

BUILDING STANDARDS COMMISSION

MEETING MINUTES

January 27, 2017

1. CALL TO ORDER

Chair Batjer called the meeting to order at approximately 10:15 a.m., 400 R Street, First Floor Hearing Room, California Victim Compensation Board, Sacramento, California.

ROLL CALL:

Secretary Marybel Batjer, Chair
Steven Winkel, Vice Chair
James Barthman
Larry Booth
Elley Klausbruckner (arrived at approx. 10:34 a.m.)
Erick Mikiten
Rajesh Patel
Peter Santillan
Kent Sasaki
Juvilyn Alegre

Commissioner Mikiten led the Commission in the Pledge of Allegiance.

2. REVIEW AND APPROVAL OF DECEMBER 13, 2016 MEETING MINUTES

MOTION: Chair Batjer entertained a motion to consider approving the meeting minutes from December 13, 2016. Commissioner Barthman made a motion to approve, and it was seconded by Vice Chair Winkel. The vote was unanimous with the exception of an abstention from Commissioner Mikiten.

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

There were no public comments made.

4. THE CALIFORNIA BUILDING STANDARDS COMMISSION

Chair Batjer discussed the 2015 Berkeley building collapse which killed six people and injured seven others. She stated in response to this tragedy, a working group of the Commission was formed at the April 19, 2016 meeting. This group met twice to review current building standards relative to exterior elevated elements and other documents provided to them by the regulated community. At the December 13, 2016 commission meeting, the working group provided an update to the Commission recapping the subcommittee's discussions and the materials they reviewed, including the recently developed National Model Code amendments. During the

meeting, several commissioners asked if the state agencies could propose emergency regulations which included the recently completed model code amendments. After the December meeting, the various state agencies felt it prudent to move forward with emergency regulations.

She stated the Commission today will either concur or not concur with the finding of emergency guided by the Health and Safety Code Section 18937. If the Commission concurs with the finding of emergency, it will take action on the respective proposed emergency regulations to approve, disapprove, return for further study, or approve as amended. If approved, the emergency regulations would become effective upon filing with the Secretary of State possibly as soon as January 30, 2017. The emergency regulations will add, amend or repeal building standards relative to the exterior elevated elements (EEEs) in the 2016 edition of the California Building Code, Part 2, and the California Existing Building Code, Part 10, of Title 24.

a) Gary Fabian on behalf of Building Standards Commission (BSC) expressed gratitude to the other state agencies involved in these emergency regulations and provided an overview of the finding of emergency for BSC. He gave a brief summary of the Berkeley balcony failure and a timeline of BSC's responsive efforts to date. He stated at the April 19, 2016 commission meeting, an ad hoc committee was formed to review current building standards relative to EEEs.

On September 15, 2016, Governor Brown signed into law SB-465 to adopt/repeal Health and Safety Code Section 18924.5. The first section directs a BSC working group to study similar failures and report back to the legislature any findings or recommendations for statutory or building standards changes. The second section requires if at any time it is determined by that working group that changes are immediately needed to protect the public, the group will submit recommended changes to appropriate state agencies for immediate consideration. In November of 2016, the International Code Council (ICC) concluded its code development process for the 2018 International Building Code (IBC) and the International Existing Building Code (IEBC). He stated BSC is proposing to adopt via emergency specific ICC code changes which enhance the building standards for EEEs. These provisions are easily achieved and increase the level of safety for the public, and there should be no delay in enacting similar measures in California. At the December 13, 2016 BSC meeting, the subcommittee reported information gathered from the City of Berkeley, Structural Engineers Association of California, and the American Wood Council. There was also a discussion of recently approved provisions for the upcoming national codes.

He stated in transitioning the 2012 edition to the 2015 edition, ICC migrated most content of its IBC, Chapter 34, into its IEBC, a transition that has happened for a couple of cycles. A section concerning the maintenance of buildings and safe condition was deleted because ICC felt language in its property management codes served its need; however, California does not adopt that code, so the 2016 California Existing Building Code no longer carries the maintenance provision. This emergency also restores that provision to the California Existing Building Code. That provision does not require local jurisdictions to inspect properties but merely restores the previous intent to allow inspection.

Mr. Fabian stated in view of the intentions to immediately reduce risk factors and increase public safety, BSC proposes the adoption of these building standards through the emergency adoption process as authorized in Health and Safety Code Section 18937. BSC's authority includes state buildings and existing state buildings for all occupancies and includes the University of California and the California State University system for all nonresidential occupancies. The proposed emergency regulations amend the Building Code and the Existing Building Code, Parts 2 and 10, of Title 24. Specifically there will be administrative and technical sections that are amended or added to Part 2, including Chapter 1, the administrative chapter; Chapter 16, structural design; and Chapter 23, wood. Also, administrative sections are added to Part 10, Chapter 1. The provisions will necessitate participation by the major components of the building industry: design, construction, and inspections. He reported BSC has already conducted its workshops and is finalizing its regulations for the 2016 intervening code cycle; therefore, it is too late to include these amendments in those regulations. Those regulations would not be effective until July 1, 2018. BSC requests the Commission to concur with this finding of emergency.

Questions or Comments from the Commissioners:

Vice Chair Winkel, as a subcommittee member, urged the commissioners to adopt BSC's finding of emergency to move forward with the express terms.

Commissioner Mikiten asked why the Property Maintenance Code is not adopted from the ICC.

Mr. Fabian deferred the question to Ms. Marvelli or Mr. Nearman.

Ms. Marvelli stated she would have to do some research on that and advise at a later date, but that there are several local jurisdictions that do adopt the Property Maintenance Code to use for their local rental programs.

Vice Chair Winkel stated ICC has been trying to place provisions where they belong in various aspects of the ICC bookshelf. He stated that the Property Maintenance Code as adopted is the right place, but maybe you would find it has a very low adoption nationally. The adoption will go up as things that people will want to have in their local codes are in that document. This is just an evolution of how ICC publishes their codes, and we need to think about how to catch up.

Michael Nearman with BSC stated that the Property Maintenance Code tends to be a document that is utilized post-construction occupancy, and the Building Standards Code directly relates and deals with building standards for construction of buildings, and so it is an option at the local level to adopt if they feel they need that to enforce the post-occupancy requirements for the buildings, but not something the state has adopted on behalf of the local jurisdiction.

Questions or the Comments from the Public:

Alyssa Stinson, California Building Industry Association (CBIA), supported the emergency packages for BSC and Housing and Community Development (HCD). She extended apologies on behalf of Bob Raymer, who was unable to attend today's meeting. She stated CBIA and the

California Apartment Association continue to strongly support the finding of emergency and the express terms. CBIA will work with the staff of HCD and BSC to inform their membership immediately.

Jackie Donohoe, mother and aunt of two of the victims, stated she was present and witnessed the tragedy from the ground. She stated she appreciates all the work and support that is being done and pleaded to the Commission to change the codes as soon as possible so no family will have to go through what her family has gone through.

Bill Leys with DeckExpert.com requested the Commission to consider the following items: (1) require balconies to be waterproofed for an approved pedestrian traffic code that is found in ICC-ES, Division 7, walking deck systems; (2) many of the manufacturers of deck coatings and waterproofing products test their products over Exposure 1 plywood regular grade that is not pressure treated. This may affect the ICC evaluation test for fire ratings, and that should be considered prior to requiring pressure treated plywood; (3) require architects to have training in waterproofing, designing waterproofing systems, and also requiring the Contractors State License Board to form a classification for licensing waterproofing contractors.

MOTION: Chair Batjer entertained a motion to consider California Building Standards Commission's finding of emergency. Commissioner Booth made a motion to approve, and it was seconded by Commissioner Sasaki. The vote was unanimous to accept the motion.

b) Gary Fabian gave an overview for the express terms. He stated there are eight provisions being proposed. The first five and the last two provisions are based on proposed 2018 IBC and IEBC model code. The sixth provision appeared in several editions of both California and National Model Code language. BSC proposes to restore that provision within the California Existing Building Code. The first five provisions intend to vanguard new construction, including additions and alterations; the remaining provisions intend to vanguard existing buildings.

Questions or Comments from the Commissioners:

Commissioner Klausbruckner stated she could not locate a definition of elevated walking surfaces, and the only time it is mentioned is in stages and access to electrical/mechanical plumbing systems. She recommended including a definition for that term whether through ICC code hearings or through California.

Vice Chair Winkel confirmed that there is no definition in the 2018 code or the current code; however, having no definition could allow for some flexibility.

Commissioner Alegre asked a question regarding a grammatical correction on page 3 of 3, Section 109.3.8.1, the last sentence starting with impervious moisture barrier system shall be not be concealed.

Mr. Fabian stated it is an editorial correction, and it was language that was carried over from ICC that was not caught.

Chair Batjer stated the correction will be made.

Commissioner Mikiten pointed out a correction on page 3 of 3, Section 106.2.6, the last sentence that states “The construction documents shall include manufacturer’s installation instructions.” He stated different jurisdictions may require different things and the language seems vague. He asked whether there was discussion about this and whether it was intentionally vague for some reason.

Mr. Fabian confirmed there were discussions. He stated the definition in Chapter 2 of construction documents allows written and graphic representation and points to the fact that all the elements of the design process speak with one voice. As far as the local plan check routine, there will be some opportunity for inclusion not just on drawings but also within the specification.

Commissioner Mikiten stated in reality the specification package usually does not get submitted as part of the plan check, so if the jurisdiction wants to ensure that this is being followed, then they are not going to have that document unless it is put on very large sheets.

Mr. Fabian stated that would be a good topic to discuss during the rulemaking process to see if there are any industry comments.

Commissioner Mikiten stated that was going to be his suggestion, that that topic be addressed in the next code cycle so that there can be some consistency, and so that expectations for architects are clear, and the code expectations that are set up for the local jurisdictions are also clear.

Vice Chair Winkel stated having participated in the language development of the 2018 IBC, it does appear that way in what will be the next generation of code. It was decided to get it into the code to ensure that those kinds of things are not overlooked by design professionals and the regulatory community. He stated it was a good idea to speak with California Building Officials (CALBO) about how they enforce that so you do not end up with a lot of worthless information.

Questions or the Comments from the Public:

Kyle Krause, Deputy Building Official, County of El Dorado Community Development Agency, thanked the Commission, the ad hoc committee, and the state agencies for their efforts. On behalf of his agency, they are in support of the proposed changes and are confident that the amendments before the Commission today are a step in the right direction to improve the safety for building occupants. He stated these provisions will enhance the performance of EEEs where the balcony or other elevated walking surfaces are exposed to water; however, they do not address the decay resistance of wood structural members used to support moisture permeable floors where the EEEs are exposed to water. There is an opportunity in the California Building Code, Section 2304.12, to amend model code language to improve the performance of these EEEs that are exposed to water by requiring the use of preservative-treated wood. These additional amendments will increase a very important element of this problem which is not

addressed by the 2018 IBC changes or the changes before the Commission today, decay resistance of wood structural elements. Requiring preservative-treated lumber for all EEEs where the balcony or other surface is exposed to water can provide additional protection against failure and is a good proscriptive method to improve the overall performance and safety of EEEs. He stated his agency is willing to work with other state agencies during the certified rulemaking to propose language to try to make these changes and include the requirement to use preservative-treated structural members for these types of elements. He stated if these changes are made to the California Building Code, the end result may be that the model code will include the changes adopted by California, which may mean change at the national or international level.

Dennis Richardson, American Wood Council (AWC), stated his agency listened to many of the deliberations of the work group that was formed by the City of Berkeley, and it was inconclusive whether or not using preservative-treated wood was a solution to the problem, and in some cases, it could potentially hinder the performance, so that is why that option as a requirement did not go forward with these provisions. He stated the chemicals used for the preservative reacts with the fasteners and causes corrosion that could lead to the premature deterioration of the membrane. It also limits the types of materials that can be utilized for these members; in some cases, limits it to materials that are of lower strength and lower resistance to deflection. He requested if there are any further code change discussions or deliberations to include AWC in that process.

Ms. Marvelli gave an overview of the timeline and process of reviewing the approved emergency regulations. She stated the EEE subcommittee will need to meet again in the near future and gather information from all the design professionals and the public. Any approved emergency findings will be in effect for 180 days, and during that time the state agencies will conduct a rulemaking with a 45-day comment period. She stated the 180 days can be extended, if necessary.

Bill Leys with DeckExpert.com stated he concurs with Mr. Richardson on the unintended consequences of requiring pressure treated wood with the fasteners that are typically used in the construction of waterproofing of decks. He stated in his opinion there were several architectural flaws on the Berkeley balcony and, in his experience as a contractor working with architects, he found they very often do not understand deck waterproofing and requirements for door height clearances so that there is enough allowance for water to properly weep out, and they don't understand covering over decks and getting them waterproofed early prior to other building inspections. He stated even though it was built incorrectly, if perhaps it was waterproofed early and water intrusion was kept at bay, the Berkeley balcony might have had a better chance. He suggested balcony construction should only be done by factory authorized applicators that are trained and approved by the manufacturer. As a balcony inspector himself, he recommended that balconies should be inspected every year or three years, as he has seen many issues with railings, rotted joists, and rotted plywood.

Dawn Anderson, architect, commented there used to be a code requirement to have a notice in a conspicuous area for an occupant load on decks. She agreed that a post-construction inspection of decking could be included in Chapter 17 under Special Inspections. She stated she does not understand why decks are an engineered system and not a part of conventional framing and

thinks that exterior grade members are an excellent addition for a deck, at a minimum. She encouraged the Commission to consider the live load tables and introducing higher values for uniform/concentrated loads for stairs and exits which are also a part of decking, walkways, and elevated platforms, Item No. 34 in the live load tables, and also to put an actual number in the live load tables, and consider including a live item in the deflection table to include cantilevered items in the matrix and have a minimum deflection noted there as well.

Colum Hatchell, Vice Consul at the Irish Consulate General of San Francisco, representing the Irish government in the western United States, stated the Berkeley balcony collapse was a tragedy felt deeply by Irish people everywhere, and it is a strong wish of all the affected families to improve the building regulations in California and to mitigate any future risks. The efforts of these families have the attention and support of the highest political levels in Ireland, including the prime minister. He thanked BSC and the agencies for the work that is being done and urged approval of the regulations.

MOTION: Chair Batjer entertained a motion to consider the adoption of the proposed emergency regulations by the California Building Standards Commission. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Mikiten. The vote was unanimous to accept the motion.

(A short recess was taken.)

5. THE DIVISION OF THE STATE ARCHITECT – STRUCTURAL SAFETY

a) Jim Hackett, Principal Structural Engineer, and Diane Gould, Supervising Structural Engineer, appeared on behalf of the Division of the State Architect (DSA). Mr. Hackett expressed condolences to all the families affected by the Berkeley tragedy and thanked the BSC staff for working closely with them. He stated DSA agrees with the enhanced provisions that were adopted by the ICC in the 2018 IBC, which increase the design loads and provide the necessary moisture protections and ventilation of exterior exposed elements. He stated waiting until the next triennial code cycle would not be the right thing to do; therefore, DSA requests the Commission to approve the finding of emergency for these enhanced protection of the EEEs.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or the Comments from the Public:

No questions or comments from the public.

MOTION: Chair Batjer entertained a motion to consider the Division of the State Architect's finding of emergency. Commissioner Santillan made a motion to approve, and it was seconded by Commissioner Barthman. The vote was unanimous to accept the motion.

b) Jim Hackett presented an overview of the proposed regulations. He stated the proposed regulations, which include amendments to Part 2 of the California Building Code and Part 10 of the California Existing Building Code, are packaged together in one package. For Part 2 regulations, Chapter 1 includes administrative conditions relating to weatherproofing requirements; Chapters 16, 16A, and 23 include the moisture protection criteria, as well as live loading on the balconies. Part 10 also reiterates the weatherproofing requirements, but they also reintroduce the maintenance responsibilities for the owners of the public schools. There is one significant difference with regulations proposed by BSC and HCD, and that is that DSA does not provide a provision that authorizes DSA, as the enforcement agency, to require periodic inspection of the EEEs because DSA does not have the statutory authority to any post-construction, but what is appropriate is to reintroduce those maintenance provisions in Part 10. He stated DSA requests the Commission to approve the proposed emergency regulations for the enhanced protection.

Questions or Comments from the Commissioners:

Commissioner Klausbruckner asked for clarification from Vice Chair Winkel on a statement he made at the last meeting that by adopting these codes we may be poking holes through one-hour weighted construction and wanted to know if this was something that needs to be addressed in the future.

Vice Chair Winkel confirmed it is something to be addressed in the future and a work in progress. This is built on what is in the 2018 IBC and the Existing Building Code, which is dealing just with the insulation and waterproofing. The ventilation component will need to be addressed.

Vice Chair Winkel wanted to follow up on what Commissioner Mikiten brought up on the last item. He stated he hopes that DSA, as an authority with jurisdiction, would take the lead in clarifying and rationalizing what having these things included in the construction documents means and focus on what is valuable in terms of telling the contractor what to do, especially specialized waterproofing systems. He stated DSA has an opportunity to be a leader on the regulatory side in terms of reviewing what information is developed that goes in the documents.

Mr. Hackett stated DSA currently requires their plan review engineers to ensure that waterproofing details are on the drawings or in the specifications, but there are so many new specialty products that it is hard to keep up. He stated he recognizes the recommendation and will look to do so.

Commissioner Mikiten suggested that they could be submitted as a deferred submittal. It would be a discrete package, with a different focus than the rest of the package. By extracting it out in that fashion, it could ensure a number of things: First, that people pay attention to it as a fully executed element; second, that the building department or agency has the opportunity to look at it all in one place, which is helpful for a thorough review; and, third, that it becomes a package that goes out to the job site, and because it's a special thing, it doesn't get lost in the shuffle.

Mr. Hackett thanked Commissioner Mikiten for the recommendation and stated it will be considered.

Questions or the Comments from the Public:

Bill Leys with DeckExpert.com suggested there be more educational opportunities for architects to understand waterproofing details. He stated he has met many architects who do not understand all the requirements they needed to be able to do to accomplish a deck waterproofing system that was properly sloped and flashed.

MOTION: Chair Batjer entertained a motion to consider the Division of the State Architect’s proposed emergency regulations. Commissioner Mikiten made a motion to approve, and it was seconded by Vice Chair Winkel. The vote was unanimous to accept the motion.

6. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

a) Shawn Huff, Assistant Deputy Director for the Division of Codes and Standards, and Emily Withers, Program Manager, appeared on behalf of the Department of Housing and Community Development (HCD). Mr. Huff thanked BSC and Gary Fabian for his presentation on EEES. He stated there have been similar failures at the residential level with the Library Gardens and others, and it is very imperative with the findings of emergency for BSC and DSA that HCD has the same approval. Due to the enclosed nature of many of these assemblies, decay and damage are not always observable, hence the urgency to amend Title 24 to reduce the risk factors, thereby improving the health, safety, and welfare of the public. He stated DSA will take all of today’s commentary by the commissioners and the public into consideration when going through the certifying process of the emergency regulations, if approved, and work with other state agencies. He asked the Commission to approve DSA’s finding of emergency.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or the 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 finding of emergency. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Santillan. The vote was unanimous to accept the motion.

b) Shawn Huff presented an overview of the proposed regulations for HCD, which are similar to the other state agencies. He stated HCD’s application of the CBC include primarily hotels,

motels, and apartments. Additional requirements for submittal documents and inspections related to balconies and walking surfaces in both the CBC and CEBC are included. Amendment of Table 1607.1 in the CBC relative to live loads for balconies and decks has been added, as well as amendment of sections related to wood construction in the CBC requiring positive drainage for moisture permeable floor toppings and a requirement for cross ventilation for areas of enclosed balcony or elevated walking surfaces subject to moisture. Additionally, there is a reestablishment, formerly a section in the 2013 CBC Chapter 34, related to maintenance and authority for building officials to require inspections of existing buildings. He asked for the Commission's support and approval.

Questions or Comments from the Commissioners:

Commissioner Sasaki asked whether or not there were any changes contemplated or proposed to the International Residential Code (IRC) related to decks or balconies.

Vice Chair Winkel stated not to his knowledge. He stated these changes are in the IEBC, so they would not apply to one- and two-family dwellings, which is covered by the Residential Code. He stated he does not remember whether any of these changes went into the IRC.

Dennis Richardson, American Wood Council, responded to the question. He stated there were some deck and balcony changes related to the IRC that dealt with the structural live load, but he is unsure whether those passed. Those proposed changes came from the city of Seattle or Washington Association of Building Officials, so there is some information out there that could be reviewed. He stated in regard to the membrane provisions, he can't recall if there were any. There is a specific department in the IRC that does require the preservative treated. Typically it is not an enclosed assembly. He responded to a question earlier regarding whether or not a fire issue would be created and stated that there is a provision that allows when sprinklers are put in, to have openings and not to require a one-hour weighted assembly. If somebody has an issue cutting into ventilation, to put the sprinkler heads in to solve that problem.

Mr. Huff followed up on Commissioner Sasaki's question and stated that they did not; however, if a design professional wished to build solely out of the CBC, which is another HCD amendment, then it would be subject to these requirements of the CBC.

Questions or the Comments from the Public:

Kyle Krause stated he had the same comments as with all the agencies.

Bill Leys suggested for ease of inspections and maintenance on decks and balconies that decks are made of one material as well as an access vent. The Berkeley deck had concrete overboard on top of the waterproofing, which made it difficult to see the waterproofing underneath and what was happening. He recommended that motels and apartments that house people for rent are held to strict standards on balcony inspections and maintenance.

MOTION: Chair Batjer entertained a motion to consider the Department of Housing and Community Development’s proposed emergency regulations. Vice Chair Winkel made a motion to approve, and it was seconded by Commissioner Barthman. The vote was unanimous to accept the motion.

(A short recess was taken.)

Questions or Comments from the Commissioners:

Commissioner Patel asked for confirmation from BSC staff whether the emergency standards passed today apply only to the occupancies that are specifically regulated by those agencies, so if a local jurisdiction wanted to apply it to any other occupancy, they would then have to pass a local ordinance.

Ms. Marvelli stated that is correct, that the local jurisdictions will need to file an ordinance to make the amendments applicable to all other occupancies, which will be stated on an information bulletin. She stated what will happen is the BSC will file these emergency standards with the Secretary of State next week and, at the same time, issue an information bulletin which will go out to all the local jurisdictions and the design professionals. It will include what happened today. At the end of the bulletin, it will have a copy of the approved regulations so the local jurisdictions will know what needs to be enforced at the local level.

Vice Chair Winkel added, for further clarification, that the model building code adoption will be in the 2018 IBC. It is not in the 2015 code.

7. DIVISION OF THE STATE ARCHITECT REPORT

Ida Clair, Principal Architect, Division of the State Architect, provided an update on DSA’s collaboration and outreach with the disability access community relative to the accessibility code creation process. She stated DSA is actively involved in increasing their outreach efforts, and their outreach and education program is focused on the following eight key objectives: (1) to reconvene a disability access advisory committee workgroup. DSA is working with the California State University Sacramento (CSUS), Center for Collaborative Policy, to develop the membership and framework of this workgroup. There have been preliminary meetings to discuss the scope of services for this contract. Once DSA and CSUS develop a proposed formwork for the workgroup, it will be shared with Chair Batjer and Commissioner Mikiten for discussion and feedback. The goal is to have the workgroup in place before the official start of the code development process for the 2018 rulemaking cycle, which is July 1, 2017. As soon as the workgroup is established, it can be integrated into the pre-regulation development cycle activities. Stakeholders have been informed that the formation of this workgroup is a process, and updates will be provided as appropriate; (2) to expand DSA access code training and education programs. DSA offers five training courses on accessibility and were very well received, in demand, and offered in numerous locations in 2016. More training has been scheduled for 2017, and dates and locations are posted on the DSA Academy website. There has

been outreach to partner with professional organizations, such as the American Institute of Architects (AIA) and Certified Access Specialist Institute (CASI) to provide training and to reach a broader audience, and there has been outreach to city and county enforcement agencies to offer training. There has been focused training for authorities having jurisdiction in Sacramento, Redding, and Palo Alto. There is a monthly Certified Access Specialist Program (CAsp) code discussion group of approximately 40 attendees via teleconference where they will discuss interpretation of the federal and state standards, and continuing education credit is given for their participation; (3) to include persons with disabilities when conducting access code training. DSA access code training courses include animations prepared by the United States Access Board (USAB). These animations illustrate a person with a specific disability using and navigating an accessible environment and the specific elements that the animation is addressing and helps provide a user's perspective. The videos are developed on a regular basis, and as they are uploaded to the USAB's website, they are integrated into the trainings; (4) to conduct an exclusive code education class for the disability advocates. DSA is working with BSC to develop training for advocates and other interested parties to explain the regulation development process, communicate DSA's role in the process, and explain when and how stakeholders can participate. The training kickoff will be part of the orientation process for the previously mentioned workgroup. The training will then be provided to advocates and those in the general public who are interested in the building standards development process; (5) to expand outreach. DSA and the Department of Rehabilitation now meet quarterly to ensure collaboration on efforts to address outreach and involvement in the disability community in the building standards process; (6) to educate business and property owners and the public about the ADA and state accessibility regulations. DSA has developed extensive resources for the business community (found on the DSA CAsp program website) to inform about their responsibilities under the ADA and to encourage the hiring of certified Access Specialists. These resources have been made available to the local building departments, chambers of commerce, and at local town hall meetings. DSA is providing support in the development of a guide that addresses a business owner's process to achieve and maintain compliance to state and federal accessibility standards. The concept is a business toolkit, and its components are developed and will be distributed by the California Commission on Disability Access; (7) to increase earlier engagement of stakeholders in the access code process.

DSA held six predevelopment access code outreach meetings. The August 10th meeting was with members of the disability community exclusively to receive proposals for amendments to the accessibility provisions of the California Building Code regulations. More code change proposals were received at the September 1st meeting, which was open to all stakeholders. The September 21st meeting, which was also open to all stakeholders, established a priority list of items from the received proposals. On October 20th and November 2nd, the selected proposals were presented, including the proposed language for discussion with all stakeholders. On November 15th DSA presented the draft code amendments for discussion, and on December 16th the proposed amendments were submitted to BSC for the 2016 intervening code cycle. The transcript for these meetings and discussions are on DSA's website. All stakeholders were notified of each of the meetings and of the availability of the meeting transcripts. At the beginning of the predevelopment activities, DSA made a commitment to inform stakeholders about the status of code change proposals, and on December 29th an email was sent to each

proposer informing them about the status of their code change proposal, whether it was moving forward, on hold for further study, or would not move forward and the reason it could not be considered; (8) to display proposed access amendments that clearly identify existing regulations and proposed amendments. DSA has developed a fact sheet that presents each proposed code change in an understandable format, which includes current code language, the suggested text of the proposed amendment in strikeout and underlined format, the code text if adopted, the rationale for the change, and an explanation on the intent and effect of the amended change or new provision. These fact sheets have been presented to the BSC as part of their package of proposed amendments with the intent that the fact sheet would accompany the regularly submitted documents through the code development process until adoption by the BSC.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

HolLynn D’Lil, member of the Californians for Disability Rights, thanked the Commission for the opportunity to speak today. She stated there was a letter sent to Ms. Marvelli, which will later be read into the record. She hoped the Commission could comprehend how difficult it is for people with disabilities to participate in the code development process, and even though just a few are in attendance today, they represent millions of people from the disability community. Ms. D’Lil stated she appreciated BSC’s work in April when the Commission gave DSA eight specific instructions, but she wanted to discuss and give feedback on the instructions and their progress: (1) to reconvene a regular advisory task force. She stated that there was a collaborative working relationship with the DSA and without the use of a facilitator prior to the current State Architect, Mr. Widom, taking office; however, she participated last year at a public hearing with a facilitator, and the instructions indicated that comments were to be limited to one minute per commenter. Chair Batjer indicated that was discussed in the December meeting and it would not happen again. Ms. D’Lil stated she felt a facilitator was an unnecessary expense; (2) provide co-training and education programs to local buildings and other interested parties. She stated people with disabilities were not included in that; (3) include people with disabilities in the presentation of access code education programs. She thought it was a good idea and that actually would make the trainings real, and that there is no rationale provided on why the regulations are there, but if you talk to somebody who that regulation applies to, then you can understand the rationale behind the regulation and it would be easier to implement. She stated that she would be happy to work with the DSA on item 3, and she could contact key speakers and forward their information to the appropriate parties; (4) code education class to develop a better understanding of the code and regulatory process. She stated she didn’t see that that took place; however, if an offer was put out to the disability community to come to a program like that, there would be very few attendees, if any, because it is a very dry subject, logistically it is difficult, and there is no compensation to them other than the hope that if they become more educated, their voices would be heard. She discussed an outline sent to BSC a couple of years ago called the Access Representatives of California. It was based on a 15-year program from the Department of Rehabilitation where people throughout the state were encouraged to apply to

become volunteers to be trained and to act as local consultants to their local building departments and businesses. She suggested these people could act as consultants to the five code writing agencies that write access standards, and that body would be the body that Government Code 4450 requires the State Architect to consult with. 4450 says he shall consult with an organization comprised of and representative of people with disabilities. She suggested Access Representatives of California (ARC) could fill that need and ensure that it is not just one type of disability but across the entire disability spectrum. There is also a mandate in 4450 for the Department of Rehabilitation to be involved in an education program. Because of today's technology, the training can be online which would make it easier for people to attend; (5) extend outreach to a broader audience and use existing organizations and agencies to educate and increase participation of a wider disability constituency. She stated DSA had public forums to discuss proposals for this 2017 code writing cycle, but there was no discussion allowed, only a listening session; (6) seek ways to better educate businesses and the public with the ADA and access standards and dispel mythologies of access requirements of both applicants and businesses. She stated it is a wonderful idea, but she does not think this has happened because the disability community is unaware of it. She suggested this would be another opportunity to bring people with disabilities into these sessions because they can make it real and they can help to dispel the mythologies; (7) increase earlier engagement of stakeholders in the access code process. She stated she has some documentation to show what the problem is.

She discussed 19 code change proposals, but she only received an email response dated January 24th to one of those proposals. It indicates that DSA reviewed the code change suggestion, and they will refine and develop the suggestion into a formal code change proposal for presentation to the CBSC's code advisory committee for access during the current code cycle; however, she has not seen the finalized version. She stated she should be able to view the final language before it is published and have input into its development. Another advocate did receive a response from Mr. Widom to all 19 proposals and forwarded a copy to Ms. D'Lil. One of the requests in this code change cycle is that access to restaurant seating be restored. The State Architect responded that the assessment on whether or not the CBC can include regulations on built-in seating is governed by the model code on which the CBC is based. She opined that he is under the impression that the model code governs access code standards in this state, and it does not, and that is the problem. What governs access code in this state is state law.

Ms. D'Lil again thanked the Commission for their efforts; however, she feels there is still some miscommunication. She stated Attorney Patricia Barbosa, representing 49 individuals, sent a petition to the Commission after the January meeting where there were some code change adoptions that decrease access in California. The petition was sent within 60 days as required by the administrative law. The response indicated that the Commission would defer the petition to the State Architect. The State Architect's response was that it was not within his jurisdiction to respond to the petition. Both agencies indicated that they could not respond because those code changes would not go into effect until January 2017; however, the petition was sent within the required 60 days of the January meeting. She stated her frustrations on the petition going nowhere and their concerns not taken seriously.

She continued on to item 8, display proposed access amendments that clearly identify existing code and proposed amendments in a much more digestible and understandable display and access to all of us. She stated that was well done and very much appreciated. She suggested a column format so that code wording can be compared easier. Another suggestion is to make available the strikeout and underline format in a different format for people with low or no vision.

Connie Arnold has been a disability rights advocate for over 30 years from Elk Grove, California. She stated she does not feel there is any kind of collaboration or discussion with the State Architect and the staff at DSA in the development of these codes. She discussed her frustration at her attendance at one of the meetings where discussion was limited to one minute and discussed the encounter she had with Mr. Widom afterwards. She stated the access codes are very important and affect the everyday lives of people with disabilities and cited some examples, and people with disabilities should be part of the discussion and not an afterthought. She suggested a program similar to Community Access Network or ARC be involved. She stated she does not see many of those eight items discussed by Ms. D'Lil happening. The one proposal that was picked up in 2016 was sent by her to Mr. Widom in 2009 via certified mail, but no response was received.

John Greener, long-time advocate for persons with disabilities, stated he will not reiterate the points made by Mr. D'Lil and Ms. Arnold, but he is in agreement with them. He stated California Government Code 4450, Chapter 7, states it is the purpose of this chapter to ensure that all buildings, structures, sidewalks, curbs, and related facilities be accessible and useable by persons with disabilities. California Civil Code refers to 4450. He stated that it is important for Mr. Widom to consult with businesses; however, the primary purpose of the law is to make all buildings, structures, sidewalks, curbs, and related facilities accessible and useable by persons with disabilities. He requested the State Architect to restore the advisory committee and have regularly scheduled meetings. He stated persons with disabilities should be allowed the opportunity to ask questions and provide their important input regarding code modifications.

At the request of Ms. D'Lil, Ms. Marvelli read a letter from Bob Siegelman, dated January 27, 2017. "California Building Standards Commissioners, I understand the political and budgetary reasons for limiting the access requirements under Title 24. I look at these limitations proposed from both the perspective of a significant disability and the perspective of a taxpayer trying to protect long-term economic interests in California. Every dollar that California invests to improve access comes back to the state with substantial interest in the increased functioning of people with disabilities and their decreased financial dependence on the state. For example, for someone like me who does not walk or talk clearly because of cerebral palsy, to compete against able-bodied people for jobs, I have to have extraordinary qualifications. For that reason, the Texas Department of Rehabilitation where I live in financed my PhD. With that degree, I successfully competed for government jobs requiring only a master's degree. Thus I worked for the State of California for 30 years and paid back in taxes many times over what it cost to educate me. At the same time a large proportion of people with my disabilities spend their entire lives unemployed and collecting disability payments. You can look at the money that the State of Texas paid for my education as an investment. Similarly I ask that you look at the money that

businesses pay to comply with Title 24 as an investment. Money invested in access comes back to the state of California many times over in the financial self-reliance that it provides people with disabilities. Thank you for your time and consideration. Sincerely, Bob Siegelman.”

Dawn Anderson, Architect, Access Specialist, and member of CASp stated she has been active in the activities that DSA has been conducting. She thanked Chair Batjer, Commissioner Mikiten, and the other commissioners for their patience and endurance in this important issue. She stated there are many challenges and problems, including structure and leadership that still need to be looked at. For instance, DSA only has an interpretation of its own jurisdictional code; they do not interpret the state and federal codes, which tends to get confusing. She commented that code documentation for the State Historical Building Code is not happening as it should be, so there should be stronger requirements. She expressed her concern about timeliness, as it has been over a year ago that Commissioner Mikiten proposed this, and it is still ongoing. She stated she is encouraged but is looking to the leadership of the Commission to move forward and try and spearhead solutions to the process. She suggested allowing persons with disabilities to participate in the DSA’s classes free of charge, maybe look at the mechanisms used by the federal government in the rulemaking process.

Susan Chandler with Californians for Disability Rights stated in 1971 a group started California Association of Physically Handicapped. She stated the group was able to get laws and codes changed so that people could get onto sidewalks, into the buildings, and use the toilets. She stated code changes do not cost much. It is the arguing and fighting that is costly. The code language must be clear so that things are done right, even an inch is important to people with disabilities. She stated DSA is violating state law by not allowing people with disabilities to participate in the code development process as mandated by state law. She commended HolLynn D’Lil for her efforts.

Chair Batjer stated BSC did receive a letter by Ms. Chandler early this morning, but it was not in time to be included in the commissioners’ board packet. It will be made available to them after the meeting.

Christine Fitzgerald, community advocate for Silicon Valley Independent Living Center, thanked Ms. D’Lil and Ms. Anderson. She discussed several ways universal design helps everybody (for instance, automatic doors, lights, and temperature controls), but universal design has to be useable by everyone, including people with disabilities. Having people with disabilities in committees and in the training sessions that know it from the inside out is going to be key in growing and flourishing in California.

Questions or Comments from the Commissioners:

Commissioner Mikiten thanked everyone who spoke to the Commission today either in person, via telephone, or sent in information. He stated he had a good telephonic discussion with Ms. D’Lil this week. He found that the insight of these people who have been participating in the process has been very informative and very helpful in setting a broader perspective of where the development of the code process has been in the past. He stated it is clear that in some instances

things worked better before than they do now; and the eight points that were put together last year were intended as a starting point to remedy some of that. Things are moving forward, but there are elements that are not moving fast enough. He suggested putting on the next meeting's agenda the topic to discuss forming a subcommittee of the Commission. It could be a group outside the context of formal meetings that could interface with or get reports from DSA, other agencies, and from persons with disabilities.

Chair Batjer stated it will be put on the agenda for the next commission meeting.

Vice Chair Winkel stated from comments today there seems to have been in the past an advisory committee that was more collegial in nature with a fairly broad group of people represented, both in terms of building owners and operators as well as the disability community and regulators. He stated it seems like people were more satisfied with the process, and maybe the Commission should revisit what that process was and possibly recreate it. He suggested people could write down a 25-word recollection of what that organization was and compare notes. He stated Commissioner Mikiten is on the right track; however, he has a concern about the commissioners getting too deep into the code development process because he doesn't think they can both propose and dispose of elements, and they should be cautious on their involvement level.

Chair Batjer stated it can be discussed further at the next meeting. She stated point one of the eight points is reconvening a regular advisory task force meeting for the disability access community, so they will be working on that. The director of the Department of Rehabilitation, Joe Xavier, has been involved in meetings in the past and will be involved in further discussions. She also thanked everyone for coming today and expressing their ideas and concerns. She stated she will continue to work with DSA, and she and Commissioner Mikiten will be in more frequent communications and will ensure he is involved in the further ongoing development of the eight points.

Commissioner Mikiten agreed with what Vice Chair Winkel stated about the fine line that the commissioners must take. He stated the focus of what he is envisioning for the subcommittee is really about the process permanently. He pointed out that there are some good people he has spoken with directly at DSA and HCD, and he believes it is their true and honest intent to make the process better and inclusive and to make good access for California. He stated that bringing both sides together can actually make things better.

Chair Batjer agreed with what Commissioner Mikiten stated and gave her appreciation to the hard work of her colleagues at DSA and their efforts to bring forth implementation of the eight points.

Questions or Comments from the Public:

Ms. D'Lil asked whether it was possible to address their concerns or readdress the petition.

Chair Batjer stated this topic was not on the agenda; therefore, it would violate the Bagley-Keene Act. She deferred Ms. D'Lil's request to counsel.

Attorney Viana Barbu, counsel for BSC, clarified that this item was only agendized as an update from the DSA. The Bagley-Keene Act does require public comment. The Commission can consider agendizing discussion of whether or not that petition should be addressed and when it should be addressed; however, the actual substantive matter in that petition cannot be addressed at this time by the Commission.

Ms. D’Lil asked what can be done about the State Architect’s misunderstanding that the model code governs California law. Would going to court be an option?

Chair Batjer again advised this is not an agendized item and does not feel she should go to court over it. She deferred to Ms. Marvelli.

Ms. Marvelli stated internally the BSC will take a look at it since she does not have the information in front of her. She advised she will have to compare the petition to what is in Chapter 1 of the Administrative Code, the regulations that are followed for determining the criteria for a petition.

Ms. D’Lil asked whether they would be notified on what is discovered in BSC’s review.

Ms. Marvelli confirmed that they would be.

8. FUTURE AGENDA ITEMS

Chair Batjer asked if there were any future agenda items not previously discussed today.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or the Comments from the Public:

No questions or comments from the public.

9. ADJOURN

MOTION: Chair Batjer entertained a motion to adjourn the meeting. Commissioner made a motion, and it was seconded by Commissioner Sasaki.