Mark Sardegna and David Venturo expressed concerns with photovoltaic roof area requirements and window to wall ratios respectively, among other things.

EAC Chairman, Ian Finlayson, indicated that there still appears to be confusion with regard to proposed changes, so perhaps Board members should consider a slower pace to adoption.

Several Board members questioned what statutory requirements are imposed on the Board regarding the issue.

Rob Anderson read directly from general law, chapter 143, §94(o) which states that Board members are *"To adopt and fully integrate the latest International Energy Conservation Code as part of the state building code, together with any more stringent energy-efficiency provisions that the board, in consultation with the department of energy resources, concludes are warranted. The energy provisions of the state building code shall be updated within 1 year of any revision to the International Energy Conservation Code"*.

Several Board members questioned whether or not we could adopt the 2018 IECC absent Massachusetts amendments. In response, EAC Chair, Ian Finlayson noted that Board members are required to consult with the Department of Energy Resources (DOER) regarding energy code content.

Chairman Couture emphasized that it appeared obvious that confusion remains with regard to proposed energy code content and, once again, suggested that Board members should take more time to evaluate provisions, in particular, EV readiness.

Rob Anderson suggested that Board members delay a final vote to address concerns raised by NAIOP and others, perhaps reviewing each issue with members of the EAC in order to lend clarity. OPSI Counsel, Charles Kilb, agreed that Board members may want to consider the option.

Chief Kevin Gallagher emphasized that Board members are autonomous and should not be influenced by others. Kerry Dietz expressed that the major issue raised during the gubernatorial meeting concerned proposed EV requirements and suggested that Board members focus on revising the EV language to make it more palatable.

Chairman Couture indicated that his research indicated that there are about 250,000 electric vehicles currently in use nation-wide and that some property developers are providing charging stations for convenience and as marketing, therefore, EV requirements really should not be a code requirement. However, if they are to remain, EV requirements should be lessened and clarified, possibly just requiring 1 EV space per use group when 40 or more vehicle parking spaces are provided.

Mike McDowell raised concerns about location of the EV ready space within a lot, referencing that there are already reserved parking requirements for handicapped persons and others, adding EV will further reduce available parking.

Chairman Couture again expressed the desire to delay action on approving new energy code requirements and asked to table a vote until the April meeting. Mike McDowell, Rich Crowley, Rob Anderson, Steve Frederickson and Chairman Couture were in favor of tabling action until the next meeting. Five (5) other members were opposed causing a tie and therefore, failed vote to table.

Kerry Dietz requested that time be dedicated to revising proposed EV language to a more acceptable level to bring closure to the matter and allow a vote on the full energy code package.

Chairman Couture allowed 10 minutes to revise the section.

OPSI Building Inspector, William Horrocks, suggested that EV provisions are more appropriate for zoning regulations, since parking is not mandated by the building code. If provided in the building code, he suggested that the AAB parking requirements table as established in 521 CMR should be used as a template.

Some time was spent reviewing and revising 521 CMR requirements to reflect proposed EV requirements as a function of parking spaces provided. A **MOTION** was offered by Kerry Dietz to approve a modified version of 521 CMR table requirements to establish EV readiness requirements in 780 CMR, the motion was seconded by Jen Hoyt. However, the **MOTION** failed with 5 members, Chairman Couture, Mike McDowell, Rob Anderson, Steve Frederickson, and Rich Crowley voting in opposition.

Chairman Couture noted that members appear to be polarized on the issue and again suggested delaying action. OPSI Counsel Charles Kilb and Rob Anderson also advocated to bring lingering concerns back to the EAC for further discussion and clarification.

Kevin Gallagher asked Counsel Kilb if Board members could vote to convene an *Executive Session* to further discuss these matters.

Counsel Kilb indicated that there are specific reasons to convene an *Executive Session* and this discussion would seem to be a bit outside what is intended.

At this point (12:15 p.m.), Chairman Couture called for a 10 minute break. Upon return @ 12:25, Chairman Couture directed that the matter needed to be resolved so that other agenda items could be addressed.

OPSI Technical Coordinated, Cesar Lastra, made changes to the 2018 IECC based on specifications offered by Board members. Images of the change to Sections R404.2, R502.2.7 and C405.10 were displayed via *PowerPoint* projection.

Resultantly, a **MOTION** was offered by Kevin Gallagher, seconded by Kerry Dietz to revise the 2018 International Energy Conservation Code (IECC) to establish requirements for EV readiness as follows:

C405.10 Electric Vehicle Charging Spaces ("EV Ready Spaces") (Mandatory). Group A-1, B, E, I, M and R buildings with 15 or more spaces shall provide one *EV Ready Space*.

The branch circuit shall be identified as "EV READY" in the service panel or subpanel directory, and the termination location shall be marked as "EV READY". The circuit shall terminate in a NEMA receptacle or a Society of Automotive Engineers (SAE) standard J1772 electrical connector.

Exceptions:

1. Parking spaces and garage spaces intended exclusively for storage of vehicles for retail sale or vehicle service.
2. This requirement will be considered met if all spaces which are not EV Ready are separated from the meter by a public right-of-way.
3. Any 50-ampere branch circuit may be replaced by 3 or more "EV READY" labelled 20-ampere branch circuits and terminations where additional spaces are available.

**SECTION R404
ELECTRICAL POWER AND LIGHTING SYSTEMS**

R404.1 Lighting equipment (Mandatory).

Not less than 90 percent of the permanently installed lighting fixtures shall contain only high-efficacy lamps.

R404.1.1 Lighting equipment (Mandatory).

Fuel gas lighting systems shall not have continuously burning pilot lights.

R404.2. Electrical Vehicle Charging Spaces.

RESERVED - Not Required for One or Two family homes

The **MOTION** was approved by majority vote with 2 opposed, Mike McDowell and Steve Frederickson; and 1 abstention, Rob Anderson.

Additionally, on a **MOTION** by Kerry Dietz seconded by Cheryl Lavalley, it was voted in the majority to approve the 2018 *International Energy Conservation Code* (IECC) with amendments, and as further amended during this meeting, as the new 780 CMR energy code.

Mike McDowell and Steve Frederickson voted in opposition.

Finally, on a MOTION by Jen Hoyt, seconded by Lisa Davey Board members agreed to a January 1, 2020 effective date for the new energy code.

4. **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. The Geotechnical Advisory Committee is almost complete and will be reporting its recommendations shortly, likely in April or May, with other committees to follow. Rob also noted that OPSI building inspectors and staff will review Chapters 1 in the IBC and IRC as well as technical content of the International Residential Code (IRC) for proposed tenth edition amendments.

Cesar Lastra noted that Bill Hagen, long serving member of the Structural Advisory Committee (SAC) will be stepping down from committee. Board members requested that a letter of thanks be forwarded to him in recognition of his service.

Jen Hoyt noted that the Fire Prevention\Fire Protection Committee (FPFP) has not met in a few months, but is scheduled to resume its meeting schedule. Work assignments had been issued to members and it is the intent of the committee to complete its work mid-year.

Dan Walsh noted that the Existing Buildings Advisory Committee is about one-third of the way complete with its task.

5. **Discuss Progress of the Manufactured Buildings Study Group.** OPSI Manufactured Buildings Director, Dan Walsh, indicated that the study group is continuing its work, presently making a side-by-side, line-by-line comparison of eighth vs. ninth edition requirements of 780 CMR Chapter 110.R3. The committee is scheduled to meet at 1:30 p.m. today, following the BBRS meeting.
6. **Discuss** proposed legislation affecting the BBRS and\or building code. OPSI Counsel, Charles Kilb, noted that OPSI Boards may speak about legislative issues during meetings if they wish, but OPSI staff may not weigh-in on legislative issues unless requested to do so internally. John High is an attorney with the Division of Professional Licensure (DPL) who handles all legislative and public relations initiatives affecting OPSI; staff works with John as necessary to formulate responses to such issues. OPSI staff does not testify before legislative bodies. Members of the BBRS are free to do so as long as they participate in their own capacity; i.e.: representing the homebuilders or trades, not as a representative of the BBRS.
7. **Discuss\Vote** elevator ventilation requirement FAQ. Rob Anderson asked this issue to be tabled.

8. **Discuss approval of 140 new CSLs issued in the month of February, 2019.**

Board members acknowledged approval of the new CSLs issued.

9. **Discuss\Vote** qualifications submitted by Thomas Keating to sit for the CSL examination. Rob Anderson explained that, from time to time *Prometric* (as the exam administrator) or a candidate him\herself, will inquire about whether or not qualifications meet standards established to sit for the exam. In such instances, Rob asks for the qualifications to be submitted in writing via email for review. Rob reviews, and most often, is comfortable accepting the qualifications. At times, Rob asks for review by Board members if qualifications are minimal. In this instance, Board members were comfortable with the qualifications forwarded by Mr. Keating and therefore approved the following motion. Additionally, Board members clarified that it is not necessary to bring these issues forward in the future. Instead, Board members indicated that they are comfortable with a review by staff.

On a **MOTION** by Mike McDowell, seconded by Jen Hoyt is was unanimously voted to allow Mr. Keating to sit for the examination based on qualifications presented.

10. **Review** crumbling foundations issue affecting certain Massachusetts communities. Rob Anderson explained that the OPSI was approached by Senator Anne Gobi's office to assist with an unusual issue that is occurring in certain areas towards the central portion of the commonwealth. In short, pyrrhotite, which is an iron sulfide mineral, has been found in at least one quarry in northeastern Connecticut. When extracting material from the quarry for use in concrete mix, pyrrhotite sometimes gets blended into the mix. Over time, pyrrhotite that is exposed to oxygen and water, reacts and causes swelling and cracking. As a structure continues to deteriorate, it often becomes structurally unsound.

This issue first came to light in\around the Stafford, Connecticut area where hundreds of concrete home foundations have been catastrophically damage. As a result, Connecticut has established a fund to help homeowners deal with the aftermath. Although it appears, at least at this point in time, that there are far fewer instances here in Massachusetts, there have been a number of reported cases. Accordingly, through Senator Gobi, Massachusetts has established assistance funds.

Rob explained that he, OPSI Assistant Chief, Dave Sullivan, and OPSI Building Inspector, Harold Leaming, along with numerous other government officials, attended 2 town meeting sessions in Brimfield and East Longmeadow to help promote available assistance. The process is on-going and is only brought to the attention of Board members as information.

Lisa Davey indicated that she has a lot of experience with this issue and can provide a copy of a University of Connecticut Report that was developed relating to the matter.

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

On a **MOTION** by Kerry Dietz, seconded by Mike McDowell it was unanimously voted to approve reinstatement of construction supervisor license number CS-092189 to Mr. Brandon Waitt due to a medical issues and number CS-028964 to Mr. Edward Murray for an age consideration issue.

12. **Review\Vote** approval of February 5, 2019 BBRS draft *Executive Session* meeting minutes. On a **MOTION** by Jen Hoyt, seconded by Mike McDowell it was unanimously voted to approved the February 5, 2019 *Executive Session* meeting minutes as submitted.

Rob Anderson abstained from the vote.

13. **Discuss other matters not reasonably anticipated 2 business days in advance of meeting.**
None this month.

14. **Adjourn.** On a **MOTION** by Mike McDowell, seconded by Rich Crowley it was unanimously voted to adjourn the meeting at approximately 1:15 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. Minutes for the February 5, 2019 Board of Building and Regulations and Standards (BBRS) meeting.
- C. Minutes for the January 2nd and February 5th, 2019 Building Official Certification Committee (BOCC) meeting.
- D. The 2018 International Energy Conservation Code (IECC) as modified by Massachusetts proposed amendments, inclusive of the Stretch Energy Code.
- E. Letter endorsed by 49 members of the Massachusetts legislature urging Board members to vote adoption of new code requirements December 20, 2018 to Town of Douglas Administrator Matthew J.
- F. Letter from leaders of the electric utility sectors with a similar message.
- G. Letter from Commercial Real Estate Development (NAIOP) regarding proposed, new energy code requirements.
- H. Qualifications submitted by Thomas Keating to sit for the CSL examination.