

BUILDING STANDARDS COMMISSION

MEETING MINUTES

August 14, 2017

**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 Board, Sacramento, California.

**ROLL CALL:**

Commissioners Present:

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

Commissioners Absent:

Erick Mikiten

Commissioner Booth led the Commission in the Pledge of Allegiance.

Chair Batjer reviewed the meeting instructions described on the agenda.

**2. REVIEW AND APPROVAL OF JUNE 20, 2017 MEETING MINUTES**

**Questions or Comments from the Commissioners:**

Commissioner Santillan requested that the word “mandate” be stricken from the June 20, 2017 minutes and be replaced with the word “amendment” as it relates to all items pertaining to AB-2282.

Chair Batjer asked for clarification on the page number.

Commissioner Santillan stated the sections for striking the word “mandate” and replacing it with the word “amendment” can be found on page 8 and includes item numbers 9, 10, 12, and 13.

**MOTION:** Commissioner Santillan made a motion to approve the meeting minutes from June 20, 2017 as amended, and it was seconded by Commissioner Patel. The vote was unanimous to accept the motion.

**Questions or Comments from the Commissioners:**

Commissioner Santillan stated there was much discussion regarding the matters he just previously addressed and several commissioners had questions. His concern was that he interpreted it as not a mandate as required by the bill, and his understanding from looking at his notes and looking at comments and the preparation from staff was in fact that it was a mandate. He stated he would like to make a motion to rescind a previously adopted motion implementing those items as approved at the June 20, 2017 meeting.

Chair Batjer sought advice of counsel regarding his motion request. She asked Commissioner Santillan if his thinking is to rescind the decision that was made June 20<sup>th</sup> in terms of whether this was a mandate or not or it is a mandate and therefore he wants to rescind that.

Commissioner Santillan stated his interpretation is it is not a mandate but are amendments and should have been adopted as amendments to the code.

Chair Batjer asked for advice from either counsel or staff.

Commissioner Klausbruckner asked Commissioner Santillan if the meeting minutes were correct and it was stated as a mandate when it is an amendment.

Commissioner Santillan stated the meeting minute modification he proposed would replace the word “mandate” with “amendment.”

Commissioner Klausbruckner asked when the discussion happened during the June meeting whether the language was “mandate,” but it was actually not a mandate.

Commissioner Santillan confirmed that is correct.

Commissioner Klausbruckner stated if “mandate” was discussed at the meeting, then the meeting minutes should stand as originally prepared. She suggested raising an issue with the fact it was described as a mandate during the meeting.

Chair Batjer stated since the word “mandate” was spoken at the meeting, the minutes should reflect what was actually spoken about.

Commissioner Santillan stated he reviewed the meeting video where there was back-and-forth discussion from staff reporting it was a mandate in one section and then it was not a mandate, and then there was a point where there were amendments. He stated that is the reason for his motion to strike the word “mandate.”

Chair Batjer clarified that the minutes can only be amended and words stricken if they were miswritten or they misrepresented what was said. If the word “mandate” was used and discussed as a mandate, along with “amendment” elsewhere, the minutes are to reflect what actually was discussed by the Commission. She stated this matter will need to be agendized for the next meeting for review and possible reconsideration.

Commissioner Santillan requested this matter be put on the next meeting agenda.

Commissioner Klausbruckner stated if the “mandate” words were changed to “amendment,” then there would be no argument.

Chair Batjer stated it will still need to be agendized.

Commissioner Klausbruckner stated leaving it as a mandate will provide the necessary discussion.

Chair Batjer stated the minutes need to reflect exactly what the Commission said and the words used on June 20<sup>th</sup>.

Ms. Barbu stated the previous motion will need to be unwound and a new item agendized at the October meeting to discuss the substance of whether or not AB-2282 is a mandate or an amendment.

Unidentified public speaker asked to make a comment regarding a point of order.

Chair Batjer advised he bring it up during public discussion later on in the meeting.

Chair Batjer stated the previous motion will need to be rewound because the minutes need to reflect exactly what was said at the June 20<sup>th</sup> meeting. She stated she understands Commissioner Santillan’s concern, but she believes the minutes as written accurately reflect what was said.

**MOTION:** Chair Batjer entertained a motion to accept the June 20, 2017 meeting minutes as they are currently represented. Commissioner Sasaki made a motion to accept the meeting minutes from June 20, 2017, and it was seconded by Commissioner Klausbruckner. The vote was unanimous to accept the motion.

#### **Questions or Comments from the Commissioners:**

Ms. Marvelli asked Commissioner Santillan if it would be helpful if BSC staff would go back and listen to the recording of the meeting and clarify when and why the term “mandate” was used versus “amendment.”

Commissioner Santillan agreed that would be fine; however, he reiterated that he wanted the matter brought back.

Chair Batjer stated there will be clarification not only on what was represented in the discussion, but what the actual fact and heart of the question is: is it an amendment or a mandate? She confirmed it will be agendized.

### **3. SELECTION OF VICE CHAIR**

Chair Batjer stated Health and Safety Code Section 18922 states that the Commission shall elect a vice chair annually from among its members. She stated Commissioner Winkel has served the Commission extremely well as vice chair for quite some time.

**MOTION:** Commissioner Barthman nominated Commissioner Winkel as vice chair, and there was a unanimous second of the nomination. The vote was unanimous to accept the nomination.

#### **Questions or Comments from the Public:**

No questions or comments from the public.

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

There were no comments from the public at this time.

### **5. EXTERIOR ELEVATED ELEMENTS**

Chair Batjer stated the CBSC Exterior Elevated Elements (EEE) ad hoc subcommittee, comprised of Commissioner Sasaki and Vice Chair Winkel, will provide an update regarding its ongoing study of EEEs. The purpose of this subcommittee is to review reports and other information regarding the balcony failures similar to the failure that occurred in Berkeley back in June of 2015. Based on the information gathered and reviewed, the subcommittee may make regulatory or statutory recommendations to the CBSC and/or state agencies that have authority to amend the California Building Standards Code. She stated the Commission is not being asked to take any action at this time.

Commissioner Sasaki thanked Chair Batjer for her introduction. He stated Mia Marvelli and Gary Fabian provided assistance to the subcommittee and have attended all of the subcommittee meetings and conference calls to date. The subcommittee has received and reviewed numerous reports and documents in the Commission's online E-3 repository, which have been submitted by experts, industry representatives, and building officials. The following information has been received so far in the repository: report on deck constructions highlighting its complexities by Joe Lstiburek; status report of ICC's action for the 2018 code development submitted by Mr. Richardson of the American Wood Council; suggested requirements for system installations for decks and other elevated structures by AVM Industries; letter by Life Paint Corporation submitted by D. Sibbrel; letter submitted by Koppers Incorporated, which talks about the definitions for wood treatment; articles discussing industry best practices submitted by B. Leys of Deck Expert Incorporated; and an email discussing definitions for E-3s submitted by Ron Takiguchi of CALBO. Commissioner Sasaki thanked those who have submitted documents so

far. He encouraged interested parties to continue to submit documents pertinent to E-3s in the repository, with the only caveat being there is a September 15<sup>th</sup> cutoff date to receive those documents. This will ensure that the subcommittee has adequate time to review the material in advance of the October commission meeting. During the October commission meeting, the subcommittee will present their recommendations to the rest of the Commission. As a reminder, the subcommittee does not write code amendments, but instead recommends to the state agencies to research and consider code changes related to E-3s; for example, requiring inspection openings in E-3s or providing a definition of what an exterior elevated element is. That definition does not currently exist in the emergency regulations that were passed to date. He stated pursuant to SB 465, by January 1, 2018 the subcommittee will submit a report to the legislature on its findings and recommendations for E-3s.

Vice Chair Winkel stated the chronology and what is being proposed to do is exactly as discussed. He added to the repository description in that there are some sets of links which actually tie to a significant amount of data that is worth reporting here, including all of the staff analysis and the description of the code changes that were put into effect in the city of Berkeley, which is an extensive record of the City of Berkeley's investigations. There's also a connection to the E-3 inspection program at the City of Berkeley, which is their post-occupancy survey, and then there is the deck safety program in the City of San Francisco, which is also their post-occupancy evaluations. He stated in addition to the documents mentioned by Commissioner Sasaki, there is a large amount of information in each of the links as well found on the Commission's website under the repository.

#### **Questions or Comments from the Commissioners:**

Commissioner Booth asked if it was going to be applicable to more than just an elevated deck but also anything sticking outside of a building, such as a fin, an awning, or a shade; or is it for a surface that a person could be on.

Commissioner Sasaki stated one potential recommendation is to actually define what an exterior elevated element is because currently there is no definition, even in the emergency regulations which were just passed, which are basically the amendments that are in the 2018 IBC. He stated the recommendations are that the definition includes balconies, exterior walkways, exterior stairs, and decks, so things that are exterior exposure and are elevated and support people.

Commissioner Booth wanted confirmation that something like a concrete fin on a building that sticks out 8 feet to provide sun protection to a building or maybe an architectural feature, not something a person could actually go on, is not a part of this.

Commissioner Sasaki confirmed that is correct.

Vice Chair Winkel stated that is the way the subcommittee is headed currently. The question is whether the word "occupied" is included in the title of the definition or not. He stated there are certain elements where there is a potential for human occupancy, but he didn't think something like the sun screen would fall in that category; however, it is one of the things to address.

Commissioner Booth commented people can get creative and be on things they are not supposed to be on.

Vice Chair Winkel gave examples of when he has seen people using unusual kinds of elevated elements, and even though no rules were being broken, questioned whether those elements were designed for that or not.

Commissioner Booth asked whether the purpose for this technical revision is going to be exclusively things designed to hold people.

Both Commissioner Sasaki and Vice Winkel confirmed that is correct.

### **Questions or Comments from the Public:**

Kyle Krause, Deputy Building Official, County of El Dorado, stated prior to the creation of the repository on BSC's website, there were comments submitted in writing by him as well as others along with testimony. He wanted to ensure that that information was captured in the repository and considered by the committee.

Chair Batjer wanted clarification on whether this information is not presently posted.

Mr. Krause confirmed it is not posted.

Chair Batjer stated that will be corrected.

Ms. Marvelli stated if you look at the website for the EEEs, there is a chronological submittal of information, and at the May 25<sup>th</sup> EEE subcommittee that information may be there. She suggested on the repository page, rather than duplicate it, inserting "Also see May comments."

Chair Batjer asked her to confirm the information is present.

Amir Rudyan, president of AVM Industries, had questions regarding the November final report. He stated his frustration that it is difficult to get in front of the committee other than submitting a letter. He does not feel the recommendations address all the issues. He and other industry experts are willing to come and speak in front of the Commission but feels shut out. He questioned why they can't become part of the Commission or at least have an opportunity, a date, to come and present to the Commission.

Chair Batjer asked whether he was notified of the open meeting that the subcommittee held.

Mr. Rudyan said he was not notified.

Chair Batjer stated the notice went out to the list. She asked Ms. Marvelli for confirmation that Mr. Rudyan's association is on that list.

Mr. Rudyan asked what the date of the meeting was.

Chair Batjer advised the meeting was May 25<sup>th</sup>.

Mr. Rudyan confirmed he did not get the notification.

Chair Batjer apologized to Mr. Rudyan. She asked him to restate the name of his association.

Mr. Rudyan confirmed it is AVM Industries.

Chair Batjer assured him that his association is on the list for future purposes and that the Commission does take written comments very seriously. She apologized that he missed the May 25<sup>th</sup> public meeting; however, the subcommittee will be more than happy to take his comments.

Mr. Rudyan asked whether there is another in-person meeting where someone can come and present.

Chair Batjer asked the subcommittee if there is another meeting planned.

Vice Chair Winkel stated there is not another planned meeting.

Vice Chair Winkel stated the requirements and all of his commentary is in the repository and has been available for review. They haven't had the public testimony, but they do have his information.

Mr. Rudyan stated he understood they have his information; however, from what he's seen so far in some of the comments, responses, and suggestions, he feels the subcommittee is going down the wrong path and what they are doing is not going to solve the problem. He stated due to the resistance, why not open it up one more time for the industry to speak before a final report is issued in November. He mentioned that he was out of the country on the meeting date mentioned.

Chair Batjer advised him the Commission will take it into consideration. She stated there is no resistance to hear from the public and the Commission welcomes public dialogue.

Mr. Rudyan stated that is not exactly accurate because when he asked to speak to the Commission he was told no, but he should send a report in writing, so he sent a letter. He stated that is not the same as coming in person face to face to present key issues that are not being addressed.

Chair Batjer stated that was the purpose of the May 25<sup>th</sup> meeting. She apologized he did not receive the meeting notice and was out of the country. She stated the Commission will discuss having another way of communicating.

Commissioner Barthman stated there would be no reason to come and speak to the commissioners at this time but to the subcommittee first.

Chair Batjer confirmed that is correct.

Vice Chair Winkel stated the opportunity to speak to the Commission has not happened.

Chair Batjer confirmed it has not happened “yet.”

Vice Chair Winkel wanted clarification from Mr. Rudyan that there were missed opportunities to talk to the committee and would he like that opportunity.

Mr. Rudyan agreed that he would.

Vice Chair Winkel said that the opportunity to speak to the Commission has not been withheld or missed in terms of it's the second stop after the committee.

Chair Batjer advised that the committee will be reporting in October and that will be a time for further public comment to be discussed.

Mr. Rudyan stated the process seems to be in reverse order, and why not have complete information and address any issues before the report is submitted in October.

Chair Batjer stated the Commission will not be taking any action until there has been a thorough discussion from the public and has reviewed all the comments from the repository and taken them all into consideration.

Mr. Rudyan stated as long as there is a future opportunity to come and speak to the Commission and present some information.

Chair Batjer assured Mr. Rudyan that he will be given that opportunity.

Bob Wangel, Koppers, stated he wanted to comment on today's discussion regarding what was going to be covered as part of the definition of exterior elevated elements. He suggested taking a broader view of the definition to include items such as a trellis or any type of the structure that is covering an exterior elevated element that is designed to hold people. He stated the main reason behind that is if there was a failure of a trellis that is over a deck, balcony, or stair, that in and of itself could cause bodily injury or death.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

Chair Batjer stated the Commission will take action on agenda items 6 through 20 to approve, disapprove, further study or approve as amended the proposed code changes to the 2016 edition of the California Building Standards Code, Title 24, California Code of Regulations. Upon adoption, these building standards will be codified and published as a 2016 intervening code supplement distributed by the publishers as blue supplement pages by January 1, 2018 and

become effective July 1, 2018. The Commission's action will be guided by the nine-point criteria established in the Health & Safety Code Section 18930. The Commission will consider each agency's proposed changes and its jurisdictions, the Code Advisory Committee's (CAC) recommendations, and comments submitted during the public comment periods. The public may comment on any challenges to the proposals or the CAC's recommendations submitted during the comment period. No new issues or new information challenging the proposed code changes may be presented to the Commission in the adoption of the proposed regulations.

**6. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH 01/16)** Proposed adoption of amendments to the 2016 California Building Code, Part 2, Title 24.

Eric Trevena, Environmental Program Manager, appeared on behalf of the California Department of Public Health (CDPH), Division of Radiation Safety and Environmental Management. He thanked the Commission for the opportunity to present their regulation rulemaking package, the genesis of which is a result or a response to the petition the department received to repeal Section 3120B.11, which was denied for cause; however, the petitioner brought forward a valid concern in that the existing language could be perceived as a standard level of care placed on the pool owner. He stated they replied to the petition and indicated that they would address those concerns in a future code adoption cycle, which is what is being done today. The amendment that is being proposed eliminates that standard of care that could be perceived, and there should not be any confusion as far as whose responsibility it is to use the pool in light of the language that is on the sign. It was never the intent of the department to have the pool owner interrogate the pool users as far as the status of their gastrointestinal illness before entering the pool water. The language as stated today puts that decision on the pool user and not the pool owner. It is not the intent of the department to have all pool owners who have a sign that is currently posted that complies with the language in the current code to replace the sign. That should take place in the future should the sign be damaged or something such as a major remodel takes place. Should this language be adopted, there will not be the requirement to replace all signs. The department will reach out to all the applicable local enforcement agencies and explain to them the provisions as far as enforcing code requirements on existing facilities.

**Questions or Comments from the Commissioners:**

Commissioner Klausbruckner suggested a minor friendly amendment to the sign language: replace the word "state" with the word "states."

Chair Batjer commented it appeared there was a typo there.

Vice Chair Winkel asked regarding the obligation or when signs would be changed out and whether that was a change from the current language.

Mr. Trevena stated that is correct.

Vice Chair Winkel asked whether, other than deterioration, there is any action or permit activity that would trigger replacement of the signs.

Mr. Trevena clarified not that he is aware of. However, if the sign becomes missing or is no longer legible anymore and it has to be replaced, then that new sign would reflect the adopted language.

Vice Chair Winkel stated his concern is that during the transition that there will be two sets of language out there and questioned whether that creates some kind of legal confusion or confusion on the part of the public. It clearly places the obligation in different places. Being from the building code world where additions, alterations, and repairs trigger certain obligations to do things that are new code requirements, he wonders are there any renovation or alteration triggers that would go with this.

Mr. Trevena stated if there was a major remodel at the public pool site that would incorporate moving a fence or changing the signage or there was an older illegible sign, he could see that it would apply to that. He stated this does not prohibit the pool owner to go out on their own volition and change the sign.

Vice Chair Winkel wanted clarification that it does not require that.

Mr. Trevena confirmed that is correct.

#### **Questions or Comments from the Public:**

No questions or comments from the public.

**MOTION:** Chair Batjer entertained a motion to consider the California Department of Public Health's proposed adoption of amendments to the 2016 California Code with the minor edit of changing "state" to "states" in the proposal. Commissioner Booth made a motion to approve, and it was seconded by Commissioner Santillan. The vote was unanimous to accept the motion.

#### **7. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD 01/16)** Proposed adoption of amendments to the 2016 California Residential Code, Part 2.5, Title 24.

Stoyan Bumbalov, Codes and Standards Administrator I, and Tom Martin, District Representative II, appeared for Department of Housing and Community Development (HCD). Mr. Martin presented HCD's proposed changes for the 2016 California Residential Code (CRC). He stated HCD's proposed changes to the CRC were discussed at the Code Advisory Committee meeting held on March 29<sup>th</sup>. The committee's recommendation was to approve as submitted for HCD's complete rulemaking package. The text with the proposed changes was made available to the public for the 45-day public comment period from April 28<sup>th</sup> to June 12<sup>th</sup>. There were no comments received during or after the comment period, and there was no subsequent comment period. HCD's current proposal includes: Chapter 1, division 1, administrative changes related to efficiency dwelling units; Chapter 2, repeal the definition of efficiency dwelling units; and Chapter 3, repeal Section R304.5, efficiency dwelling units. He stated HCD requests approval and adoption of the 2016 CRC final express terms.

**Questions or Comments from the Commissioners:**

Commissioner Sasaki asked where the term “efficiency dwelling” came from and when it first appeared in the California codes.

Mr. Martin stated it came from the Health & Safety Code, but he does not know when it first came into the code. He advised it is also mentioned in the 1997 Uniform Housing Code.

Mr. Bumbalov stated it was in the California Building Code, and when California adopted the International Residential Code (IRC), it was adopted into the residential code. However, it is no longer applicable since the changes in the IRC went through. ICC eliminated the requirement for 120 square feet of at least one room, so currently it is no longer needed.

**Questions or Comments from the Public:**

No questions or comments from the public.

**MOTION:** Chair Batjer entertained a motion to consider the Department of Housing and Community Development’s request for adoption of their proposed amendments to the 2016 California Residential Code. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Barthman. The vote was unanimous to accept the motion.

(A brief break was taken.)

**8. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD 01/16)** Proposed adoption of amendments to the 2016 California Administrative Code, Part 1, Title 24.

Glenn Gall, Regional Supervisor, Building Standards Unit, Office of Statewide Health Planning and Development (OSHPD), presented an overview of their rulemaking package. He stated the majority of the standards in this cycle were focused on psychiatric care. The facility type existed in California for many, many years; however, OSHPD never undertook writing specific regulations for them. With the changes in the federal health care and reimbursement rates, behavioral health for psychiatric care has taken a much bigger role in the provision of health care. OSHPD has seen new development in California of freestanding acute psychiatric hospitals. He stated OSHPD has an interest in developing standards that are based on national standards. They participate in the development of national standards through the Facility Guidelines Institute (FGI) as well as through ASHRAE by sitting on committees, participating in ongoing meetings, and introducing a California view of what is necessary in basic regulation thereby allowing them to adopt the national standards straight into California code. He stated in their California Administrative standard, Title 24, Part 1, there are a couple of changes.

The first change relates to the addition of what is referred to as a patient safety risk assessment, which is being added as functional program content. Functional program content gives the gist of what the health care provider is trying to accomplish, how they’re going about trying to

accomplish that in their project submittal, along with staffing and further looks at their general planning of development of the health care facility. The patient safety risk assessment is being added as a component of that functional program when someone is undertaking a project that involves psychiatric care. He stated there are different levels of psych care, whether you are in an inpatient unit, in a general acute care hospital, or in a freestanding acute psychiatric hospital that specifically focuses on psychiatric care. There are also psychiatric programs that happen in skilled nursing facilities. They are looked at as special treatment programs that have to come in under a special application for licensure, but it is a provision of behavioral health in that context. While there is nothing specific to dementia care or some of the other psychiatric maladies that are experienced in long-term care, this particular element would address those sorts of facilities trying to ensure that they took the right steps to prepare and present their project responsive to patient needs.

He stated the majority of the documentation came from the FGI guidelines, and one of the odd parts located in the binders is a big gray box. OSHPD felt that introducing this as a new concept to the West Coast, to California health care facilities, it wouldn't be bad to give users of the code some instructional materials as to where to find it, how to go about presenting and preparing it, and hopefully there is less difficulty with implementing the new standard. Other states have been doing this for a long time and have a big presence in the rest of the country relative to freestanding acute hospitals, but they are only just now making inroads into California developing facilities. They are fairly familiar with that process, but OSHPD figured for the California providers they would provide them additional assistance.

He discussed OSHPD's desire for more fiscal accountability as an agency. They hired a position that specifically looks at collection of fees, reviews the data on plan reviews, what it takes to get those plan reviews through the office, and the associated fees they charge. They reviewed the fees and where they were coming up short relative to the activities they perform. He stated OSHPD made some of these changes last cycle and continued these changes this cycle. Some of it was clarification on what the cost of equipment actually meant, but also they lined up their fee base for imaging equipment with what it actually cost to get the work out. When they initially had had this discounted fee for that sort of equipment in a health care setting, the cost of the equipment was much greater due to the fact it was new technology. OSHPD really was focused on anchorage of that equipment and not how it interfaced with the services provided. The cost of the equipment has substantially decreased because it is so common in health care settings now.

#### **Questions or Comments from the Commissioners:**

Vice Chair Winkel asked if there is any explanation about the status of informational notes and expressed his concern it does not become a legal issue.

Chair Batjer asked for clarification whether he meant the gray box.

Vice Chair Winkel confirmed he was referring to the gray box.

Mr. Gall stated OSHPD looked toward the Electrical Code and a lot of other NFPA documentation with the fine print notes. That information really informs the code. It is unenforceable but informational in an assistive manner for code users.

Vice Chair Winkel stated the question is whether there is a statement somewhere that says this is unenforceable.

Mr. Gall confirmed there is and asked for a brief moment to locate it.

Vice Chair Winkel commented that the title of Informational takes care of it, but there may be legal ambiguity whether titles are included or not.

Mr. Gall stated they did not make that specific declarative statement.

Vice Chair Winkel asked if it is OSHPD's intention if the Commission votes for this proposed amendment that the informational note would be included.

Mr. Gall confirmed that it would be.

Vice Chair Winkel asked a couple of questions: (1) If each of the numbered items on page 1 of 3 in the final express terms are coequal, for instance, in terms of if the environmental assessment that someone might make is the same level of assessment as the patient risk assessment; and (2) if those elements would be done by different people.

Mr. Gall confirmed that is correct. He stated the document is prepared by the facility, so they typically bring their clinical staff into the discussion as well as their architect and engineering and planning teams and discuss how this comes together and how the details of that functional program get flushed out.

Vice Chair Winkel stated as an architect himself, he would expect to be provided with the kind of information that there are three layers of locked rooms and who can get into which room similar to doing an incarceration facility, and that wouldn't necessarily be something that he would be expected to develop, but he would be expected to do the specs for the locks or which doors open. He asked whether architects and engineers may act on it, but they may or may not be developing these things.

Mr. Gall confirmed that is correct. He stated another piece of it is, the way they have seen the functional program used to date in California, where they've reviewed and approved plans that went from their desktops to construction to final signoff, and the facilities were not able to be licensed. He stated there are instances where one can do something that is minimally code compliant to the building standards; with that said, to provide the licensed service within that environment, if the service you are providing does not fit lockstep with the minimum standards, you won't get licensed. That was one of the reasons why OSHPD implemented or required the functional program to be developed, in order to miss the misses, but miss them at the beginning of the process relative to after it was all constructed and signed off.

## **Questions or Comments from the Public:**

Cheri Hummel, California Hospital Association, Vice President of Emergency Management and Facilities, appeared on behalf of the industry.

**MOTION:** Chair Batjer entertained a motion to consider the Office of Statewide Health Planning and Development's request for adoption of their proposed amendments to the 2016 California Administrative Code. Commissioner Barthman made a motion to approve, and it was seconded by Commissioner Santillan. The vote was unanimous to accept the motion.

### **9. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD 02/16)** Proposed adoption of amendments to the 2016 California Building Code, Part 2, Title 24.

Glenn Gall presented an overview of their rulemaking package. He discussed OSHPD's Part 2 Building Standards proposal regarding rate changes for psychiatric health care in multiple facility settings, including a brand-new code section for freestanding psychiatric hospitals. He stated OSHPD had always labored along a little bit multiplying up a single acute psychiatric nursing unit to a facility, which was a misfit because psychiatric care provided in a general acute care setting as a single unit is not the same as a focused freestanding psych hospital that is not also providing general acute care services to those psychiatric patients.

Mr. Gall stated there are also a number of cleanup items in this submittal, many of which were related to the new psychiatric standards. The definition of "clear floor space" was changed to exclude "fixed bed elements." He stated fixed bed elements are very common in psychiatric health care settings, whereas in the general acute care setting beds typically will roll and move. OSHPD looked at a number of items as well that needed to be assessed and pointed back to that Part 1 functional program requirement for behavioral or psychiatric settings and required that when you are addressing a unit type or service type involving psychiatric care, that was a requirement of the functional program to be presented along with the project at the front end of the submittal.

He stated OSHPD has made a structural formatting change to their section 12s with a different facility type, similar to the way the guidelines is established with a glossary up front with all the common terms and spaces, and then the subsequent codes for different facility types will refer back to those common elements, thereby making ongoing code maintenance not only easier but more accurate. OSHPD has started doing a longer term maintenance item and referring back to common elements, but grouping them up in the front in general construction requirements of 1224, including seclusion rooms. Seclusion rooms can happen in a hospital setting, in a general acute care setting; they may happen in various departments, such as in an emergency department of a general acute care hospital, an acute psych unit of a general acute care hospital, in a skilled nursing facility, or in a freestanding acute psych hospital. The new seclusion room requirement is that element which is focused on psychiatric care. He stated there was also some clarification on finishes and location of med gas throughout their facilities. There was some general updating with the names of spaces and the service types found in the guidelines, and some of that has increased. Relative to the language in the way that they stipulate for license service space, they

have clarified where those spaces require med gas outlets and the number. Mr. Gall stated on 1224.11.2 regarding finishes, there was some restructuring of the section and added line items. He discussed 1224.5 and it being another new item, new element, relating to technology in health care settings. He stated it was clear from the industry that facilities cannot function without this technology, so what have become minimum standards is when projects of this type are undertaken or a new facility is built, they need to make space for this equipment along with their supporting power and ventilation requirements. Later on in Parts 3 through 5 there is a standard requiring this equipment remain dry. He also discussed including square footages and the requirement for housing essential technology in a conforming building.

He stated back in 2007 when OSHPD reformatted the general acute care hospital requirement, they put in a safety relative to older facilities that were in the code transition from 2001. In changing the architectural requirements for hospitals, a lot of the spaces actually grew between 2001 and 2007 going forward. They used to provide an exception for existing spaces and remodeling of existing spaces that were done under the 2001 or prior code. Many of those exceptions have been removed because of advancements.

He stated Section 1224.31 was the section that OSHPD had historically relied on for construction of freestanding psych hospitals, and that this section is still there because there are also psychiatric units in hospital settings that are also providing for a high level of medical care. With the functional program, the provider needs to make the determination as to whether it is psych care with or without a medical component and comply appropriately. If it is purely psych care, then you would go off to the new 1228 standards; if it is psych care with a medical component, you would stay here and address some of the psych care.

He stated OSHPD has restructured unclear sections relating to obstetrical units and perinatal space for more clarity and application. Regarding outpatient service space, OSHPD put forward some standards in response to a statute that had made reference to what is referred to as an outpatient observation unit. After much discussion internally and externally with licensing and certification, California Department of Public Health, OSHPD felt it was premature to go ahead with the initial standard they put forth, so they withdrew that from the proposal and will reconvene at a later date to discuss it further. In the interim, they will come up with a policy to allow it to happen as a licensable service, but the building standards as minimums will need to be developed at a later date.

He discussed Section 1225 related to skilled nursing facilities as far as toilet rooms and numbers of beds in a room. He stated OSHPD has provided some clarification based on some new CMS standards and the changing and delivery of skilled nursing care. Many of the skilled nursing facilities were built around the '60s, and a lot of the facilities did not provide for a modern level of health care delivery and patients had to use a common restroom. He stated many years four-bed rooms were allowed in a skilled nursing setting, and now the maximum beds per room is two. He discussed Section 1225.4.1.11, protective environment rooms, or quiet rooms, relating to behavioral health and psychiatric care in a skilled nursing setting. He stated these quiet rooms are kept on the facility floor in a skilled nursing unit on common floors and are used when the residents become agitated. Not every facility deals in this level of care with a focused program; however, they are becoming more common, so the code was updated to accommodate. He stated

Section 1225.6.6 is a nod back to behavioral risk assessment or patient safety risk assessment for special treatment program service, which is actually covered at the end of their code. Those providers that want a special treatment program, which typically involves psychiatric care in a skilled nursing setting, have to apply for a special licensure through California Department of Public Health, and to do that they have to go to OSHPD with the application stating what their program was going forward and how they were going to respond to it from a physical plant standard.

He stated there was one minor clarification to the OSHPD 3 regarding soiled and clean linen requiring there be a central sterile supply in some way to deal with incoming and outgoing utilities and linens. He stated the 1227 OSHPD 4 change is a little bit of a pickup from some of the other language changes that they had back in the general construction requirements. In 1227.12.6, seclusion rooms, they changed that observation because it is identified as a new service, both in statute and in common parlance in the health care realm. Observation is different than seclusion. Seclusion has to do with psychiatric evaluation of a patient versus observation which is somewhat of a reimbursement status. They did not want to confuse those terms, so they have gotten in line with the way the national standards utilize the term.

Mr. Gall discussed Section 1228 for freestanding acute psychiatric hospitals. There are also references in Sections 1224 and 1225 that will refer back to this section because it deals with provision of psychiatric care. This is where all of the psych standards will reside in their code. He stated an acute psychiatric hospital is not designated with an OSHPD 1, 2, 3, or 4. Their office really started focusing on seismic, so it was a great way to categorize structural provisions of their code. If you are a hospital building, you are OSHPD 1; a single-story wood or light metal frame skilled nursing building, OSHPD 2; freestanding out in the community, OSHPD 3; and correctional treatment centers, OSHPD 4. He stated the licensed beds in an acute psychiatric hospital can be put into buildings that were decommissioned as OSHPD 1 buildings. OSHPD 1 is a structural designation of the facility. They will begin to parse out that OSHPD 1 and leave it as a structural designation. When you are dealing with a licensed service type in the building code, 1224 will apply to general acute care hospitals and 1225 will deal with skilled nursing facilities regardless of their setting and regardless of the structure that they are located within. OSHPD is getting away from licensed services versus licensed buildings because licensed buildings have become a lot more complex as a result of SPC/NPC and the required retrofitting of those buildings. Mr. Gall stated that the freestanding acute psychiatric hospital requirements were based on the FGI guidelines. California Department of Public Health has specific requirements in their licensing standards in Title 22 that OSHPD has to respond to in their physical plan. He stated there are exceptions in the code that new ways of providing care will not be destroyed by these regulations, and one can propose a new methodology in providing clinical care, and it will be assessed by both OSHPD and licensing. He discussed some structural changes to help with ongoing code maintenance. They aligned the section numbers in Section 1228 with the same section numbers in Section 1224, and it is fairly consistent with Section 1225.

## **Questions or Comments from the Commissioners:**

Commissioner Booth asked if there is enough clarity in the medical community that when a person presents themselves at either a psychiatric clinic or acute care hospital, whether there is enough common knowledge of what this person may have to be able to put them in the appropriate facility now that we have an OSHPD 1, 2, 3, 4 and potentially 5. Are the buildings appropriate regarding patient and staff safety, and is the patient safe in terms of another patient having a communicable disease?

Mr. Gall stated they addressed it as an issue with their providers. Facilities run the gamut, from a facility that you are referred to by the courts, which means you do not have the ability to check yourself out, to a facility that you may feel the need to check yourself in. Some are residential sorts of programs, and that is the way the level of care is delivered; others are referrals from a general psych setting. At times people that need the care come in through other first responders. The way people come into psychiatric care at times is that the police pick them up and put them in jail, and then they may be referred to various care environments by the courts to get them back on their medication regimen or to provide additional care they need. He stated in this state OSHPD is not the clinical side of that discussion. That is licensing and certification. OSHPD is hopeful with the rigorous use of that functional program, facilities that are designed will give both the provider in terms of the facility that they construct a better indication as to who they are planning on treating and also licensing an indication of the levels of care that are being provided in a given facility. The care provider will have policies in place that say if someone arrives at their facilities with an airborne communicable disease as well as psychiatric issues, they will make a referral to a general acute care hospital setting. As far as a safe environment for staff, for other patients, or for anybody who may be visiting the facility, those are assessments that have to be made by the provider based on who they are providing care for. Mr. Gall discussed the different full-on lock facilities. He said it tends to be the programs that are delivered in those settings that will make those stipulations. Sentinel events is the term that is applied by CMS to events that happen in psych settings that are harmful to patients, public, or staff. He stated OSHPD is not the best determiner on how to stop people from self-harming, so they have tried to build into the regulations enough flexibility for the facility to go through an assessment as to the patient population they are able to take in and make that clear to referrals coming from other venues that this is not the right facility for them, but this other facility may be. There was pushback on the provision of a morgue for larger facilities and pushback on provision of an airborne isolation room. Those come to OSHPD as a licensure requirement. While you may have a way out of it in requesting licensing, it is still a minimum requirement for licensure in the physical plant.

Mr. Nearman stated time is running short.

Chair Batjer asked the commissioners if there were any more questions.

Commissioner Klausbruckner had an editorial question. She stated, for example, in International Fire and Building Codes, it does not use the word refer to such and such section, and she asked if that was appropriate or should it be changed; for example, “seclusion rooms shall be in accordance with” such and such.

Chair Batjer asked her what page she was referring to.

Commissioner Klausbruckner stated it was throughout.

Chair Batjer asked for an example page.

Commissioner Klausbruckner responded an example would be page 19 of 29. She stated there are four or five references on Section 1228.4.4.4, “medication station, refer to section.” She stated she has not seen that language in the International Fire and Building Code.

Mr. Gall stated where they get it from is when you look at Chapter 12 that OSHPD has in the code, OSHPD 1, 2, 3, 4, and now acute psych hospitals, they are a complete misfit relative to being incorporated into the model code. There is no real place that those can couch within IFC or IBC. They are typically looked at as licensure standards in other places. In this state we need to put those in the building code. OSHPD picks up on the language from their national standard, which is the Facilities Guidelines Institute, and try to stay consistent with the language.

Commissioner Klausbruckner commented that their Statement of Economic Impact states there is no economic impact or fiscal impact. She asked when OSHPD provides additional regulations for technology rooms or additional bathrooms, for example, whether that would add to the economical impact and would that be in conflict with the statement that there is no economic impact.

Mr. Gall stated the way that they address their standards is a standard. He stated OSHPD does not typically say you have to do this and you have to do it right now. That would have a definite economic impact. However, when you do it and it is of your choosing, you need to do it to this standard. That is the way they have always addressed costs, unless it was a mandate.

### **Questions or Comments from the Public:**

Cheri Hummel is in support of this on behalf of the California Hospital Association.

Mr. Gall stated there was a minor editorial amendment for consistency of the code relating to ANSI Z97.1, the 2009 edition. That particular document is referenced in Chapter 35 of their building code. In order to keep it consistent with the reference code standards ongoing and not get OSHPD out of sync, they retracted the year and rely on the year of the referenced standard within the building code. Section 1228.4.9 had to do with ANSI Z97.1, safety glazing materials used in buildings.

**MOTION:** Chair Batjer entertained a motion to consider the Office of Statewide Health Planning and Development’s request for adoption of their proposed amendments to the 2016 California Building Code. Commissioner Booth made a motion to approve as amended, and it was seconded by Commissioner Klausbruckner. The vote was unanimous to accept the motion.

(A brief break was taken.)

**10. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD 03/16)** Proposed adoption of amendments to the 2016 California Electrical Code, Part 3, Title 24.

Glenn Gall presented an overview of their rulemaking package. He stated their Part 3 changes are focused on psychiatric health care in various settings. There is also some cleanup language in the standards that deals with their current adoption now of both NFPA 110 relative to generator installations along with adoption of NFPA 99, which is the health care standard for electrical systems which was never adopted prior. There is also some information regarding connection to essential power for communication systems, how they need to be employed, and how they need to be served.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the Office of Statewide Health Planning and Development's request for adoption of their proposed amendments to the 2016 California Electrical Code. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Barthman. The vote was unanimous to accept the motion.

**11. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD 04/16)** Proposed adoption of amendments to the 2016 California Mechanical Code, Part 4, Title 24.

Glenn Gall presented an overview of their rulemaking package. He stated the proposed changes are to integrate previously adopted ASHRAE 170, which is model code, with the current California amendments. They have utilized excerpts from ASHRAE 170 to integrate their amendments to and will continue to look ongoing to integrating more model code into California code wherever they can. They also did some cleanup along with this section. They are very clear as to what they are adopting in ASHRAE 170 since it is a continuous maintenance standard and can change at will. They locked the edition and the addenda of that document so it is not a moving target going forward.

**Questions or Comments from the Commissioners:**

Commissioner Booth asked if there will eventually be a full adoption of ASHRAE 170.

Mr. Gall stated he thinks it is a little problematic with the direction they are going currently. He sits on the 170 committee, and it is in a bit of a flux due to changes to that document in response to the FGI. They are currently going through major changes to the document to parse out general

acute care facilities from outpatient facilities from skilled nursing facilities or residential health care.

Vice Chair Winkel asked how OSHPD dealt with the continuous maintenance aspect of this, and whether any of the comments related to things that had changed during continuous maintenance or is it the concerns that the commenters had more about the changes in direction overall of 170.

Mr. Gall stated the change in direction of 170, the addenda, is ongoing. OSHPD fixed the document based on what is printed in the Facilities Guidelines Institute 2014 edition. The 2018 edition is due to come out, but that is where a lot of the changes are going to be all over the place. OSHPD was very specific as to which addenda they adopted because some of those were in conflict with current California practice and application.

**Questions or Comments from the Public:**

No questions or comments from the Public.

**MOTION:** Chair Batjer entertained a motion to consider the Office of Statewide Health Planning and Development's request for adoption of their proposed amendments to the 2016 California Mechanical Code. Commissioner Booth made a motion to approve, and it was seconded by Vice Chair Winkel. The vote was unanimous to accept the motion.

**12. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD 05/16)** Proposed adoption of amendments to the 2016 California Plumbing Code, Part 5, Title 24.

Glenn Gall presented an overview of their rulemaking package. He stated the proposed changes are in reference to telephone and data equipment rooms that have become a new minimum requirement. There is some reference to psychiatric services and design of fixtures for anti-ligature purposes. Other changes to the chapter are basically clean-up. He stated there was restructuring of the Plumbing Code in the last cycle that they were not immediately aware of, and so their amendments were never quite put in the correct place, which caused some confusion. They have now resolved that issue making it clearer to people as to what they adopt and how they enforce relative to OSHPD requirements.

**Questions or Comments from the Public:**

Cheri Hummel is in support of this on behalf of the California Hospital Association.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**MOTION:** Chair Batjer entertained a motion to consider the Office of Statewide Health Planning and Development's request for adoption of their proposed amendments to the 2016

California Plumbing Code. Commissioner Booth made a motion to approve, and it was seconded by Commissioner Santillan. The vote was unanimous to accept the motion.

(A lunch break was taken.)

**13. CALIFORNIA BUILDING STANDARDS COMMISSION (BSC 01/16)** Proposed adoption of amendments to the 2016 California Administrative Code, Part 1, Title 24.

Alexander Hunter, Associate Governmental Program Analyst, California Building Standards Commission, presented an overview of their amendment rulemaking package relating to Chapter 1 of the 2016 California Administrative Code, California Code of Regulations, Title 24, Part 1. He stated Chapter 1 of Part 1 contains regulations that explain the various functions of BSC as it works to develop, adopt, and publish building standards in Title 24 through an open and transparent process. Many items throughout this proposal contain minor editorial amendments for improved clarity, consistency, and alignment with existing statute and regulation. He stated certain provisions have been relocated and renumbered in a more logical order. The purpose of these editorial amendments is to improve the usability and navigation of Chapter 1 for state agencies and the public.

He discussed items 7 through 21 contain clarifying changes to the requirements and procedures for filing, processing, and responding to petitions and appeals. Parts of these changes include dividing some of the requirements for petitions and appeals into separate sections, and some changes have been expanded to clarify the Commission's authority as well as to better inform the public of the meaning and purpose of filing a petition or appeal. Items 22 through 34 contain clarifying changes to the requirements and procedures concerning the code adoption cycle activities, emergency rulemakings, state adopting and proposing agency submittals and public comments. The changes include rearranging the rulemaking cycle activities into a more appropriate chronological order. The Code Advisory Committee recommended further study on Items 9, 28, and 30. BSC has concurred with these recommendations and has not received any comments on those items during the 45-day public comment period. Based on BSC's comment on Item 13 of its own proposal during the 45-day comment period, BSC proposed additional changes during the 15-day comment period thereafter. For Item 13, BSC removed some ambiguous language concerning the requirements for filing a petition.

**Questions or Comments from the Commissioners:**

Commissioner Klausbruckner asked him to be more specific regarding the proposal to expand the Commission's authority.

Mr. Hunter responded that some of the provisions have been expanded to clarify the Commission's authority.

Commissioner Santillan stated Item 11 on page 9 of 29, receipt and processing of appeals, was changed from 30 to 45 days. He asked for an explanation as to the need for the additional 15 days.

Mr. Hunter stated that part of it was to make it consistent with the petition regulations, which have 45 days to respond.

Commissioner Sasaki asked a question regarding the definition of "appeal" or how it applies. He gave the following scenario: As an engineer he submits a set of plans, construction documents to a jurisdiction, a city, and he gets comments back from that jurisdiction that something is required that is not on his plan, so he goes back and reviews his calculations and he does not agree with that. Does he appeal to the local jurisdiction, that city, the building department, or does he appeal at BSC?

Mr. Hunter stated usually an appeal would be filed jointly with the city, so the person affected would work it out with the city as much as they could. If the city determined that there may be a problem with enforcing their regulations, then the city and the affected party would jointly file an appeal with the Commission. He stated typically these things do not go that far and BSC is able to provide some guidance, but ultimately the city is the enforcing agency.

Commissioner Sasaki stated in the California Building Code it says that there is a requirement for jurisdictions to have an appeals board.

Mr. Hunter stated he is not aware of that.

Mr. Nearman clarified that the first step in the appeal process is for them to try to work it out with the local jurisdiction's appeals board. If they cannot come to a resolution, there is an option to have the Commission hear the appeal; however, the important element of this is to understand that both parties have to agree to that. The result of that appeal heard by the Commission is simply a recommendation. He stated when local jurisdictions realize that they have the option of not agreeing to the appeal and that the decision by the Commission is not binding, they usually do not move forward with that.

Commissioner Klausbruckner stated she is on the San Diego board of appeals, which is an independent group that reviews and votes on local amendments, and if anybody has any issues, they would come before that board and then it goes to the city council before it makes it to the Building Standards Commission. She stated there are several levels of appealing: One is before the board of appeals at the city and then the appeal before the Building Standards Commission.

Commissioner Sasaki asked Commissioner Klausbruckner if someone came forward to her appeals commission and they agreed with them, could the appeals board actually overturn the decision of the building department.

Commissioner Klausbruckner responded she believes that is correct.

Commissioner Patel stated every local jurisdiction will have its own appeals process. They have either a building board of appeals or sometimes they will use their city council as their appeals board. Typically people use the Building Standards Commission when there is no agreement, and usually it is a code interpretation issue.

**Questions or Comments from the Public:**

No questions or comments from the Public.

**MOTION:** Chair Batjer entertained a motion to consider the California Building Standards Commission’s request for adoption of their proposed amendments to the 2016 California Administrative Code. Commissioner Klausbruckner made a motion to approve, and it was seconded by Commissioner Barthman. The vote was unanimous to accept the motion.

**14. CALIFORNIA BUILDING STANDARDS COMMISSION (BSC 04/16)** Proposed adoption of amendments to the 2016 California Referenced Standards Code, Part 12, Title 24.

Gary Fabian, Associate Architect, Building Standards Commission, presented an overview of their rulemaking package. He stated Part 12 of Title 24 contains content that is the development of state agencies. When a national standard is not available, the state agencies will write their own. Part 12 is where they are stored. It has gone many years without a wayfinding mechanism inside of that part by which one can organize thoughts and fact-finding. He presented a compilation table to be included in that body of work. There is also a modification of the preface at the very front of that part that includes a paragraph that explains what the cross-reference table is all about.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the California Building Standards Commission’s request for adoption of their proposed amendments to the 2016 California Referenced Standards Code. Commissioner Santillan made a motion to approve, and it was seconded by Commissioner Booth. The vote was unanimous to accept the motion.

**15. DIVISION OF THE STATE ARCHITECT (DSA-SS/CC 01/16)** Proposed adoption of amendments to the 2016 California Administrative Code, Part 1, Title 24.

Diane Gould, Supervising Structural Engineer; Jim Hackett, Principal Structural Engineer, Code and Standards Unit; and Ryan Huxley, Supervising Structural Engineer, appeared on behalf of the Division of the State Architect (DSA). Mr. Hackett stated DSA is proposing adoption of the supplemental amendments to the 2016 edition of the California Administrative Code, Part 1, Title 24, of the California Code of Regulations. These are applicable to elementary, secondary schools, community colleges, and state-owned or state-leased essential services buildings. He stated in the rulemaking package being presented, DSA is carrying forward the amendments in the current 2016 California Administrative Code, and it has proposed several amendments to clarify administrative standards editorially and also to clarify administrative standards upon

review and incorporation of comments from the SD/LF code advisory committee in February, and was approved as submitted. Item 3, DSA is aligning their regulations with SB-826 from Leno, which is the Budget Act of 2016. This went into effect in August of 2016. It was modifying the fees that would be appropriate for alterations to existing projects. There are also issues in Item 3 that discussed seismic rehabilitation and some of the triggers of seismic rehabilitation. Those were evaluated carefully by the Code Advisory Committee, and they were also all approved as submitted after discussions. DSA also included provisions for allowing DSA to charge fees in accordance with the Education Code to recover operational costs and provide training courses for their stakeholders and when certifying projects that are occupied without having obtained certification from DSA. These were all fees that were already in the Education Code, and DSA simply put them into the Administrative regulations. He stated there were no public comments, objections, or recommendations during the 45-day comment period, and the standard Form 399 was signed by the DGS fiscal officer, agency secretary, and the Department of Finance budget manager.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the Division of State Architect's request for adoption of their proposed amendments to the 2016 California Administrative Code.

**Questions or Comments from the Commissioners:**

Commissioner Sasaki commented he has dealt with fire assessments of fire-damaged schools. He stated in the Administrative section there are dollar values, for example, for the repair, and there is a certain dollar threshold. If you are under that threshold, you can repair the damage according to the original drawings. He stated when a designer is trying to figure out what to do or what is required in a repair or alteration, in the 2013 code they would have gone to Chapter 34 of the California Building Code; now in the 2016 codes, they would go to Part 10, which is the California Existing Building Code (CEBC). He commented that in the CEBC, there isn't any pointer to a designer that tells them about those particular thresholds that DSA has in the Administrative section of the code. He suggested that that be reviewed because that might be a helpful place for a designer to understand that there are dollar cost thresholds for replacement costs that they should look at to determine what the scope of the repair plans should be.

Mr. Hackett thanked the commissioner for pointing that out. He stated he is correct in that they do not point to the Administrative Code for that specific concern, and he knows where that is in the Part 1 regulations. He confirmed that DSA will do that during the next code cycle.

**MOTION:** Chair Batjer entertained a motion to consider the Division of State Architect's request for adoption of their proposed amendments to the 2016 California Administrative Code. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Booth. The vote was unanimous to accept the motion.

**16. DIVISION OF THE STATE ARCHITECT (DSA-SS/CC 02/16)** Proposed adoption of amendments to the 2016 California Building Code, Part 2, Title 24.

Diane Gould, Jim Hackett, and Ryan Huxley appeared on behalf of the Division of the State Architect (DSA). Mr. Hackett presented an overview of their rulemaking package. He stated DSA is proposing the adoption of the supplemental amendments to the 2016 edition of the California Building Code, Part 2, Title 24, California Code of Regulations, which are applicable to public elementary, secondary, community colleges, and state-owned or state-leased essential services buildings. In this package, DSA is carrying forward the amendments from the current 2016 CBC. They have proposed several amendments to clarify design standards. After the review and incorporation of comments from the Code Advisory Committee in February, these recommendations were approved as submitted. These significant changes include alignment of the design force requirements and load combination requirements for the Referenced Standards for design of bleachers, folding and telescoping seating. They clarify nondestructive testing procedures for a specific loading type, and they update material requirements for concrete that are applied automatically to the current Referenced Standards. He stated those are the significant changes; the rest are editorial. No public comments, objections, or recommendations were received during the 45-day public comment period, and the STD 399 form, signed by the fiscal officer, agency secretary, and the Department of Finance budget manager, has been provided to the Commission.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the Division of State Architect's request for adoption of their proposed amendments to the 2016 California Building Code.

**Questions or Comments from the Commissioners:**

Commissioner Patel asked if the language in there is representative of what was released in their information bulletin released in March of this year regarding the bleachers.

Mr. Hackett confirmed that it is.

Commissioner Patel asked if the formula changes were the same.

Mr. Hackett confirmed that is correct. He also stated they actually worked with bleacher manufacturers in the development of that language.

**MOTION:** Chair Batjer entertained a motion to consider the Division of State Architect's request for adoption of their proposed amendments to the 2016 California Building Code. Commissioner Booth made a motion to approve, and it was seconded by Vice Chair Winkel. The vote was unanimous to accept the motion.

**17. DIVISION OF THE STATE ARCHITECT (DSA-SS/CC 05/16)** Proposed adoption of amendments to the 2016 California Referenced Standards Code, Part 12, Title 24.

Diane Gould, Jim Hackett, and Ryan Huxley, appeared on behalf of the Division of the State Architect (DSA). Mr. Hackett presented an overview of their rulemaking package. He stated DSA is proposing the adoption of the supplemental amendments to the 2016 edition of the California Referenced Standards Code, Part 12, Title 24 of the California Code of Regulations. In this amendment package, DSA is carrying forward the current standards for earthquake-sensitive gas shutoff devices in the current 2016 California Building Code as required in the Health and Safety Code and has proposed an amendment to repeal an outdated administrative provision for public schools, which is duplicative with the California Administrative Code and is redundant and unnecessary. The proposal was approved as submitted by the Code Advisory Committee in February 2017. There were no public comments, objections, or recommendations received during the 45-day period. Form 399, the fiscal impact form, was signed by the DGS fiscal officer, agency secretary, and the Department of Finance budget manager, which have been approved.

Mr. Nearman stated a point of order: He asked Mr. Hackett if he was going to request a change in some way to this package.

Mr. Hackett pointed out that a synopsis was provided to the commissioners. He stated the second bullet on Part 12 was something that DSA originally proposed to do, but after working with the Code Advisory Committee, they elected to withdraw their proposal. Under the second bullet, DSA wanted to relocate the nationally recognized standards for gas shutoff valves in the California Plumbing Code for easier reference, but it became problematic between language and other references that they just decided to withdraw it.

Chair Batjer indicated she is not able to find the synopsis and asked if it was put in the binder.

Mr. Nearman stated he could not locate it in his binder and asked Mr. Hackett if he had any additional copies of the synopsis.

Mr. Hackett stated he did have a copy that he could provide.

Chair Batjer said the synopsis will be distributed to the commissioners. She asked the commissioners if the voting should be delayed.

Chair Batjer then asked Mr. Hackett if the express terms changed as a result.

Mr. Hackett stated the express terms were changed prior to the 45-day public comment period to reflect this.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the Division of State Architect's request for adoption of their proposed amendments to the 2016 California Referenced Standards Code. Commissioner Barthman made a motion to approve, and it was seconded by Commissioner Booth. The vote was unanimous to accept the motion.

**18. OFFICE OF THE STATE FIREMARSHAL (SFM 01/16)** Proposed adoption of amendments to the 2016 California Building Code, Part 2, Title 24.

Greg Andersen, Chief of Code Development & Analysis at CAL FIRE, Office of the State Fire Marshal, presented an overview of their rulemaking package. Item 1 is the photovoltaic regulations that were adopted at the ICC. Item 2 came from the residential sprinkler committee. Items 3 through 8 were proposals that came from the WUI committee. Items 9 through 11 were proposals that came from the High-Rise Task Force. Items 12 through 29 are proposals that came from the I-3 Task Force. 30 through 32 came from the E Occupancy Task Force. 33 are changes that came from a statute for pet kennels. 34 was just clarification. 35 is gas detection, which came in from the ICC, which is being brought in early and will correlate with the Fire Code. 36 was clarification from one code section that was an extremely long run-on paragraph. There was a 15-day comment because ICC did some correlation changes to match exactly what they are doing in ICC.

**Questions or Comments from the Commissioners:**

Commissioner Klausbruckner asked a question relating to page 46, 47 and whether they were updating the codes to the more updated ICC regulations.

Mr. Andersen confirmed that is correct, and that is all it is.

**Questions or Comments from the Public:**

Kevin Reinertson on behalf of Riverside County Fire and the California Fire Chiefs Association gave their support for the Office of the State Fire Marshal's rulemaking packages.

**MOTION:** Chair Batjer entertained a motion to consider the Office of the State Fire Marshal's request for adoption of their proposed amendments to the 2016 California Building Code. Commissioner Barthman made a motion to approve, and it was seconded by Commissioner Klausbruckner. The vote was unanimous to accept the motion.

**19. OFFICE OF THE STATE FIRE MARSHAL (SFM 02/16)** Proposed adoption of amendments to the 2016 California Residential Code, Part 2.5, Title 24.

Greg Andersen presented an overview of their rulemaking package. He stated Items 1 and 2 were recommendations that came from a residential fire sprinkler workgroup. 3 through 7 were recommendations to the WUI that will correlate with the California Building Code. Item 8 is the accessory dwelling units that came from SB-1069. Item 9 correlates with the photovoltaic that was being done in the ICC and is being brought in early. Item 10 is the ICC codes for the energy systems, which is being brought in early and previously approved in the Electrical Code.

**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.

**MOTION:** Chair Batjer entertained a motion to consider the Office of the State Fire Marshal's request for adoption of their proposed amendments to the 2016 California Residential Code. Commissioner Klausbruckner made a motion to approve, and it was seconded by Vice Chair Winkel. The vote was unanimous to accept the motion.

**20. OFFICE OF THE STATE FIRE MARSHAL (SFM 04/16)** Proposed adoption of amendments to the 2016 California Fire Code, Part 9, Title 24.

Greg Andersen presented an overview of their rulemaking package. He stated they are bringing in Item 1 from the ICC relating to mobile fueling to assist the locals with some current issues. Item 2 came from the High-Rise workgroup. Items 3 and 4 are for the residential sprinklers, and there was one comment from the CASP committee that they were to look into the 240 volt, and that is actually correct. That is just the rating for the pump. Item 5 came from the E Occupancy workgroup. Item 10 was for energy storage systems, which correlates with the Energy Code and the rest of the code that was already brought in. Item 7 is the underground petroleum tank that came from the workgroup with CUPA for the AB 312. Item 8 relates to the regulations for the ICC, the photovoltaic. Item 9 is the plant processing and oil extraction, which is brought in from the ICC to work with the marijuana industry correlating to Item 10, which is carbon dioxide enrichment. They also brought in Item 12, which is a correlation to bring up the terminology from ICC into this code cycle because it changes a little bit in their cycle. Item 13 was an editorial change. Item 14 is editorial and relates to a change in the Health and Safety Code that they found and was misprinted. He stated Item 15 is being withdrawn. It was mistakenly reprinted in the express terms. It is an editorial change that they thought there may be some code

changes on that that they do not want to go forward with at this time without meeting with the industry.

**Questions or Comments from the Commissioners:**

Commissioner Klausbruckner stated on page 16 of 59, Section 60816, and 17 are identical. She suggested deleting one of the two sections and renumbering it.

Mr. Andersen agreed with her suggestion.

Commissioner Klausbruckner asked whether Table 608.3, on page 19 of 59, is coming directly from the I-Codes.

Mr. Andersen confirmed that is correct.

Commissioner Klausbruckner stated it is unusual to have maximum allowable quantities that are in kilowatt-hour.

Mr. Andersen responded that the new energy storage system unlike the old lead acid where the amount of sulfuric acid was their concern, but now it is not. The energy is actually the hazard, so that is why they went with the kilowatt-hour.

Commissioner Klausbruckner stated it was because of thermal runaway and the issues of thermal runaway. She stated it is going to be a little different than the rest of the codes as far as that is concerned, but it is directly from the I-Codes.

Commissioner Klausbruckner had a question on Chapter 60 for toxic gasses. She wanted confirmation that Chapter 53 came directly from the I-Codes as well.

Mr. Andersen asked what page she was referring to.

Commissioner Klausbruckner stated page 37, compressed gases.

Mr. Andersen confirmed that is correct.

Commissioner Klausbruckner stated with Chapter 60, she saw the treatment systems for toxic gases, page 48. She asked if the treatment system is a new I-Code change.

Mr. Andersen responded no, that is not underlined. That was just reprinted for clarification, except for the part 2 on the next page, toxic gases treatment.

Commissioner Klausbruckner asked if that is from I-Codes as well.

Mr. Andersen confirmed that it was.

### **Questions or Comments from the Public:**

Bob Raymer with the California Building Industry Association and Building Owners and Managers Association wanted to ask a question of Mr. Andersen. Mr. Raymer stated as Mr. Andersen gave his summary, he did not mention Item 11, which is refrigerant.

Mr. Andersen apologized for overlooking Item 11. He said Item 11 is the refrigerants that they are bringing in. It brings in what are slightly flammable refrigerants into the system A12s and adding it to the table, which have a very low flammability level.

Mr. Raymer stated they are in support of all the packages and that staff has done a great job.

**MOTION:** Chair Batjer entertained a motion to consider, as amended and with the modified edit as discussed, the Office of the State Fire Marshal's request for adoption of their proposed amendments to the 2016 California Fire Code. Commissioner Sasaki made a motion to approve as amended, and it was seconded by Commissioner Booth. The vote was unanimous to accept the motion.

Chair Batjer stated it was the end of the agenda items which will be heard by the Commission. The Commission will resume tomorrow morning, August 15, 2017, at 9:00 a.m. The meeting will be called to order, and immediately thereafter the commissioners will go into a closed session. The meeting will be open to the public as soon as the closed sessions are completed. She stated the meeting is adjourned for today.