

CALIFORNIA BUILDING STANDARDS COMMISSION MEETING
October 20, 2022

Agenda Item 1. Call to Order

Designated Chair Miriam Ingenito, Government Operations Agency Undersecretary, introduced herself and called the meeting of the California Building Standards Commission (CBSC) to order at 10:35 a.m. The meeting was held via Zoom and teleconference hosted by CBSC.

Roll Call

CBSC staff member Pamela Maeda called the roll and Undersecretary Chair Ingenito stated that a quorum was present.

Commissioners Present: Undersecretary Miriam Ingenito, Chair
Elley Klausbruckner
Rajesh Patel
Peter Santillan
Kent Sasaki
Aaron Stockwell
Juvilyn Alegre
Frank Ramirez
James D. Haskin

Commissioners Absent: Erick Mikiten
Laura Rambin

Pledge of Allegiance

Chair Ingenito led the Commission in the Pledge of Allegiance. Executive Director Mia Marvelli gave instructions regarding public comments and teleconferencing.

Agenda Item 2. Questions or Comments from the Public

Linda Hutchins-Knowles, Acterra E-mobility, and Advocacy Senior Manager, advocated for BSC to work with HCD in the intervening cycle to provide equity in EV-capable for multi-family housing, not just single-family housing.

Closed Session: CBSC and Deputy Attorneys General moved to a Zoom breakout room for the closed session. The main Zoom meeting, teleconference lines and webcast remained open during the closed session and the main Zoom meeting continued to be recorded.

Agenda Item 3. Closed Session Pending Litigation:

Pursuant to Government Code Section 11126, subdivision (e)(1), CBSC conducted a closed session for the purpose of conferring or receiving advice from the Office of the Attorney General regarding the case of *Public.Resource.Org, Inc. v. California Office of Administrative Law and the California Building Standards Commission*.

Resume Open Session: CBSC rejoined the main Zoom meeting. Chair Ingenito noted that no action was taken during the session.

Agenda Item 4. Review and approval of December 14-16, 2021, meeting minutes

Motion: Chair Ingenito entertained a motion to consider the approval of the December 14-16, 2021, meeting minutes. Commissioner Stockwell moved to approve Item 4. Commissioner Sasaki seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call as follows:

The following Commissioners voted “Yes”: Klausbruckner, Santillan, Patel, Alegre, Sasaki, Haskin, Stockwell, and Ramirez.

Agenda Item 5. CBSC 2022 Intervening Code Adoption Cycle Code Advisory Committees

Executive Director Marvelli reminded the commission of the Code Adoption Committee and their role, as well as that of the code advisory committees (CACs). Mia explained the current and potential CAC vacancies and asked if the commission would be willing to delegate authority to CBSC to fill CAC vacancies for the intervening cycle.

Comments and questions from the Commissioners:

Commissioner Klausbruckner supports the idea and said it has worked well in the past.

Commissioner Santillan agrees with Commissioner Klausbruckner, and asked if the delegation of authority would be limited to certain committees, types of members or vacancies.

Executive Director Marvelli explained the logistics of filling vacancies, depending on the roles that are vacant. The biggest concern is meeting quorum at a CAC meeting and/or not having a special technical expert.

Commissioner Santillan supports the request and Commissioner Klausbruckner’s comments.

Commissioner Patel noted he was part of the committee that helped put together the list of recommendations, and also agrees.

Commissioner Haskin requested clarification on the role of the Code Adoption Committee, and if they meet separately and have their own opinion.

Executive Director Marvelli clarified that the request is to bypass vetting the small number of replacement CAC members through the Code Adoption Committee, and then the Commission.

Commissioner Klausbruckner noted that the current vacancies are non-voting members and due to the low number of vacancies, this would be an easy task for staff to take over.

Executive Director Marvelli confirmed that there are only two known vacancies, both Ex-Officios. In the next couple of months, CAC meetings dates will be scheduled, and CAC members contacted to confirm their availability to continue to serve in their role. Any subsequent vacancies will then be addressed and there may be more than just the two current vacancies.

Commissioner Haskin asked if those vacancies would be non-voting?

Executive Director Marvelli confirmed it is non-voting committee members no longer being able to serve, resulting in a vacancy.

Commissioner Klausbruckner noted that she recalls this being past procedure as well, requested confirmation.

Executive Director Marvelli confirmed.

Commissioner Klausbruckner reiterated that this has gone smoothly in the past.

Commissioner Patel stated that, having done a majority of the work for CAC selections during the triennial cycle, he gives his support for staff to fill vacancies in the intervening cycle.

Commissioner Haskin gives his support since this is for the intervening cycle.

Commissioner Santillan provided additional clarification for Commissioner Haskin, that staff identifies vacancies and solicits for them, but the committee makes the decision.

Commissioner Haskins thanked Commissioner Santillan for the clarification.

Comments and questions from the Public:

Ms. Hutchins-Knowles expressed her concerns over having proper representation for each CAC and inquired into the experience and expertise sought for the positions, as well as how to see and apply for vacancies. She asked where the public can see who serves on the committees, their affiliations, and how it is ensured that recommendations are heard. She is concerned that the same people will continue to be involved and incremental process will continue, so she encouraged the commission to not delegate the task of filling vacancies to staff without answering these questions first and ensuring there is equity in the process.

Executive Director Marvelli answered Ms. Hutchins-Knowles' three questions pertaining to the CAC membership. She informed that the California Administrative Code, Part 1 of Title 24, lays out the CACs, the positions, the term, the application process, and the nomination process. She further explained the logistics of the application process and informed that could be found in Part 1 of Title 24.

Ms. Hutchins-Knowles asked if the gaps would be filled by a list that already exists or try recruit new people and if so, will this be a transparent process.

Executive Director Marvelli answered Ms. Hutchins-Knowles that CBSC will use the applications already submitted in the last code cycle because these were already vetted by the Commission.

Ms. Hutchins-Knowles asked if the Commission would look at other experts in residential apartments or condominiums.

Executive Director Marvelli answered Ms. Hutchings-Knowles that the membership regulations are listed in the Administrative Code for each committee and has public representation. The Commission would need to ask staff to develop rulemaking to change the regulations.

Ms. Hutchins-Knowles encouraged the commissioners to make a motion when looking at the public list that some of them live in apartments or condominiums for the CALGreen intervening code cycle that relates to multi-family housing.

Bob Raymer, California Building Industries Association (CBIA) and also representing the Building Owners and Managers Association, stated in strong support of what Mia is asking to fill the vacancies.

Motion: Chair Ingenito entertained a motion to consider that the Commission authorize CBSC staff to fill any vacancies as necessary for the 2022 Intervening Code Adoption Cycle within the Code Adoption Committee. Commissioner Klausbruckner moved to approve Item 5. Commissioner Santillan seconded.

Additional comments and questions from the Commissioners:

Commissioner Sasaki asked if a vacancy comes up and the Code Adoption Committee was asked to review potential candidates for filling that, is that a scenario?

Executive Director Marvelli answered that CBSC staff does not know there is a vacancy until two weeks before the meeting and each code cycle can have a different number of vacancies.

Commissioner Sasaki asked if there were a vacancy on the subcommittee, would they reconvene to review potential candidates for filling the vacancy, and then the subcommittee would vote and approve the individual for the vacancy?

Commissioner Klausbruckner responded and explained that this vote would be for the intervening code cycle. As of today, there are two positions that are for non-voting members. The Commission is deferring to the staff for these positions that are open.

Chair Ingenito responded the motion would be there is a list that already exists, and staff would be pulling from that pre-vetted list to select these members.

Commissioner Klausbruckner added that it was vetted by the Code Adoption Committee a couple of years ago for the triennial cycle.

Commissioner Patel responded to Commissioner Sasaki's comment that the timing would be difficult because new applications would need to be vetted, then have two more public meetings to be able to confirm, and then that would put us right in the middle of the intervening code cycle. Mr. Raymer stated to come up with a process where we vet alternates.

Commissioner Klausbruckner responded that to have two or three alternates would be beneficial that can be selected to fill any vacant positions.

Roll Call Vote for the motion to consider that the Commission authorize CBSC staff to fill any vacancies as necessary for the 2022 Intervening Code Adoption Cycle within the Code Adoption Committee.

Motion carried 8 yes, 0 no, and 0 abstain, per roll call as follows:

The following Commissioners voted "Yes": Klausbruckner, Santillan, Patel, Alegre, Sasaki, Haskin, Stockwell, and Ramirez.

Agenda Item 6. Executive Director Report

Executive Director Marvelli provided updates to the Commission and the public on where staff was in the code cycle and other news. CBSC advertised for the Deputy Executive Director position and that advertisement was out until October 20th.

The Building Standards Commission staff has completed the errata process with the publishers and the errata will be published effective January 1 of 2023. There will be a small errata for Part Two, both volumes one and two; there will be an errata for Part 2.5; Part Five; Part Six (the Energy Code) will have an errata; Part 9 (the Fire Code); and a smaller errata for Part 11.

Executive Director Marvelli gave an update on the Intervening Code Adoption Cycle and stated that staff have been developing code changes since January and February. Those code changes would result in the supplement to the 2022 code, which would be the blue pages, and they would be published in January of next year and be effective July 1 of 2024.

That process includes early pre-cycle outreach and staff have conducted four workshops, the Cal Green Carbon Reduction Workshop in conjunction with the Division of the State Architect (DSA) and the Department of Housing and Community Development (HCD) This will be in a future code package or in the intervening code package. BSC conducted four electric vehicle workshops, again in coordination with DSA and HCD. BSC also conducted two bird-friendly workshops.

BSC and DSA conducted an all-gender restroom workshop, which would be amendments to the California Plumbing Code to provide an exception for all-gender multi-family restrooms.

This is just BSC's effort and the other state agencies conduct their pre-cycle outreach. A great example is the Office of the State Fire Marshal, which has conducted multiple workshops where BSC, HCD and DSA attended, and that was to explore the adoption of Chapters 6 -11 and Chapter 13 of the International Existing Building Code.

The importance of the pre-cycle workshops is to comply with the Administrative Procedure Act and the Part 1 regulations.

The due date for those code packages is December 1 and we anticipate receiving 18 to 19 code packages from the different state agencies. That date is when CBSC staff begins review of the code packages for compliance with the Administrative Procedures Act. These are posted to CBSC's web page, and they are assigned to a Code Advisory Committee. The materials for those meetings will be published approximately 15 days prior to the public meeting of those Code Advisory Committee meetings held in early spring around February-March.

Executive Director Marvelli explained the rulemakings go out for public comment, which happens in late spring. The Bagley-Keene Act states these meetings can be conducted as virtual meetings up until July 1 of next year. CBSC has not set up dates yet for the summer meetings.

The 2021-2022 legislative session is complete and there were six bills signed by Governor Gavin Newsom that directly impact CBSC. CBSC will be sending out information bulletins later this year about legislation that impacts building standards.

Chair Ingenito: Thanked Executive Director Marvelli for her report and asked for comments from the commissioners.

Questions and Comments from the Commissioners:

Commissioner Klausbruckner asked about concerns with Further Study on certain parts of the proposed changes.

Executive Director Marvelli explained that at the time the Commission sees a code package, the agency has signed off on it, and the Department of Finance has concluded

that it meets the cost benefit analysis that they require. If there is a Further Study that creates a change to those documents, it may require that the documents be fixed, rerouted, and then another public comment period be held.

Commissioner Klausbruckner asked, “Is there a way to encourage the agencies to conduct more workshops?”

Executive Director Marvelli responded that it is the state agency's authority and determination, and their administration's, to determine what their code proposal is going to be. It is based on the pre-cycle outreach, the requirements in Part 1. The wording aligns with the Administrative Procedure Act.

Commissioner Klausbruckner asked how many workshops did BSC have, how much outreach did BSC do? She gave an example that DSA has turned things around by reaching out to the public.

Executive Director Marvelli responded that every state agency has authority to propose standards and BSC maintains a mass email list, as do other state agencies, and agencies notify the interested parties of the code change and conduct workshops to solicit input.

Commissioner Patel responded and added that at the workshops for all of the categories that Mia mentioned have been posted on CBSC's website. This has been an improvement and things get delayed coming to CBSC because they are holding more public outreach at the front end.

Commissioner Klausbruckner understood and stated that was fair enough.

Questions and comments from the Public:

Ms. Hutchins-Knowles expressed her delight and thanked Commissioners Klausbruckner and Patel. This is a combination of the public not understanding the world of CBSC and quality of the workshops.

Commissioner Klausbruckner reminded the public that Executive Director Marvelli mentioned that CBSC cannot dictate to the agencies how they conduct their workshops.

Executive Director Marvelli provided where to find the process in regulations in Part 1 that explains the process--it is a regulatory process. To make changes to the regulations would have to be vetted with the public and stakeholders, and everything (the rulemaking process).

The state agencies are to follow the process, complying with the APA and Building Standards Law, and this code cycle—at the end of the process—it is the Commission's determination if they followed the process. If the public has concerns about a state agency's process, they do need to go to the state agency and have that discussion.

Ms. Hutchins-Knowles responded and thanked Executive Director Marvelli, and asked who oversees the agencies?

Executive Director Marvelli answered that the hierarchy of state agencies is, a state department is within an agency that works for the governor's office and gave an example: CBSC is within the umbrella of the Department of General Services that is within the Government Operations Agency, which works for the governor's office.

Ms. Hutchins-Knowles asked if HCD's "supervisor" is the governor's office?

Chair Ingenito answered that for Housing and Community Development (used to be Housing and Community Services Agency) the agency between them and the governor's office is BCSH.

Executive Director Marvelli and Chair Ingenito added that on HCD's website, at the bottom you will see the secretary's picture along with the agency's name and department director.

Ms. Maeda confirmed that BSCG is called Business, Consumer Services and Housing Agency.

Mr. Raymer, CBIA, elaborated on a point that Commissioner Patel had been discussing, that the number of meetings over the last 12 to 18 months he has participated in and prepared for about four times the number of focus groups and workshops than 15 years ago. Most of these were State Fire Marshal and the WUI regs; BSC and DSA on carbon reduction; BSC and HCD on EV charging; and the staffs have done a great job.

Commissioner Haskin stated that his experience during the workshops in the last year, the public comments were welcomed.

Commissioner Ramirez responded stating that his understanding is that Ms. Hutchins-Knowles is not saying they are not being heard, but it is some consistency in the way workshops are being provided. It is not that they are not being allowed the opportunity, it is just the quality of the opportunity is not where it should be from her perspective.

Chair Ingenito added if they feel that they are not being heard, then it goes up to the appropriate agency for the respective entity.

Chair Ingenito asked the public for any more comments before moving to the next agenda item.

Ms. Hutchins-Knowles explained their experiences of being rushed, and really want the voices of the public to be welcomed As Mr. Ramirez said, it is the quality of the workshops. She appreciated Ms. Marvelli's guidance and clarifying the agency.

Chair Ingenito responded and thanked everyone. This concluded the public comment portion of this item. There is no action required of the Commission.

Agenda Item 7. Future Agenda Items

Comments and questions from the Commissioners:

There were no comments or questions from the Commissioners.

Comments and questions from the Public:

There were no comments or questions from the public.

Agenda Item 8. Adjourn

Chair Ingenito entertained a motion to adjourn. Commissioner Klausbruckner moved Item 8. Commissioner Sasaki seconded.

The voice vote was unanimous, and the meeting adjourned at 2:11 p.m.