CALIFORNIA BUILDING STANDARDS COMMISSION
MEETING MINUTES

December 11, 2012 – 1:00 p.m.
December 12, 2012 – 9:00 a.m.

Tuesday, December 11, 2012

1. CALL TO ORDER

Chair Caballero called the meeting to order at 1:00 p.m. at the Department of Consumer Affairs, 1625 North Market Blvd., First Floor Hearing Room, Sacramento, California 95834.

ROLL CALL

Commissioners Present:	Secretary Anna Caballero, Chair James Barthman Rose Conroy Stephen Jensen Erick Mikiten Kent Sasaki Richard Sawhill Richard Sierra (arrived at 2:57 p.m.) Randy Twist Steven Winkel
Also Present:	Jim McGowan, Executive Director Michael Nearman, Deputy Executive Director Stephanie Davis Administrative Assistant Enrique Rodriguez, Associate Construction Analyst Mia Marvelli, Architectural Designer Cynthia Biederman, Assoc. Gov. Program Analyst Kevin Day, Staff Services Analyst

Chair Caballero led the Commission in the Pledge of Allegiance.

She requested a moment of silence in remembrance of the mother of Sheila Lee, who had recently passed away; and in addition, in remembrance and appreciation of all family members during this holiday season.

Chair Caballero welcomed new Commissioners, starting with Mr. Steven Winkel. He stated that he was delighted to be back at the BSC. Mr. Kent Sasaki stated that he was honored with this appointment, having last served on the Commission from 2003-06.

2. APPROVAL OF THE JULY 19, 2012 MEETING MINUTES

Ms. Stephanie Davis noted that in the last paragraph of page 1, the number “30” should be changed to “13.”

MOTION: Commissioner Sawhill moved approval of the July 19, 2012 Meeting Minutes with the above correction. Commissioner Mikiten seconded. Motion passed with two abstentions.

3. RECOGNITION OF SERVICE FOR TERESA BORON-IRWIN, LEGAL COUNSEL TO THE COMMISSION

Chair Caballero emphasized Ms. Boron-Irwin's importance to the Commission in facilitating law interpretation. Ms. Boron-Irwin had served the Commission well for many years, and Chair Caballero wished her the best in her retirement and presented a certificate. Ms. Boron-Irwin accepted her certificate and expressed gratitude for the time she had spent at the BSC.

4. INTRODUCTION OF CBSC'S NEW LEGAL COUNSEL, ALEX HOLTZ

Chair Caballero welcomed Mr. Holtz, making mention of his extensive experience in private practice and the Department of General Services. His area of expertise was real estate transactions. Mr. Holtz provided a summary of his background and said that he looked forward to providing legal counsel to the BSC.

5. PROPOSED EMERGENCY STANDARDS ADOPTIONS AND APPROVALS:

a) Office of Statewide Health Planning and Development (OSHPD EF 01/11)

Mr. Glen Gall, OSHPD Regulations Supervisor, stated that this action would provide finalization of an item that was approved the previous January by the BSC. The package had moved forward without any issues. OSHPD had announced it well in advance of submission to the Commission; in collaboration with the Hospital Building Safety Board, OSHPD had sent out a Policy Intent Notice.

Mr. Gall noted a minor date change from the original submittal in the Express Terms.

MOTION: Commissioner Jensen moved that the Commission approve finalization of the proposed emergency standard. Commissioner Barthman seconded. Motion passed with one abstention.

6. CODE ADOPTION PROPOSALS

a) Office of the State Fire Marshal (SFM 02/12)

Mr. Mike Richwine, Assistant State Fire Marshal, read a prepared statement into the record. It stated that the general purpose was to update and codify a new edition of the California Building Code. Extensive stakeholder input had been obtained.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Kevin Reinertson, from OSFM, concurred.

Mr. Kevin Reinertson, Chief of the OSFM Code Development and Analysis Division, described the stakeholder meetings that had been held, and reiterated that OSFM did not expect any new emergency issues to arise, short of some potential matters that may come from the former SB 1394 for smoke alarms.

Public Comment

- Mr. Joe Cain, representing SolarCity, thanked Mr. Reinertson for including stakeholders in the development of the amendments. SolarCity supported the vast majority of the amendments. Mr. Cain requested minor changes to Section 1505.9 and Section 1509.7.2: instead of the term solar rooftop *panels and modules*, to use the term solar rooftop *systems*, in order to make the language consistent with the 2012 International Building Code (IBC).
- Mr. Ajay Friesen, representing SunPower, also thanked Mr. Reinertson for working together with the solar industry. He agreed with Mr. Cain's requested change above.

Mr. Reinertson stated that he wished to advance the requested change forward, affecting Item 44 in the Part 2 package and also Item 13 in the Part 2.5 package.

Commissioner Mikiten named some non-substantial items regarding typos and consistency.

b) Office of the State Fire Marshal (SFM 04/12)

Mr. Reinertson stated that this package would advance the 2012 edition of the International Residential Code. The modifications were minimal.

For Item 13, the same change was requested: from *panels and modules* to *systems*.

c) Office of the State Fire Marshal (SFM 01/12)

Mr. Reinertson addressed Items 6c, 6d, and 6e together. They were updates to the 2013 California Electrical, Mechanical, and Plumbing Codes.

d) Office of the State Fire Marshal (SFM 05/12)

e) Office of the State Fire Marshal (SFM 06/12)

f) Office of the State Fire Marshal (SFM 03/12)

Mr. Reinertson stated that the modifications were for the 2013 California Fire Code.

g) Office of the State Fire Marshal (SFM 07/12)

Mr. Reinertson stated that in the package, the OFSM proposed to remove a standard from the California Reference Standards Code regarding smoke dampers, and to create a new one regarding testing of products.

> **MOTION**: Commissioner Sawhill moved approval of Item 6a) (SFM 02/12 *with "panels and modules" changed to "systems" in 1505.9 and or 1509.7.2*), 6b) (SFM 04/12 *with "panels and modules" changed to "systems" in R902.4 and R908.113*), 6c) (SFM 01/12), 6d) (SFM 05/12), 6e) (SFM 06/12), 6f) (SFM 03/12), and 6g) (SFM 07/12). Commissioner Conroy seconded. Motion passed with one abstention.

h) Department of Housing and Community Development (HCD 06/12)

Mr. Shawn Huff, Building Standards Administrator for the HCD, read a prepared statement from HCD into the record. HCD sought to provide code users with more familiarity with CALGreen requirements. Stakeholder involvement had been sought in

half-day focus group meetings for the Building Code and the Residential Code; stakeholder comments had been evaluated and followed up on by the Code Advisory Committee. The 45-day comment period had been completed.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Mr. Huff concurred, and mentioned that some stakeholders had not commented until after the 45-day comment period.

Commissioner Mikiten requested clarification on the Sound Transmission Section 1207; Mr. Huff responded that it remains, but adopts the IBC language. Part 1 would show HCD's repeal of their California amendment; it would not show the adoption of the model code – that would be incorporated into the building code.

Public Comment

- Mr. Joe Cain spoke in support of the exception listed under 1509.7.1. He noted that the background for this exception was that the language was put into the 2012 IBC and had gone through the full comment process. The Structural Engineer Association of California had formed a Solar Subcommittee under the Wind Subcommittee. The language in the 2012 IBC was being modified primarily because the effective wind area was arbitrarily set based on the dimensions of a single-unit frame.

- Mr. Ben Lai, a structural engineer on the teleconference line, commented on HCD Item 181; the line was not clear and difficult for the meeting participants to understand. Mr. Lai proposed to adopt what was shown on page 28 as a general provision for the California Building Code (CBC). A BSC staff member stated that the item would be addressed on Agenda Item 6r).

  Mr. Huff stated that there had been a last-minute International Code Council (ICC) modification of the language that had been picked up; it may not have been shared with the other state agencies. The staff member interpreted the caller's concern: in the same way that the BSC had proposed 1905.1.9, for instance, the Department of the State Architect had adopted 1918 or some other section in the building code. Mr. Lai felt that all the state agencies should propose it as a section. He agreed with the BSC's language.

Commissioner Sasaki asked if this was related to referencing ACI 318-11 instead of 08.

Stoyan Bumbalov, HCD staff member, clarified that the model code language was wrong as it was based on '08, and needed to be fixed.

Commissioner Winkel pointed out that the BSC would be the overarching authority to use in trying to coordinate language. HCD had gotten the language correct in using the BSC. He noted that Item r) did not have a change related to 1905.1.9 in the Express Terms. The first thing to do would be to discern the proper language, then find out how to use it throughout the code.

BSC Deputy Executive Director, Michael Nearman, stated that it was traditional for BSC to adopt model code. The BSC's authority as an enforcing body over occupancy code

relates to a very narrow scope. Whether the amendment was carried by the BSC as part of its rulemaking package or not, it still would require local jurisdiction for occupancies that they regulate to adopt, by ordinance, these amendments. HCD, OSHPD, and DSA all supply their authority as well.

i) Department of Housing and Community Development (HCD 03/12)

Mr. Huff stated that HCD had the same type of review with the 2012 International Residential Code for adoption as the 2013 California Building Code.

j) Department of Housing and Community Development (HCD 01/12)

Mr. Huff stated that the packages for Items 6j) and 6k) had minimal amendments. There had been no comments received through the focus group meetings, no direction from the Code Advisory Committees, and no comments during the 45-day comment period.

k) Department of Housing and Community Development (HCD 02/12)

l) Department of Housing and Community Development (HCD 05/12)

Mr. Huff stated that the package was a little different. Staff had evaluated the 2012 Uniform Plumbing Code. Based on the statute directing HCD to adopt the most current model code, the staff intent was to take the provisions of gray water without losing anything previously developed with stakeholders in previous rulemakings, and incorporate them into Chapter 16, Alternate Water Sources. HCD also proposed to adopt Chapter 17, Rainwater Attachment System.

The Code Advisory Committee had directed HCD to further study two items. One was in 1601.2 System Design, which HCD modified; the other was a section in Table 1702.9.4, which HCD studied and left intact.

<u>Public Comment</u>

- Mr. Mark Tettemer, representing WateReuse California (a recycled water advocacy group) spoke regarding the color of piping proposed for gray water. He stated that purple pipe has been recognized as the color code of recycled water for decades. Mr. Tettemer read from AB 2731, passed in 1992, which helped to codify that code. In 2009, the State Department of Water Resources helped to further codify it when they came before the BSC to have the Plumbing Code modified. Prior to that, WateReuse had worked with HCD, who had agreed that there should not be a color change to gray water – it should be left as yellow.

  WateReuse asked that the Commission not approve the proposed color code, but return to the language that HCD put forward before. Mr. Tettemer requested a stakeholder process to work through this issue. Having purple pipe conveying different types of water could cause cross connection.

  Mr. Huff responded that as HCD had moved forward, they had solicited stakeholder comments. Further, the National Model Code Uniform Plumbing Code had come out and had gone with the purple pipe with yellow lettering for non-potable water sources – different from reclaimed, recycled water which is treated to the Title 22 standards.

  Mr. Huff understood that there are now two purple pipes with different colored labeling. As a state agency, HCD did not feel, without any input until Mr. Tettemer's

late comment and input today, that they should amend the model code that had been adopted at the national level – which by statute, HCD is required to follow within reason.

Commissioner Jensen asked about the cross connection issue. Mr. Huff stated that as non-potable water sources, neither gray water nor recycled water can be used for drinking; they can be used for the same purposes. For AB 2731 compliance, Mr. Huff said that the bill was specific to reclaimed, recycled water. The definitions in the Plumbing Code for this are "alternate water sources" – treated gray water and treated recycled water, which are not set up to the Title 22 standards necessarily.

The participants discussed using gray water indoors: it must be treated in a 1604 in the code, which would go through the treatment system of an NSF 350 or Title 22 standard if the building is larger than a single family house.

m) Department of Housing and Community Development (HCD 07/12)

Mr. Huff stated that HCD had looked at the 2012 International Existing Building Code (IEBC). They had made modifications with stakeholders and had their California Existing Building Code (CEBC) 2010 approved. The 2013 CEBC was in essence identical.

HCD had not held a focus group meeting. They had taken the proposal to the Code Advisory Committee and gone through the 45-day comment period.

n) Department of Housing and Community Development (HCD 04/12)

Mr. Huff stated that HCD hoped to impose no new regulations, and to allow enforcing agencies time to get a handle on the 2010 CALGreen Building Standards Code. HCD's major proposal was to increase the scope of CALGreen from low-rise residential of three stories to all residential dwellings. HCD also proposed to include additions and alterations that increase the size or volume of the space.

HCD had conducted two focus group meetings and evaluated comments made by stakeholders, made provisions, and submitted the proposals to the Green Code Advisory Committee. After receiving direction, HCD re-evaluated the commented items and modified some proposals, and went forward with the 45-day comment period. HCD responded to all comments and made some proposed revisions.

<u>Public Comment</u>

- Mr. Bob Raymer, representing the California Building Industry Association (CBIA), stated that the organization strongly supported the adoption of the packages. As the Chair of the Green Building Code Advisory Committee, Mr. Raymer wished to inform the Commission of two issues that had arisen.
    - The Green Building Code Advisory Committee needed to know what is and what isn't an invasive species, and if there are exemptions for counties or applications.
    - Regarding Electric Vehicle Charging Stations, the Green Building Code anticipates seeing mandatory statewide provisions, construction specifications, and items that help facilitate the later installation of EV charging stations by the time the next three-year update of the code arrives.

Commissioner Mikiten asked about a note on page 5 of the final Express Terms. Mr. Huff explained that the note pertained to a Civil Code issue that mandated building officials not to give a Certificate of Occupancy or a final building permit with noncompliant plumbing fixtures. He continued that the legislation in the Civil Code was not enforceable by HCD; the note was an alert for design professionals and enforcing agencies to look at the Civil Code for a definition of noncompliant fixtures. Based on a comment, HCD brought what was in the note into 301.1 and inserted a new exception.

Commissioner Mikiten felt that the term *exception* was not applicable here, that it was actually a *note*. Three other Commissioners agreed and requested to have the label changed to *note*. HCD consented to the change.

Commissioner Barthman asked about Comment #4 on page 3 of 8 – HCD's response. He asked for the definitions of "noncompliant plumbing fixtures." An HCD representative emphasized that HCD wants people to find the laws for themselves – not to depend on HCD. Ms. Emily Withers located the definition in SB 487 (Chapter 587, Statutes of 2009); it is Section 1101.3 c) of the Civil Code.

> **MOTION**: Commissioner Barthman moved approval of Item 6h) (HCD 06/12), 6i) (HCD 03/12), 6j) (HCD 01/12), 6k) (HCD 02/12), 6l) (HCD 05/12), 6m) (HCD 07/12, and 6n) (HCD 04/12 *with the "Exception" in 301.1 changed to "Note"*). Commissioner Sawhill seconded. Motion passed with one abstention.

o) California Building Standards Commission (BSC 07/12)

Mr. Enrique Rodriguez, BSC staff, gave an overview of the changes for 2013 adoption.

- They cleaned up the 2010 CALGreen Code.
- They rearranged some of the definitions to follow the ICC.
- They moved codes that apply to additions and alterations to Chapter 5.
- They repealed Division 5.7.
- They included the July 1 supplement lowering the addition measurement to 1,000 square feet and a valuation of $200,000.

During the current adoption cycle, BSC had worked with HCD, had held various stakeholder meetings, and had gone before the Code Advisory Committee. That committee recommended for BSC to align as much as possible with HCD. Most comments were assimilated into the 45-day package.

As part of the California Energy Commission's (CEC's) code changes, they have taken the HVAC electrical systems for building over 10,000 square feet under their authority. BSC has included a pointer in the amendments.

<u>Public Comment</u>

- Wes Sullens, from StopWaste.org, called on the teleconference line stated and that he supported the package. He complimented BSC and HCD on their statewide, national, and international leadership in adopting code. Mr. Rodriguez replied that he looked

forward to working with the caller in stakeholder meetings during the interim code cycle.

- Mr. Pippin Brehler from the CEC, also on the teleconference line stated that he was available to answer questions.

p) California Energy Commission (CEC 01/12)

(Postponed for the Wednesday morning session)

q) California Building Standards Commission (BSC 02/12)

Ms. Mia Marvelli, BSC staff, summarized the proposed amendments.

- Abbreviation changes in Part 1.
- Amendments to the positions for the Green Code Advisory Committee and the Mechanical Energy Commission Code Advisory Committee.
- Addition of a section to clarify the application process.
- Minor grammatical and editorial corrections to Part 1.

The BSC had made the changes recommended by the Code Advisory Committee. There were no objections or recommendations during the 45-day comment period.

As with the other agencies, the BSC's proposed changes for Parts 3 and 4 were minor.

r) California Building Standards Commission (BSC 03/12)

Mr. Rodriguez stated that the BSC had looked to other state agencies for guidance, as the BSC were not experts in structures. The BSC had basically adopted the model code language and coordinated with the DSA with respect to structural provisions. The BSC had repealed Section ACI 318.

Commissioner Winkel cautioned for the BSC to be aware of the reach of its purview – where IBC language is available, that code should be adopted. He also noted that the people at ACI were developing local adoption packages that they would give to local jurisdictions.

Commissioner Sasaki, a structural engineer who uses ACI 318, agreed that we should look at fixing what we can, referencing ACI 318-11.

Public Comment

- Mr. Joe Cain made a request regarding Section 1509.7.1. The amendments by the HCD and initiated by DSA Structural Safety solved part of the problem. However, the exception to Section 1509.7.1 drafted by DSA/SS and joined by HCDI/HCD2 should apply to all occupancies. This exception was necessary for removal of conflict with ASCE 7.

  The overall effect was that in most cases, it artificially decreases the active wind area which artificially increases the wind pressures, and therefore the cost of the PV system.

  Mr. Rodriguez answered that this was the same issue that Commissioner Winkel was addressing; the BSC needs to look at it. Mr. Mike Nearman, BSC Deputy Executive

Director, stated that with this oversight, the BSC would publish a bulletin to be distributed statewide, explaining the oversight in the ICC publication and directing the reader to the correct standard, until the BSC could go through the regulatory process and make the change.

s) California Building Standards Commission (BSC 01/12)

t) California Building Standards Commission (BSC 04/12)

Ms. Marvelli stated that the BSC had conducted a Plumbing, Mechanical, and Energy Code Advisory Committee meeting and incorporated their recommended changes. There were minimal comments during the 45-day comment period.

u) California Building Standards Commission (BSC 05/12)

Mr. Rodriguez stated that mechanical standards are new to non-residential occupancies; this was done via AB 1750. BSC had worked with HCD, as they had developed 16A and B, and this package was very similar to HCD's. BSC had held stakeholder meetings and addressed 45-day comments.

BSC had aligned with HCD on the definition of rainwater and repealed the former definition.

Mr. Rodriguez commented on an error in a table on pages 33-4 of Chapter 6, Water Supply and Distribution.

Public Comment

- Mr. Mark Tettemer commented that his prior suggestion could be reiterated for this item.

v) California Building Standards Commission (BSC 06/12)

Ms. Marvelli stated that at the Building, Fire and Other Code Advisory Committee the package was recommended and approved as submitted. During the 45-day comment period, a comment was received to amend the concrete masonry standard to the ASCE standard.

> **MOTION**: Commissioner Jensen moved approval of Items 6o) (BSC 07/12), 6q) (BSC 02/12), 6r) (BSC 03/12), 6s) (BSC 01/12), 6t) (BSC 04/12), 6u) (BSC 05/12), and 6v) (06/12). Commissioner Twist seconded. Motion passed with one abstention.

Chair Caballero adjourned the meeting at approximately 4:10 p.m.

Wednesday, December 12, 2012

(1.) CALL TO ORDER

Chair Caballero called the meeting to order at 9:00 a.m. at the Department of Consumer Affairs, 1625 North Market Blvd., First Floor Hearing Room, Sacramento, California 95834.

ROLL CALL

Commissioners Present:	Secretary Anna Caballero, Chair James Barthman Rose Conroy Stephen Jensen Erick Mikiten Kent Sasaki Richard Sawhill Richard Sierra Randy Twist Steven Winkel
Also Present:	Jim McGowan, Executive Director Michael Nearman, Deputy Executive Director Stephanie Davis, Administrative Assistant Enrique Rodriguez, Associate Construction Analyst Mia Marvelli, Architectural Designer Cynthia Biederman, Assoc. Gov. Program Analyst Kevin Day, Staff Services Analyst

Chair Caballero led the Commission in the Pledge of Allegiance.

6. p) California Energy Commission (CEC 01/12)

(Postponed from the Tuesday afternoon session)

Mr. Patrick Saxton, CEC Advisor to Commissioner McAllister, read a prepared statement. It said that the CEC had coordinated with HCD and BSC so that existing energy efficiency provisions within CALGreen would effectively moved. Stakeholders had numerous opportunities to comment; the CEC considered their comments and made appropriate revisions.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Mr. Saxton and Mr. Pippin Brehler, CEC Senior Staff Counsel, assured him that this was the case.

Commissioner Winkel asked a procedural question about filled-in prerequisite boxes in the Appendix, which could potentially cause confusion for applicants and jurisdiction authorities. Mr. Saxton replied that he would check with BSC staff to ensure that CEC was consistent with all the other agencies.

Commissioner Mikiten noted that in the fold-out sheets showing comments received during the 45-day comment period, the CEC response to the third item did not make sense. Mr. Saxton explained the difference between lighting and control requirements versus lighting and power requirements within the Part 6 Energy Code.

Public Comment

- Mr. Bob Raymer voiced his support for the package, having worked with the CEC to develop it, and recommended approval.

> **MOTION**: Commissioner Sawhill moved approval of Item 6p) (CEC 01/12). Commissioner Mikiten seconded. Motion passed with one abstention.

w) Office of Statewide Health Planning and Development (OSHPD 02/12)

Mr. Gall summarized the amendments to the California Administrative Code.

- The major portion was the addition of a functional program as the requirement for submittal with major hospital projects. It was intended to assist projects in getting through OSHPD review and approval more quickly. The basis of this functional program came from a national document, "The National Standard for Healthcare Construction."
- The standards for amended construction documents have been revised. OSHPD's statute allows designation of particular items as non-materially altering the construction. A Code Application Notice has been well-vetted for the past three to four years.
- Inspector of Record certifications have been suspended.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Mr. Gall assured him that this was true for all of OSHPD's packages.

x) Office of Statewide Health Planning and Development (OSHPD 04/12)

Mr. Gall summarized the items that OSHPD covered in this triennial adoption.

- OSHPD covered clarification of standards, particularly as they relate to facilities for which OSHPD writes regulations that are not enforced by local building jurisdictions.

  This year OSHPD attempted to clarify outpatient clinic standards, which were approximately 35 years old with no real revision. OSHPD's top priority was to provide clarity for enforcement by local building officials. Accordingly, OSHPD had devised a checklist format for ease of use.

- OSHPD's other intent was to assist design professionals and applicants in understanding the absolute minimum requirements for appropriate clinic standards, based on the services provided.
- OSHPD presented a section on outpatient clinical services, focused on the majority of services that hospitals provide.
- OSHPD incorporated national health facility construction standards for clinics wherever possible.
- In response to the Affordable Care Act, OSHPD attempted to provide, wherever possible, lower construction requirements – substantiated by national standards – for application to the outpatient clinics. Increased requirements for certain types of clinics resulted in comments received from stakeholders. OSHPD saw validity in their comments, and accordingly pulled a portion of the package. OSHPD will try to reach resolution of those issues with the stakeholders.

Commissioner Mikiten asked why certain parts of the building code have not changed since the 1960s, when there is model code to be used for updates. Mr. Gall responded that the Guidelines had been completely overhauled in 2004; staffing issues were segregated from construction standards. Since that change, OSHPD felt that it could look strongly to the Guidelines in terms of updating standards.

Commissioner Mikiten asked about other areas that OSHPD is looking at for future rounds; Mr. Gall replied that two items coming just prior to the current legislative session were developing standards for hospice and "small-house" skilled nursing facilities.

Commissioner Winkel encouraged OSHPD to participate in the national model code arena, now that the operational issues have been teased out from the construction issues. Mr. Gall agreed.

Public Comment

- Ms. Petra Stanton, representing the California Primary Care Association (CPCA), stated that the issue was critical for that organization because of the extreme cost. The regulations were originally written for hospitals, and community health centers and community clinics have been mandated to follow. The CPCA was very much looking forward to the change originally proposed under OSHPD 3SE, and was very disappointed when it was withdrawn a few weeks ago. They requested that all of the initial recommendations within OSHPD 3SE be reinstated.

  Ms. Stanton read a prepared statement supporting the request to reinstate the proposed change in HVAC and plumbing requirements. The withdrawal would ultimately result in delayed health care to the underserved, as health centers sought ways to meet the excessive requirements.

  Ms. Stanton addressed concerns with Item 6x) and 6aa). She thanked OSHPD for being willing to take a second look at the 3SE issue.

  Ms. Stanton read a prepared statement regarding Item 6x). The CPCA's main concern with Part 2 of the proposed code was in Section 1226.2. OSHPD's proposed amendment requiring health centers to meet OSHPD 3 requirements when they convert

space to clinic use, would be disastrous. Ms. Stanton provided an example from a South Sacramento clinic in a designated underserved area, that ultimately had to close its doors.

Ms. Stanton mentioned three other items of concern:

- the requirement for additional restrooms
- the increase in exam room size
- the requirement for two rooms to be dedicated for toilet space

She closed by stating that regulations that are appropriate for primary clinics, will result in preventive and primary care becoming more accessible across California.

- Mr. Roger Richter, representing the California Hospital Association, concurred with Mr. Gall and stated his support for OSHPD's proposed clinic changes. He stated that he appreciated the issue that clinics face, because hospitals are facing the same issue; one-third of them are losing money on operations.

  He continued that in preparing for the Affordable Care Act, both clinics and hospitals are purchasing physician practices. Reimbursement then is no problem. The problem comes when a hospital purchases a physician's office and goes on to provide licensed clinic services in that space. Invasive procedures must use the requirements of OSHPD 3; it is a quality issue. There is a big difference in the reimbursement rate between a physician's office and a licensed clinic.

- Ms. Lilly Spitz, representing Planned Parenthood Affiliates of California, stated that this organization, along with CPCA, had participated in stakeholder meetings. Regarding the 3SE issue of conversion of space, she affirmed Mr. Galt's intent to revisit the issue.

  Ms. Spitz suggested to the Commission that the issue is not arbitrary – there are two specific agencies that protect consumers: the Department of Public Health, where OSHPD is housed, and the Building Standards Commission, which comes under the Department of Consumer Affairs. Their focus is on construction. But from the consumer's perspective and the public health perspective, there must be a nexus between the standards that are required and the services being offered.

  The services provided and the acuity of patients in a community clinic are far less than a hospital; yet the community clinic is held to a hospital level in almost every standard. Clinics in underserved areas of California already cannot keep up with the patient population. They need some relief in the future in order to meet the needs of Californians.

  Ms. Spitz addressed the conversion issue. The provisions in the proposed amendment are vague and ambiguous. Also, current law provides to the local building agencies the authority to enforce the OSHPD 3 regulations. There are no exceptions to that authority, and for OSHPD to conflict with that authority is unlawful to the regulatory process.

- Mr. Ben Avey, speaking on behalf of the Family Health Centers of San Diego, called on the teleconference line, stated opposition to three items under 6x):

- Code Section 1226.2: Finding a location for a community health center in an underserved community is difficult. Often they must look at existing medical space. If this proposal is approved, major renovations will be required; many clinics will never open; and a major barrier to affordable health care will arise.
- Code Section 1226.4.1.4: The minimum number of toilet rooms is a problem. At least six exam rooms are required to make a clinic financially viable. The caller asked the Commission to amend the proposal to allow small clinics to be defined as *six or fewer exam rooms*.
- OSHPD 3SE: It would have allowed community health centers to safely utilize hospital ventilation systems and eliminated a number overly burdensome requirements that have no relation to patient safety. If OSHPD 3SE is not brought back into the code, community health centers will be required to construct virtually new facilities and renovate existing spaces (including existing private medical office space) at enormous cost.

- Mr. Scott Penner, speaking on behalf of the Golden Valley Health Centers, called on the teleconference line, to encourage the Commission to consider the proposed amendments from an objective standpoint. He mentioned the improvements that will have to be made to buildings for conversions to clinics.

  Some of the plumbing requirements, especially in the San Joaquin Valley where the water is less than neutral pH, plastic pipes are a better option than metal in the long term.

- Ms. Sylvia Castillo, of AltaMed Health Services, called on the teleconference line, and stated that over the last three years, they had renovated or expanded at least five of their 44 Southern California sites. She provided specific examples of the effects of the OSHPD requirements on AltaMed Health Services nonprofit clinics.

  AltaMed Health Services planned to continue acquiring private medical facilities which are not required to meet OSHPD regulations. The cost will be difficult to bear. Also, installing new ducting in some facilities per OSHPD requirements is impossible because of lack of room in the ceiling.

  AltaMed Health Services respectfully urged OSHPD to take up the proposal once again, and hoped to continue working with OSHPD.

Commissioner Sawhill requested staff to consider seriously these concerns; the cost relative to the outcome was very important.

Mr. Gall addressed a few of the public comments.

- One of the requirements for licensed clinics is to comply within OSHPD 3 standards. It is not an option for a local building jurisdiction to revise OSHPD requirements; it must meet the requirement, in statute, for licensure of a primary care clinic. One of the accommodations for licensing that the California Department of Public Health allows for is that if a clinic is not initially compliant with the OSHPD 3 standards, it can present a plan of modernization in order to comply within three years.

Chair Caballero responded that at some point, someone should look at the broader picture: if primary care clinics are offering services that are non-invasive, there must be some correlation with the requirements for doctors' offices.

Mr. Gall noted that OSHPD had focused on national standards targeted for primary care clinics, and those were the standards they had put forth.

- Regarding the number of exam rooms versus shared toilets in a building: the reason the exception is presented in the code is that there is a national standard to incorporate in California code.
- OSHPD also could not proceed contrary to laws, model code, and plumbing code for plumbing facilities for employees, patients, and visitors. If there is consideration to dip below model code, OSHPD must have a reason. In this instance, OSHPD did not see a reason.

Commissioner Sierra requested a list of all the presenters and public commenters, and their organizations.

Commissioner Sawhill offered his perspective. He stated that everyone had the goal of providing health care. For the past two years, his personal and direct involvement in every aspect of health care – providing it through benefit trust funds, employer contributions, collective bargaining, the California Building Standards Commission, and meeting with the Health Committee in Washington, D.C. for Congress – everyone's efforts to make it more affordable are killing the program. We are impeding the ability to eventually provide health care to people, whether it's through cost or restrictions. Anything we can do to hold down the cost to provide more facilities and services makes us better off.

Commissioner Winkel said that there are two issues: whether there are simple changes that can be made to the proposals that will bring people what they need; and the 3SE. He wondered if any of the issues were on a timeline that would allow the BSC to remand the package back to OSHPD for solving them.

Mr. Gall answered that the difficult OSHPD 3SE items were the use of flat stock and the use of plastic pipe. OSHPD had tried to knock them down to model code.

Commissioner Sierra asked about the ventilation and plumbing exception requests. Mr. Gall explained that the environments would be either restricted or sterile.

Chair Caballero clarified that the 3SE issue was going to go back before the stakeholders for discussion, in hopes of finding a middle ground. Staff had informed her that the BSC has a hearing scheduled in April, and if there is a resolution, it could come back then – ending up in code as a resolution. However, the resolution would need to go through the comment period beginning in early February.

Commissioner Mikiten asked for clarification on the timeframe for conversion of space, which Mr. Gall provided.

Commissioner Winkel asked about 12.6.2 – adding language for "conversion of non-clinical space to clinic use." He did not think the language added useful meaning.

Commissioner Sawhill pointed out that a change in language signals a change in the requirement. If there is no change in the requirement, the language should not be changed. Mr. Gall responded that the change in language was for clarity.

Commissioner Winkel noted that the difference between the office of a health care provider and a clinic is built into the licensure. The problem is in the legislature, not OSHPD; OSHPD is seeking only to provide clarification of the rules. The rules are the same under the 2010 building code as in the new code the BSC is about to adopt.

Chair Caballero noted that the requirement has been interpreted by local government with a practical approach – i.e., conversions when the new clinic is doing the same things that the doctor was doing are not affected by the rules. Today's changes are trying to establish uniformity throughout California and close any loopholes and ambiguity for local government. The real issue is that there need to be legislative changes in how clinics are rated based on the kind of procedures they do; then we can have rules that make sense.

The Commissioners continued to discuss the clinic issue with Mr. Gall. Commissioner Sawhill suggested to have the Commissioners' position clearly documented: they did not intend to change the current law but merely to clarify it. The requirements have not been increased.

Commissioner Winkel added that BSC sought to clarify the regulations which were applied by the local jurisdictions, which in the past have been subject to non-uniform enforcement. In this case, the non-uniform enforcement has been to the betterment of delivery of health care.

Several Commissioners stated that they were prepared to vote in favor of the package, because it states what is required – but what is required needs to be fixed.

y) Office of Statewide Health Planning and Development (OSHPD 03/12)

Mr. Karim Mohammad explained that the proposed amendments would make the 2013 California Administrative Code consistent with the 2012 IBC.

Commissioner Mikiten asked about the use of the words "water-tight" and "weather-proof" in 2410.1.1. Mr. Mohammad answered that "weather-tight" was the correct term.

z) Office of Statewide Health Planning and Development (OSHPD 01/12)

Mr. Gall explained that the package was the triennial adoption of the California Electrical Code. There were no real revisions proposed and there were no comments received.

aa) Office of Statewide Health Planning and Development (OSHPD 05/12)

Mr. Gall stated that the package was the triennial adoption of the California Mechanical Code.

- It included some updating primarily for hospital facilities.
- It provided clarification for language that had confused submitters and design professionals.
- It also acknowledged additional spaces within health facility settings.

bb) Office of Statewide Health Planning and Development (OSHPD 06/12)

Mr. Gall stated that the package provided changes and updates.

- OSHPD had looked for and acknowledged some cost savings for all health facilities under OSHPD jurisdiction.
- It included clarifications to requirements for handwashing fixtures relative to the national standards.
- It revised the emergency water supply standards for hospitals that need to be operable by the year 2030.

Commissioner Winkel asked if OSHPD had received any comments from hospitals and health care providers about psychiatric units about plumbing in the room that may present a danger to the patient. Mr. Gall replied that OSHPD had begun a discussion at a subcommittee of the Hospital Building Safety Board. OSHPD is trying to apply national standards in looking at that aspect.

Public Comment

Ms. Stanton and Ms. Spitz stated that they had addressed this item previously.

> **MOTION**: Commissioner Barthman moved approval of Item 6w) (OSHPD 02/12), 6x) (OSHPD 04/12), 6y) (OSHPD 03/12), 6z) (OSHPD 01/12), 6aa) (OSHPD 05/12), and 6bb) (OSHPD 06/12), with the editorial modifications discussed. Commissioner Sierra seconded. Motion passed with one abstention.

Chair Caballero noted the reluctance of the Commissioners as they voted. She added that there was work to be done regarding the clinics and 3SE that would include stakeholder groups as an important component.

cc) Division of the State Architect – Structural Safety (DSA-SS 01/12)

Mr. Bob Chase, Deputy State Architect with DSA, noted that Mr. Richard Conrad of the DSA and former Executive Director of the BSC, was retiring. Mr. Chase wished him well in his retirement.

Mr. Chip Smith, DSA Supervising Engineer, stated that the Part 1 package applied to K-12 public schools and community colleges. It included:

- Editorial changes.
- Substantive changes to the Project Inspector certification approval process.
- Substantive changes to the Materials Test Labs and Special Inspection requirements.

The DSA conducted many Advisory Board meetings with regard to the changes; they had given their endorsement of the changes. No public comments had been received.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Mr. Smith concurred.

dd) Division of the State Architect – Structural Safety (DSA-SS 02/12)

Mr. Smith stated that the application, as well as Parts 3, 4, and 5, was also for K-12 public schools and community colleges. The DSA had coordinated closely with OSHPD on the amendments and adoption of the 2012 IBC and its referenced standards.

The DSA addressed the comments made during the 45-day process regarding the structural window sealant, in the Final Statement of Reasons.

Commissioner Winkel referred to the gap in legislation dealing with the Commission's ability to promulgate things enforced at the local level. Local criteria for the 318 standards needed to be enforced at the local level. Mr. Smith replied that on the Advisory Board, DSA has a structural engineer who will be involved with CALBO in terms of coordinating code for local jurisdictions.

ee) Division of the State Architect – Structural Safety (DSA-SS 03/12)

Mr. Smith stated that the proposal was for adoption of the 2011 edition of the National Electrical Code for incorporation into the 2013 California Electrical Code. DSA was not proposing any new amendments.

ff) Division of the State Architect – Structural Safety (DSA-SS 04/12)

Mr. Smith stated that the Part 4 code adoption proposal was for the adoption of the 2012 edition of the Uniform Mechanical Code with amendments for incorporation into the 2013 California Mechanical Code. The amendments were mitigating shortcomings in the previous model code regarding construction of duct systems.

gg) Division of the State Architect – Structural Safety (DSA-SS 05/12)

Mr. Smith stated that for Part 5, DSA was proposing adoption of the 2012 Uniform Plumbing Code, continuing their current amendments with editorial changes only.

In response to a question from Commissioner Mikiten, Mr. Smith stated that in the previous adoption, there was a lack of updated references to duct requirement standard. DSA had worked with the International Association of Plumbing & Mechanical Officials (IAPMO), the state agencies, and the BSC to correct this.

hh) Division of the State Architect – Structural Safety (DSA-SS 06/12)

Ms. Theresa Townsend, DSA Supervising Architect, stated that DSA had worked with BSC on promulgating the adoption of the 2010 California Green Building Standards Code for incorporation into the 2013 California Green Building Standards Code. The changes regarded bicycle parking, and there was rewording to make the package specific to schools rather than commercial buildings.

ii) State Historical Building Safety Board (SHBSB 01/12)

Mr. Smith stated that as he worked for DSA as the Executive Director of the State Historical Building Safety Board, he would present the item. It brought forward the 2010 California Historical Building Code, with no changes, to be published in the 2013 edition.

> **MOTION**: Commissioner Sawhill moved approval of Item 6cc) (DSA 01/12), 6dd) (DSA 02/12), 6ee) (DSA 03/12), 6ff) (DSA 04/12), 6gg) (DSA

05/12), 6hh) (DSA 06/12), and 6ii) (SHBSB 01/12). Commissioner Winkel seconded. Motion passed with one abstention.

jj) California Department of Public Health (CDPH 01/12)

Mr. Eric Trevena, Staff Environmental Scientist for the CDPH, read a prepared statement stating that the regulation proposal for public pools sought to correct editorial inaccuracy, clarify existing requirements, and update references to current standards. The proposed changes included concerns that were not addressed during the prior rulemaking cycle. They had been discussed and agreed upon by the stakeholders at an meeting in April. Non-substantive revisions were made in response to comments received during the 45-day comment period.

Substantive comments were made regarding minimum pool size during the 45-day comment period. CDPH will consider addressing them in future code cycles.

Commissioner Sawhill ascertained the following: "For the record, each building standards code proposed by your department has been reviewed and discussed with stakeholders to ensure that any issues have been addressed. Therefore, there is no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle." Mr. Trevena concurred.

Public Comment

Mr. Bob Raymer spoke for CBIA in support of the package.

MOTION: Commissioner Mikiten moved approval of Item 6jj) (CDPH 01/12). Commissioner Twist seconded. Motion passed with one abstention.

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

There were no public comments.

8. FUTURE AGENDA ITEMS

MOTION: Commissioner Barthman made a motion to express thanks to the Code Advisory Committees for doing an outstanding job, and to the state agencies for their superior presentations. The motion was seconded, and passed unanimously.

The next meeting of the BSC was scheduled for January 23-24, 2013.

9. ADJOURN

MOTION: Commissioner Sierra made a motion to adjourn the meeting. Commissioner Barthman seconded. Motion passed unanimously.

Chair Caballero adjourned the meeting at approximately 11:40 a.m.