

BUILDING STANDARDS COMMISSION
MEETING MINUTES

December 13, 2016

1. CALL TO ORDER

Chair Batjer called the meeting to order at approximately 10:10 a.m., 400 R Street, First Floor Hearing Room, California Victim Compensation and Government Claims Board, Sacramento, California.

ROLL CALL:

Commissioners Present:

Secretary Marybel Batjer, Chair
Larry Booth
Kent Sasaki
Rajesh Patel
Peter Santillan
James Barthman
Elley Klausbruckner
Steven Winkel, Vice Chair
Juvilyn Alegre

Commissioners Absent:

Erick Mikiten

Commissioner Patel led the Commission in the Pledge of Allegiance.

Chair Batjer asked for a moment of silence for the victims of the recent Oakland fire tragedy and on behalf of the Commission expressed their condolences and support to the family and friends of the victims and their gratitude to the dedicated first responders.

2. INTRODUCTION AND SWEARING IN OF NEW COMMISSIONER

Chair Batjer introduced Juvilyn Alegre as the newest commissioner on the California Building Standards Commission (CBSC). She stated Ms. Alegre was appointed by Governor Brown August 16, 2016 as a local fire official of the CBSC. Commissioner Alegre is a Supervising Fire Marshal with the City of San Diego Fire-Rescue Department. She has been with the City of San Diego since 1994. She previously served as a Wastewater Pre-Treatment Inspector with the Metropolitan Wastewater Department and as a Hazardous Materials Inspector with the Environmental Services Department. Commissioner Alegre received her Bachelor of Science degree in Environmental and Occupational Health from California State University, Northridge and an Associate of Science degree in Fire Prevention Technology from San Diego Miramar College.

After being sworn in by Chair Batjer, Commissioner Alegre expressed her appreciation for being selected to serve on the Commission and to the San Diego Fire-Rescue Department for their support.

3. REVIEW AND APPROVAL OF OCTOBER 21, 2014 AND APRIL 19, 2016 MEETING MINUTES

MOTION: Chair Batjer entertained a motion to consider approving the meeting minutes from October 21, 2014. Commissioner Klausbruckner made a motion to approve, and it was seconded by Commissioner Booth.

Questions or Comments from the Commissioners:

Commissioner Santillan wanted verification that he and Commissioner Patel are eligible to vote on this motion since they were not commissioners at the time of the October 21st meeting.

Chair Batjer clarified with counsel that they are allowed to vote.

The vote was unanimous to accept the motion.

MOTION: Chair Batjer entertained a motion to consider approving the meeting minutes from April 19, 2016. Commissioner Booth made a motion to approve, and it was seconded by Commissioner Santillan. **The vote was unanimous to accept the motion.**

4. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

Jerry Desmond, California advocate for Plumbing Manufacturers International (PMI), stated PMI has requested he come before the Commission and discuss an issue that they are working through. He advised that a recycled water stakeholder group, mandated by AB 2282 of 2014, has been convened. Concerns are being identified with the inclusion of recycled water infrastructure. Regarding the implications for the inclusion of recycled water infrastructure in new construction, it was found that the products that are manufactured are not tested to recycled water. They are tested to potable water. There are also studies led by Dr. Mark Edwards of Virginia Tech and funded by AWWA & NSF that will look at whether there are opportunistic pathogens in recycled water used indoors. Water purveyors expressing concerns with moving forward before there are scientific studies done that look at the quality of recycled water. PMI encourages that the extension of the regulations for the inclusion of the recycled water infrastructure indoors await the conclusion of the scientific studies and that the findings are addressed. The belief is that those findings can take place quickly, perhaps in time for the next code cycle.

Dawn Anderson suggested as a future agenda item that the Commission review the goals and objectives with regard to the disabled community at a future meeting. Chair Batjer stated they will take that under advisement and schedule that for a future agenda item.

5. DISCUSSION ITEM REQUESTED BY COMMISSIONER BARTHMAN

Commissioner Barthman discussed the idea of commission members and/or staff members getting more involved regarding attending other state agencies' code development meetings. After discussions with CBSC director, it was felt that travel would be difficult and costly, but discussed the possibility of teleconferencing.

Questions or Comments from the Commissioners:

Vice Chair Winkel stated he would support this; however, there are a couple of procedural items that need to be paid attention to. He recommended commissioners or staff should be careful to be observers only and not participants and also to be cognizant of open meeting laws in terms of the number of commissioners participating in the meetings.

Ms. Marvelli, Executive Director of CBSC, stated in response to Commissioner Barthman's questions that staff can provide to all the commissioners the contact information for the various agencies that provide workshops during the precycle. She also confirmed that all of these agencies already provide some sort of teleconferencing capabilities so that travel would not be necessary.

Questions or Comments from the Public:

No questions or comments from the public.

6. EXECUTIVE DIRECTOR REPORT

Ms. Marvelli gave an overview to the Commission as far as staff's activities during the last six to seven months. She stated after concluding the January commission meeting, the staff began the codification process for the publication of the 2016 codes, and they worked with the state agencies during the proofing stage. She thanked the International Code Council (ICC), the International Association of Plumbing and Mechanical Officials, the National Fire Protection Association, and BNi Books in working together with staff to get the codes published timely.

She stated that staff worked on the CALGreen Guide for the nonresidential application of the Green Building Standards Codes, which is a support document to the CALGreen Code, Part 11. They updated much of the intent language and added verification elements for ease of verifying regulation compliance. Many checklists were added, which will be helpful for legal jurisdictions to ensure that they are complying with the tiers. The guide will be available on the CBSC website beginning January 1, 2017 as well as through the ICC. She also stated there are many complimentary downloadable PDF guides as well as support documents for the codes, such as the guide to Title 24. Every three years the local jurisdictions are required to file an ordinance, and that has been updated as well.

Ms. Marvelli advised that staff provided 20 different education and outreach opportunities. A training program was created to educate state agencies on the rulemaking process. Staff worked with seven to eight different agencies last summer, approximately 40 to 50 attendees, to cover in detail the required documents for this process. The program was well received and will continue to be offered. A guide is also available.

She advised there have been some staffing changes. Due to Ms. Marvelli's new appointment as director, there was a vacancy in the architectural associate position. Two positions were filled, one became vacant, and two people were out on leave. She stated they are looking to fill some positions, in compliance with Governor Brown's reorganization plan.

She stated as a proposing agency, CBSC has conducted six different workshops. Several of them were regarding the development of Green Building Standards for dual piping. During the summer and fall, workshops were conducted for the CALGreen provisions. The actual rulemaking process begins in December. Rulemaking packages will be received shortly from the various state agencies, which will launch the 2016 intervening code adoption cycle, and that will publish the blue supplement that's the insert to the codes.

Ms. Marvelli gave a brief timeline for 2017. She stated the Code Advisory Committee meetings will be conducted in February and March. There are a couple of ad hoc advisory committees. Dates will be published on the website. The 45-day comment period will begin in early March and end in May, and she believes the bulk of the rulemakings will be during this period. There will be a commission meeting in June to hear part of the rulemakings, and in August the rest of them will be heard. Additional time will be provided for the public comment periods regarding the rulemaking.

She stated more webinar opportunities for the education and outreach programs will be provided. The webinars being developed will focus five to ten minutes and break down the information on the codes or the process, and the information will be put online in order to reach a broader audience. She stated face time is important at chapter meetings. Staff is building relationships with stakeholders that want to be involved in the process.

Ms. Marvelli advised that staff is working closely with the Department of General Services to figure out some ways to develop economic impact statements for the review process in a timely manner and also to create some strategic goals.

She stated due to SB 32 and AB 32 for the reduction of greenhouse gases, there has been an increase in staff's time due to the monitoring of other state agencies' processes, including the Air Resources Board meetings as well as the Energy Commission's activities.

She reported that during the 2016 legislative session, there were two bills that were passed that affected CBSC: (1) AB 2515, which requires Department of Water Resources to update their MWELo on a three-year cycle which aligns with the CBSC's code adoption cycle; (2) SB 465,

where CBSC staff has provided research to the ad hoc subcommittee regarding exterior elevated elements and will work with other state agencies and ultimately improve standards as needed.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

No questions or comments from the public.

7. STRATEGIC PLAN

Ms. Marvelli suggested that the commissioners review the strategic plan over the next couple of months rather than any action taken at this time. She stated the plan has not been updated since 2009; however, there have been one-page updates provided over time. An ad hoc subcommittee developed this strategic plan over the course of several months. She stated possibly at the next meeting it can be agendaized to determine who has interest in updating it.

Chair Batjer agreed with Ms. Marvelli's suggestion.

Questions or Comments from the Commissioners:

Commissioner Klausbruckner stated the plan looks very up to date; however, 18938 continues to refer to the Uniform Fire Code and Uniform Building Codes as part of the Health & Safety Code sections and suggested that that finally be updated.

Chair Batjer confirmed that the last update was 2009 and that there were other items that would need to be updated as well, such as the names of the current BSC commissioners and the reorganization that the governor put into place effective July 1, 2013, GRP 2. She agreed to include the strategic plan on a future agenda.

Vice Chair Winkel stated the process of the Commission hasn't changed much, but it's been long enough of a time to revisit it. He suggested reconstituting a new committee and have an in-depth review by the Commission.

Chair Batjer asked Ms. Marvelli if a vote today was necessary to establish an ad hoc committee.

Ms. Marvelli asked Vice Chair Winkel for clarification.

Vice Chair Winkel clarified that he was only encouraging the commissioners to do an in-depth review and consider moving forward with it at the next meeting.

Chair Batjer confirmed the strategic plan will be put on a future agenda and possible reforming of an ad hoc group to do an in-depth review of the plan.

Questions or Comments from the Public:

No questions or comments from the public.

8. EXTERIOR ELEVATED ELEMENTS

Chair Batjer gave an introduction regarding this agenda item. She stated on June 16, 2015 there was a tragic balcony failure at an apartment building in Berkeley, California, which resulted in severe injuries and loss of life. The Contractors State License Board (CSLB) then conducted an investigation of the incident. In anticipation of the CSLB releasing its forensic investigation results, the CBSC at its meeting on April 19, 2016 took action to approve the formation of an ad hoc subcommittee to review current building standards relative to the exterior elevated elements to determine whether there would be a need to make recommendations to the appropriate state agencies, who would in turn determine whether to amend existing or develop new building standards under their jurisdictions.

The members of the subcommittee are Vice Chair Winkel and Commissioner Sasaki. The CSLB currently considers its investigation report to be confidential and has not yet released it to the public. They are currently pursuing disciplinary actions against the builder of the structure. However, the CSLB agreed to allow the subcommittee to obtain a copy of that report as long as it remains confidential.

The CBSC Executive Director, Mia Marvelli, at the direction of Chair Batjer, signed a confidentiality agreement with the CSLB in order for the subcommittee members to have an opportunity to review the report. In addition to reviewing the CSLB investigation report, the subcommittee has researched other exterior elevated element failures throughout California and the U.S. Building Standards Code and construction materials and practices. Subsequent to the CBSC forming its subcommittee, legislature passed and Governor Brown signed SB 465 requiring the CBSC subcommittee to submit a report to the legislature by January 1, 2018 of its findings and possible recommendation for changes to the Building Standards Code and/or statutes. Chair Batjer reiterated the Commission is not being asked to take action at this time.

Commissioner Sasaki gave a brief background on the two members of the subcommittee. He stated both of them are practicing design professionals. Commissioner Sasaki is a registered structural engineer, and Vice Chair Winkel is a registered architect in the state of California. They both understand issues related to the design and construction of exterior elevated elements.

He stated the subcommittee has reviewed many documents related to the Berkeley balcony failure, including documents from the City of Berkeley and the City's response. They have also reviewed documents from the Structural Engineers Association of California, the American

Wood Council, and the Contractors State License Board. He stated that the Commission will provide recommendations, but they do not write changes to the code; that is the responsibility of the state agencies. The recommendations will include potential areas of change to the Building Code which would help improve the design and construction of these elements.

Commissioner Sasaki advised that to date there have been two meetings, one on September 9th and one on November 15th. Attending those meetings were staff from CBSC and Department of Housing and Community Development (HCD). At the meeting on November 15th, there were members from the Attorney General's Office where the CSLB report was discussed. There has been much discussion about potential paths forward to addressing changes or amendments to the Building Code by looking at the design of new construction as well as looking at existing construction, which is not explicitly addressed in the Building Code. He stated the subcommittee's next steps would be to meet with interested parties and stakeholders about potential solutions. There is no timetable set as of yet; however, the subcommittee is aware of the urgency and importance of this matter.

He discussed the City of Berkeley's response to the event. They will now require mandatory inspections to take place every five years. They made changes to the building code requirements, including requiring decay and corrosion resistant members, requiring ventilation inspection access, and requiring special inspection of water and moisture resistant barriers that provide the water resistance to the members supporting these exterior elevated elements. In addition to that, they have also had annual city inspections separate from those more intensive inspections that are conducted every five years.

He stated within the last couple of weeks, there have been approved changes to the 2018 International Building Code (IBC). There were five approved changes, and they involve requiring detailing of moisture barrier systems on plans, requiring moisture barrier systems to have positive drainage, special inspection of moisture barrier systems requiring ventilation for enclosed wood framing, and increasing the design loads on balconies or decks. The subcommittee will look at these changes, and they are discussing potentially getting those changes implemented sooner into the California Building Code, either through an emergency passage or into the interim cycle.

Vice Chair Winkel reiterated and expanded on a few things that Commissioner Sasaki said. He stated in this particular project, the structural design was actually above code and the detailing in the construction documents met the standard of care. Review of the CSLB report of the alleged causes of the failure found things that had to do with the construction and inspection in terms of the things that happen after the documents are permitted, not necessarily about detailing. Upon careful review of the Berkeley ventilation provisions in the newly adopted standards for the IBC, it was found that there is a competition between code requirements that the State Fire Marshal and HCD are going to have to deal with in the future. In these types of buildings, we have one-hour construction, and now they're poking holes in the one-hour construction to provide for

ventilation and inspection. He also stated that in terms of writing code language, CBSC is going to be looking to state agencies to propose the solutions that they think are appropriate. More discussions need to happen about the adopted proposals because there is the requirement to use the National Model Code as the first touchstone when making code adoptions at the California level. There will be provisions in the 2018 code which should be adopted early. It is known that these provisions will be published in the code, so they should not wait until the 2018 code book is released.

Chair Batjer thanked Commissioner Sasaki and Vice Chair Winkel for their very difficult and important continuing work on the ad hoc subcommittee. She recommended putting on a future agenda adoption of the model code should that be something that is recommended by the subcommittee, or emergency action could be taken as well.

Questions or Comments from the Commissioners:

Commissioner Barthman asked whether anything is being done on setting up some kind of requirements for retroactive inspections on existing buildings, or is that something to be done by local government.

Chair Batjer thought that is mostly done by local government, but she deferred to Vice Chair Winkel.

Vice Chair Winkel stated there are extensive requirements in the Berkeley amendments which do just that. There is also a very active program of identifying design professionals who are capable of making those inspections on existing buildings. He suggested CBSC could become an active player to provide education and encourage local government to do that.

Commissioner Barthman asked once the state agencies have had the opportunity to review these new code proposals by IBC, could there be an emergency ordinance and adopt them early.

Ms. Marvelli stated that the next step would be that the subcommittee would meet with the public and include the interested stakeholders that are listed in SB 465 and make a recommendation to the state agencies at that point. She agreed that, as part of the amendments that the state agencies propose, they could request that those be adopted via an emergency. She confirmed a finding of emergency document would have to be prepared.

Commissioner Barthman recommended that the Commission recommend that.

Commissioner Booth asked whether the sanction handed down by CSLB was one of not following an approved plan as opposed to a violation of an existing code.

Vice Chair Winkel clarified the term should be "accusation," since it has not been proven or responded to.

Chair Batjer read the public notice that CSLB put forth on November 30th as follows: The accusation alleges that design and load analysis of the balcony established that if the balcony had been built as designed, the imposed load of the 13 students was well within the design limits of the balcony structure. The accusation also alleges that it was the decay of the joints that caused the balcony to collapse on June 16, 2015.

Vice Chair Winkel stated it is difficult to determine why the failure happened or what the cause was.

Commissioner Booth asked whether or not the approved building plan was followed by the contractor.

Vice Chair Winkel confirmed that the accusation was that it was not.

Commissioner Booth followed up that the accusation was not that the building code was violated, but rather the construction didn't follow the approved plan.

Vice Chair Winkel stated that was his understanding.

Commissioner Klausbruckner asked when the report will be released to the public.

Chair Batjer stated it is unknown at this time. It is up to CSLB as to when they will make it public. She confirmed with counsel that her statement was correct.

Questions or Comments from the Public:

Bob Raymer, technical director with the California Building Industry Association (CBIA), indicated that the building industry strongly supports any planned activities of CBSC and HCD. He stated that along with the five code changes referenced earlier in the hearing, there are some subchanges. There will be a total of eight or nine changes that will be made to the International Building Code and the International Existing Building Code. These will become part of the 2018 codes to take effect in 2020. CBIA is in strong support of this code adoption. It is unclear whether there will be the opportunity for an early adoption. He stated CBIA will be leaning on the adopting agency, HCD, to determine whether they want to do an emergency adoption or consider proceeding in an expeditious manner.

Dennis Richardson, West Coast regional manager of American Wood Council, stated his organization publishes the National Design Specification and the Special Design Provisions for Wind and Seismic. Those are two standards that are adopted in the IBC code process. The organization participates in the IBC process. Their standards basically deal with structural and seismic provisions, but they do not deal in waterproofing. Over the last 18 months, they closely monitored input from various groups on what code system improvements could be made. Five code changes were approved, including: (1) detailing of the requirements for impervious moisture barriers on plans; (2) all of the elements of the impervious system need to be inspected,

and a special inspector could be hired; (3) requirement for all enclosed balconies of wood framing to be ventilated; (4) incorporates the ASCE 7 provisions for loading; (5) S279-16 says when water infiltrates a permeable slab that is on top of this impervious system, there needs to be mechanisms to get the water out. He also discussed the article in ASHRAE Journal written by Joe Lstiburek, a fellow in ASHRAE, explaining how to appropriately install these systems. The link has been provided to the commissioners. These codes have been through the Internal Code Council (ICC) process but have not been correlated to date. He stated to advise him if there are any errors found.

Chair Batjer reiterated that there is no action required of the Commission at this time.

9. FUTURE AGENDA ITEMS:

Chair Batjer asked if there were any future agenda items. She stated Ms. Marvelli will place the strategic plan on the agenda.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

No questions or comments from the public.

10. ADJOURN

MOTION: Chair Batjer entertained a motion to adjourn the meeting. Commissioner Barthman made a motion, and it was seconded by Commissioner Klausbruckner. **The vote was unanimous.**