

CALIFORNIA BUILDING STANDARDS COMMISSION
MEETING MINUTES
July 17, 2019 – 10:00 a.m.

Wednesday, July 17, 2019

Agenda Item 1. CALL TO ORDER

Chair Marybel Batjer called the meeting of the California Building Standards Commission (CBSC) to order at 10:12 a.m. at the California Victim Compensation Board, 400 R Street, First Floor Hearing Room, Sacramento, CA 95811.

ROLL CALL:

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

Commissioners Present:

Secretary Marybel Batjer, Chair
Steven Winkel, Vice-Chair
Juvilyn Alegre
Larry Booth
Elley Klausbruckner
Erick Mikiten
Rajesh Patel (arrived during the closed session)
Peter Santillan
Kent Sasaki

Commissioners Absent: There were no Commissioners absent.

Commissioner Alegre led the commission in the Pledge of Allegiance.

Chair Batjer gave the instructions regarding public comments and teleconferencing.

Agenda Item 2. REVIEW AND APPROVAL OF MEETING MINUTES

a) December 4-5, 2018 Meeting Minutes

Vice-Chair Winkel requested that his name be spelled correctly throughout the minutes.

Motion: Chair Batjer entertained a motion to approve the December 4-5, 2018 Meeting Minutes with the corrected spellings of Commissioner Winkel's name. Commissioner Sasaki moved approval of the request as presented. Commissioner Winkel seconded. Motion carried with 7 yes, 0 no, and 0 abstain, per roll call vote.

The following Commissioners voted "Yes": Booth, Winkel, Mikiten, Klausbruckner, Alegre, Santillan, and Sasaki.

b) January 15-16, 2019 Meeting Minutes

Vice-Chair Winkel requested that his name be spelled correctly throughout the minutes.

Motion: Chair Batjer entertained a motion to approve the January 15-16, 2019 Meeting Minutes with the corrected spellings of Vice-Chair Winkel's name. Commissioner Mikiten moved approval of the request as presented. Commissioner Booth seconded. Motion carried with 7 yes, 0 no, and 0 abstain, per roll call vote.

The following commissioners voted "Yes": Booth, Winkel, Mikiten, Klausbruckner, Alegre, Santillan, and Sasaki.

Agenda Item 3. CLOSED SESSION

Chair Batjer stated that the commission was going to confer or receive advice from the Office of the Attorney General.

Teleconference callers could stay on the line during the closed session. In addition, the YouTube connection was to be muted and no captioning was to be provided.

Commissioner Santillan recused himself from the closed session.

The Commission resumed Open Session.

CBSC staff member Pamela Maeda called the roll. All Commissioners were present. Chair Batjer stated that a quorum was present.

Agenda Item 4. Comments from the Public on Issues Not on this Agenda

Chair Batjer advised that the Commission may receive public comments on matters not on the agenda. Matters raised may be briefly discussed by the commission and/or placed on a subsequent agenda. No action may be taken by the commission on items raised during this agenda item.

Questions or comments from the public:

There were no public comments from the public on issues not on the agenda.

Agenda Item 5. Executive Director Report

Chair Batjer stated that Executive Director Mia Marvelli would address the commission.

Executive Director Marvelli stated that the 2019 version of the codes has been published – the agency's deliverable is on time.

The codes can be purchased via the website. They are also available electronically via the website.

Part 8, the Historical Code, the Existing Building Code Part 10, and the reference standards code part 12 are all published together in one binder this cycle. Previously Part 8, and 10 were in the back of Part 2 volume 2 of the building code.

The publishers are preparing to release of the *Significant Changes to the California Building Code, 2019 Edition* in the next 45 days. This is often a helpful companion to the new codes.

The website has been significantly revamped and improved this year. CBSC staff was given direction that any non-ADA-compliant documents needed to be removed. If you visit CBSC's website, it's a little thin right now, and staff is working hard to remediate documents and get them back online. We're focusing first on items that we get a lot of calls on first and then we will go back and focus on older items. You probably won't see old rulemakings back online, so if you need those, contact our office and we'll get you a copy. All CBSC's guidebooks have been revamped and those should be available online within the next week or so. We can send anything that you need, so contact the BSC office.

Questions or comments from the commissioners

There were no questions or comments from the commissioners.

Questions or comments from the public

There were no questions or comments from the public.

Agenda Item 6. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHDP EF 01/18)

Chair Batjer stated that OSHPD is requesting approval of certification of compliance and permanent approval of emergency administrative building standards for hospital seismic safety upgrade extensions for the 2016 California Administrative Code, Part 1 of Title 24, California Code of Regulations.

Glen Gall, OSHPD Regional Supervisor; and Roy Lobo, OSHPD Principal Structural Engineer, presented the item.

Mr. Gall stated the overview as summarized in the executive summary are regulations in OSHPD's administrative standards for seismic retrofit and extensions to that program under the auspices of AB 2190. Initially the emergency package was authorized by the commission. After it had gone out for comment, OSHPD decided that they themselves needed to comment on their regulations to provide additional clarification for the language of the extensions. OSHPD secondarily went out for a 15-day comment period based on the amendments made to clarify the allowances for extension.

OSHPD received no additional comments during the comment periods outside of their own comments on the regulations.

Mr. Gall summarized OSHPD's comment changes that they did make. One was a typographical error in a reference. OSHPD wanted to be more specific and one from a reference of 9.1 to 9.1.1 and another was a matter of clarity, and we did not want to leave something trailing when someone was applying for an extension. OSHPD changed some language and the change resulted in language to the effect that if an appeal is pending, has been posted with the office and is held pending resolution of the appeal when in fact an extension was requested and the appeal was posted on that extension.

Questions or comments from the commissioners

There were no questions or comments from the commissioners.

Questions or comments from the public

There were 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 to approve the certification of compliance and permanent approval of the emergency administrative building standards for hospital seismic safety upgrade extensions for the 2016 California Administrative code, Part 1 of Title 24. Commissioner Booth moved approval of the request as presented. Commissioner Winkel seconded.

Commissioner Winkel asked if this needs to be reauthorized or if it is wrapped into the 2019 code.

Mr. Gall felt that it would carry on as an administrative standard since it was adopted into the 2016 code;

Executive Director Marvelli confirmed that it would carry forward.

Commissioner Winkel asked if it was open-ended.

Mr. Gall answered that it is open-ended unless they expressly pull it back.

Commissioner Winkel asked if this is about amending extension requests, not about the ultimate deadline which remains 2030.

Mr. Gall confirmed.

Vote on the motion: Motion carried with 8 yes, 0 no, and 0 abstain, per roll call vote. The following commissioners voted "Yes": Booth, Winkel, Mikiten, Klausbruckner, Alegre, Santillan, Sasaki, and Patel.

Agenda Item 7. AGENDA ITEMS 7a THROUGH 7d – CHANGE WITHOUT REGULATORY EFFECT (CWoRE)

Chair Batjer stated that the next four items were similar in nature: The California Building Standards Commission (CBSC) and the Department of Housing and Community Development (HCD) are requesting approval of a Change Without Regulatory Effect to delete recycled water building standards that were developed pursuant to AB 2282. A court ruling declared that regulations invalid and ordered CBSC and HCD to vacate them from the 2016 California Plumbing Code and California Green Building Standards Code.

a) California Building Standards Commission (BSC CWoRE 01/19)

Chair Batjer stated that we'll hear from the California Building Standards Commission first during item 7a. CBSC is requesting approval of a change without regulatory effect to delete recycled water building standards in the 2016 California Plumbing Code and California Green Building Standards Code, Parts 5 and 11 of Title 24, California Code of Regulations.

Kevin Day, CBSC Staff Services Manager, presented agenda item 7a which will delete building recycled water standards from the 2016 California Plumbing and Green Building Standards Codes.

Specified sections contained in the express terms are being deleted in compliance with the peremptory writ of mandate issued by the Superior Court of California, County of Los Angeles, which declared the regulations invalid. In compliance with the writ, CBSC is deleting these provisions in coordination with HCD. Because these provisions have already been carried forward into the recently published 2019 codes, a separate submittal deleting these provisions will follow shortly in Item 7b.

This CWoRE meets the criteria in California Administrative Code Section 1-421(c) Item 3, which references deletion of a regulatory provision held invalid in a judgement that had become final entered by a California court of competent jurisdiction.

Following the Commission's approval of this proposal, CBSC will coordinate with the model code publishers to issue supplement blue pages that will remove the provisions from the 2016 California Plumbing and Green Building Standards Codes.

Questions or comments from the commissioners

Commissioner Klausbruckner asked if the blue supplements are effective immediately or at a later specific date.

Executive Director Marvelli answered that they are effective immediately.

Commissioner Winkel asked is deleting a regulation is a CWoRE within the meaning of the Building Standards Law.

Mr. Day answered that is our understanding and they have worked out with legal, the criteria cited in the Administrative Code falls in this category and has been done in the past.

Commissioner Booth asked if Items 7a) through 7d) could be voted upon as a group or if they must be taken separately.

Ms. Barbu answered that they have been agendized as separate items and there are different agencies that will be presenting.

Commissioner Patel noted that the new codes contain the language that was adopted; would the supplement pages take them out?

Mr. Day confirmed, Yes.

Executive Director Marvelli explained that earlier this spring, CBSC and HCD issued an information bulletin with the writ and with the strikeout language attached, to notify code users not to enforce these provisions anymore.

Commissioner Patel asked if that was Information Bulletin 19-02

Executive Director Marvelli stated Yes.

Questions or comments from the public

There were no questions or comments from the public.

Motion: Chair Batjer entertained a motion to consider the California Building Standards Commission’s request to approve a Change Without Regulatory Effect to delete recycled water building standards in the 2016 California Building Code and California Green Building Standards Code. Commissioner Sasaki moved to approve. Commissioner Winkel seconded. Motion carried with 7 yes, 0 no, and 1 abstain, per roll call vote.

The following commissioners voted “Yes”: Booth, Winkel, Mikiten, Klausbruckner, Alegre, Sasaki, and Patel. Commissioner Santillan abstained from discussion and vote.

b) California Building Standards Commission (BSC CWoRE 02/19)

Chair Batjer stated next is item 7b. The California Building Standards Commission request to approve a change without regulatory effect to delete recycled water building standards in the 2019 California Plumbing Code and California Green Building Standards Code, Parts 5 and 11 of Title 24, California Code of Regulations.

Mr. Day, CBSC Staff Services Manager, stated that this CWoRE would delete the specified provisions for recycled water from the 2019 California Plumbing and Green Building Standards Codes that were just published in the code binders.

Questions or comments from the commissioners

There were no questions or comments from the commissioners.

Questions or comments from the public

There were no questions or comments from the public.

Motion: Chair Batjer entertained a motion to consider the California Building Standards Commission’s request to approve a Change Without Regulatory Effect to delete recycled water building standards in the 2019 California Plumbing Code and California Green Building Standards Code. Commissioner Mikiten moved to approve. Commissioner Booth seconded. Motion carried with 7 yes, 0 no, and 1 abstain, per roll call vote.

The following commissioners voted “Yes”: Booth, Winkel, Mikiten, Klausbruckner, Alegre, Sasaki, and Patel. Commissioner Santillan abstained from discussion and vote.

c) Department of Housing and Community Development (HCD CWoRE 01/19)

Chair Batjer stated next is item 7c. the Department of Housing and Community Development request to approve a change without regulatory effect to delete recycled water building standards in the 2016 California Plumbing Code and California Green Building Standards Code, Parts 5 and 11 of Title 24, California Code of Regulations.

Mr. Kyle Krause, HCD Assistant Deputy Director, Division of Codes and Standards, provided a brief summary of the HCD rulemaking package.

This is HCD 01/19 for the 2016 California Plumbing Code and 2016 California Green Building Standards Code (CALGreen). HCD is concluding the final phases of the court-ordered invalidation and voidance of specified regulations related to implementation of AB 2282 in the 2016 California Plumbing Code (CPC) and California Green Building Standards Codes (CALGreen).

This involves the deletion of Sections 205.0, 206.0, 220.0, 1501.1.1.1, which includes the mandate for installation of recycled water supplying systems, 1501.1.1.2, 1501.6, 1501.7, 1501.10, and 1501.15 from the 2016 CPC.

This package also deletes Section 4.305.1 which includes a pointer to the requirement in 2016 CPC from the 2016 CALGreen.

There may be some differences between HCD's and BSC's deleted sections due to differences in the actual regulatory text and sections initially adopted or amended.

Questions or comments from the commissioners

There were no questions or comments from the commissioners.

Questions or comments from the public

There were no questions or comments from the public.

Motion: Chair Batjer entertained a motion to consider the Department of Housing and Community Development's request to approve a Change Without Regulatory Effect to delete recycled water building standards in the 2016 California Plumbing Code and California Green Building Standards Code. Commissioner Booth moved to approve. Commissioner Winkel seconded. Motion carried with 7 yes, 0 no, and 1 abstain, per roll call vote.

The following commissioners voted "Yes": Booth, Winkel, Mikiten, Klausbruckner, Alegre, Sasaki, and Patel. Commissioner Santillan abstained from discussion and vote.

d) Department of Housing and Community Development (HCD CWoRE 02/19)

Chair Batjer stated next is item 7d. The Department of Housing and Community Development request to approve a change without regulatory effect to delete recycled water building standards in the 2019 California Plumbing Code and California Green Building Standards Code, Parts 5 and 11 of Title 24, California Code of Regulations.

Mr. Krause HCD Assistant Deputy Director, Division of Codes and Standards, stated that this was for the 2019 California Plumbing Code and 2019 CALGreen Code. It concludes the final phases of the court-ordered invalidation of the same sections in the 2016 California Plumbing Code and CALGreen Code listed in Item 7c.

The package also deletes a portion of the residential occupancies checklist from CALGreen Code, which references Section 4.305.1 from the 2019 CALGreen Code.

Again, there may be some differences between HCD's and CBSC's deleted sections due to the differences in the actual regulatory text that was approved or amended.

Questions or Comments from the commissioners

There were no questions or comments from the commissioners.

Questions or Comments from the public

There were no questions or comments from the public.

Motion: Chair Batjer entertained a motion to consider the Department of Housing and Community Development's request to approve a Change Without Regulatory Effect to delete

recycled water building standards in the 2019 California Plumbing Code and California Green Building Standards Code. Commissioner Klausbruckner moved to approve. Commissioner Alegre seconded. Motion carried with 7 yes, 0 no, and 1 abstain, per roll call vote.

The following Commissioners voted “Yes”: Booth, Winkel, Mikiten, Klausbruckner, Alegre, Santillan, Sasaki, and Patel. Commissioner Santillan abstained from discussion and vote.

Agenda Item 8. FUTURE AGENDA ITEMS

Chair Batjer stated next on the agenda is Item 8, Future agenda items. Do any of the commissioners have items they wish to have placed on future agendas?

There were no items that the Commission or the Public wished to have placed on a future agenda.

Chair Batjer announced that this would be her last commission meeting as chair, as she is resigning as Secretary of the Government Operations Agency. She will assume the Office of President of the California PUC, as appointed by the Governor, on August 1.

She stated that “It has been beyond an honor and a privilege for her to sit at this dais with you all.” She appreciated the depth of the knowledge, the depth of the commitment to the people of California and have learned a great deal from all of you. She thanked each of the Commissioners, Mia, Mike and staff of the CBSC for the six years she has spent with this extremely fine organization.

Commissioner Winkel led the CBSC and the audience in a round of applause.

Commissioners Sasaki, Klausbruckner, and Mikiten expressed their appreciation and pleasure for having worked with Chair Batjer.

Chair Batjer introduced Julie Lee, Undersecretary of Government Operations, who will be designated by the Governor’s Office as Acting Chair.

Agenda Item 9. ADJOURN

Motion: Chair Batjer entertained a motion to adjourn the California Building Standards Commission meeting. Commissioner Santillan moved to adjourn. Commissioner Sasaki seconded. Motion carried unanimously per voice vote.

Chair Batjer adjourned the meeting at approximately 11:45 a.m.