

STATE OF CALIFORNIA
MEETING OF THE
BUILDING STANDARDS COMMISSION

January 12, 2010

Department of Consumer Affairs

1625 North Market Blvd.

Sacramento, California

1 **COMMISSIONERS PRESENT:**

2 THOMAS SHEEHY, Chairperson

3 ISAM HASENIN, Vice Chairperson

4 JAMES BARTHMAN

5 CRAIG DALEY

6 TONY HOFFMAN

7 CHRISTINA JAMISON

8 STEPHEN JENSEN

9 MICHAEL PARAVAGNA

10 RICHARD SAWHILL

11 STEVE WINKEL

12
13 **COMMISSIONERS ABSENT:**

14 NONE

15
16 **ALSO PRESENT:**

17 DAVID WALLS, Executive Director

18 TOM MORRISON, Deputy Executive Director

19 TERESA BORON-IRWIN, Legal Counsel

20 MICHAEL NEARMAN, Architectural Associate

21 STEPHANIE DAVIS, Executive Assistant

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P R O C E E D I N G S

1
2 MALE: [Recording begins] Present.

3 MS. DAVIS: Commissioner Barthman?

4 COMMISSIONER BARTHMAN: Present.

5 MS. DAVIS: Commissioner Sawhill?

6 COMMISSIONER SAWHILL: Present.

7 MS. DAVIS: Commissioner Hasenin?

8 COMMISSIONER HASENIN: Present.

9 MS. DAVIS: Commissioner Hoffman?

10 COMMISSIONER HOFFMAN: Present.

11 MS. DAVIS: Commissioner Jensen?

12 COMMISSIONER JENSEN: Present.

13 MS. DAVIS: Commissioner Jamison?

14 COMMISSIONER JAMISON: Present.

15 MS. DAVIS: Commissioner Daley?

16 COMMISSIONER DALEY: Present.

17 MS. DAVIS: Commissioner Winkel?

18 COMMISSIONER WINKEL: Present.

19 MS. DAVIS: And that's it.

20 CHAIR SHEEHY: Great, we have a quorum established. Mr.

21 Hasenin's going to lead us in the Pledge of Allegiance.

22 [Whereupon, the Pledge of Allegiance was recited.]

23 CHAIR SHEEHY: Ladies and gentlemen, the first order of

24 business today is going to be a closed session. The

25 Building Standards Commission will now convene in closed

1 session as authorized by Government Code Section
2 11126(e)(1) for the purpose of conferring with and revising
3 and receiving advice from its legal counsel regarding
4 pending litigation, since discussion in open session could
5 prejudice the Commission's position in this litigation.
6 The title of the litigation is a long title. It's the
7 Center for Environmental Health, Consumer Federation of
8 California, Planning and Conservation League, California
9 State Pipes Trade Council, California Profession
10 Firefighters as plaintiffs versus the State of California
11 Building Standards Commission. We excuse all members of
12 the audience at this time. We will advise you when we have
13 concluded our closed session, which we estimate will be in
14 about --

15 MR. WALLS: Twenty or thirty minutes.

16 CHAIR SHEEHY: Twenty to thirty minutes. And at that time, we
17 will reconvene our open meeting. So unless you are staff
18 or counsel to the Building Standards Commission, we would
19 ask you to leave for about the next half hour.

20 [Whereupon, the audience left the room.]

21 CHAIR SHEEHY: Okay, I apologize, fellow board members. We
22 have a couple of glitches. Well, I guess we have a glitch.
23 We're supposed to be webcasting a video and audio today,
24 and I'm advised by our staff that they're having technical
25 problems with the webcasting. I had hoped that the

1 webcasters could work on that while we were in closed
2 session and get it resolved. But I've been informed by
3 counsel that since we're going into closed session, they
4 can't be here. So because we have so much in front of us
5 and I don't want to delay things, if it's okay with my
6 fellow commissioners, I thought we could move to a separate
7 room that's private where we could have our closed session
8 and proceed with that and get that out of the way. And
9 then hopefully our staff can get the technical situation
10 taken care of. So, Venus, can you show us where we can
11 retire to for a closed session, please?

12 [Whereupon, the Commission Members left the room.]

13 CHAIR SHEEHY: Okay, so ladies and gentlemen, we are
14 reconvening from closed session at this time. I would like
15 to ask if there are any members of the public that would
16 like to comment and address the Building Standards
17 Commission in regards to our closed session business. Just
18 raise your hand if you want to come up. Seeing none, we're
19 going to move on.

20 So I think the next thing on our agenda is the approval of
21 our November minutes. Does everybody -- all the
22 commissioners have a chance to review the minutes -- are
23 there any --

24 MALE COMMISSIONER: Move approval.

25 CHAIR SHEEHY: We have a motion to approve.

1 MALE COMMISSIONER: Second.

2 CHAIR SHEEHY: We have a second. Is there any comment from the
3 public on the minutes? Seeing none, all in favor?

4 COMMISSION MEMBERS: Aye.

5 CHAIR SHEEHY: Any opposed? Hearing none, the minutes are
6 approved.

7 So now we are going to move on to Item No. 4, Dave, who is
8 going to tee this one up for us.

9 MR. WALLS: I will do it. I just want to give a brief update
10 to where we're at on the overall cycle, and I think you all
11 know that this is the final leg of the adoption process.
12 We can get everything done today and adopted, then we can
13 move towards with the publication. The publishers, we work
14 with them, and they've all indicated that they can make the
15 publication by July 1. And therefore, our effective date
16 would be January 1, 2011, which is kind of what we all
17 hoped for us. And this has been a very interesting process
18 this time. I think you all know the challenges we've faced
19 with the State budget situation and the furlough days, and
20 I wish to thank staff and all the staffs of all various
21 agencies that were a part to get us at this point, and I
22 believe we're there and we're going to make it. So even
23 the fact that we've added two additional codes this time
24 from the last triennial cycle, which is the California
25 Green Code and our Residential Code. So are there any

1 questions? We're right on the timeline.

2 MALE: Do we have any questions?

3 CHAIR SHEEHY: Do we have any questions or comments from board
4 members? This is the information I think it was part of
5 both. Okay, moving right along, we are now to Item 5 a) in
6 our agenda.

7 MR. WALLS: This would be Duane Borba with the Office of
8 Statewide Health Planning and Development. This is an
9 emergency provision. And you can bring him up, and on this
10 case, we've have both a finding of emergency and the
11 adoption of the regulation if we do find there's an
12 emergency.

13 MR. BORBA: Good morning, my name is Duane Borba, Deputy
14 Division Chief for Facilities Development Division of
15 OSHPD. OSHPD is proposing to pursuant to the mandate of
16 Health and Safety Code Section 130022, we are proposing to
17 amend Part 1, Chapter 6 and Chapter 7, as permitted by
18 Senate Bill 499, to reassess SPC-1 buildings and prioritize
19 them based on the level of seismic risk using the advanced
20 engineering building module of HAZUS. Again, and that's
21 permitted by Senate Bill 499. These proposed amendments
22 will also revise the NPC deadlines to make them consistent
23 with Senate Bill 2006, SB 1661, SB 306, and SB 499.
24 Additionally, the proposed regs will require the optimal
25 owner to pay a fee to cover the costs of the hazardous

1 reassessment of SPC-1 buildings. Senate Bill 499 does give
2 us the authority to deem these regulations as emergency and
3 to adopt them accordingly.

4 CHAIR SHEEHY: Thank you, Mr. Borba. Do we have any questions
5 or comments from board members on Item 5 a)?

6 MR. BORBA: I would like to add one more thing. These
7 amendments have been -- or these regulations have been
8 approved by our advisory board of the Hospital Building
9 Standards Commission, and we did make some editorial
10 changes that I think were handed out today or at least we
11 gave 20 copies to Jane (phonetic). They are truly
12 editorial based on a little bit more about the system.

13 CHAIR SHEEHY: Okay, so I understand, Mr. Borba, those changes
14 are not substantive to --

15 MR. BORBA: They are not.

16 CHAIR SHEEHY: Therefore, the appropriate motion does not
17 require as amended. Do we have any public comment on this
18 item this morning? Seeing none, is there a motion to
19 approve this item?

20 COMMISSIONER JAMISON: I'll make a motion to concur with the
21 emergency finding.

22 CHAIR SHEEHY: We have a motion.

23 MALE COMMISSIONER: Second.

24 CHAIR SHEEHY: We have a second. All in favor?

25 COMMISSION MEMBERS: Aye.

1 CHAIR SHEEHY: Are there any opposed? Any abstentions?
2 Hearing none, that item is approved.

3 COMMISSIONER WINKEL: We need -- Actually, we need the two
4 items, right?

5 CHAIR SHEEHY: Oh, I'm sorry.

6 COMMISSIONER WINKEL: I would move approval of the item as
7 submitted on this 15-page --

8 CHAIR SHEEHY: Can you use your mic, please?

9 COMMISSIONER WINKEL: Okay. Sorry. I would move approval of
10 the changes as submitted on the 15-page document that we
11 received this morning.

12 COMMISSIONER JAMISON: I'll second.

13 CHAIR SHEEHY: Okay. We have a motion and a second. Any
14 comment from the public on this? From the board members?
15 Seeing none, all those -- I'm sorry, Mr. Borba?

16 MR. BORBA: One more item. We would like these to go into
17 effect the same day that Part 1 goes into effect.
18 Typically, emergency would be the day that they're filed
19 with the Secretary of State.

20 CHAIR SHEEHY: So you're asking January 1, 2011?

21 MR. BORBA: No. The Part 1 --

22 CHAIR SHEEHY: It would be 30 days after publication?

23 MR. BORBA: Correct.

24 CHAIR SHEEHY: Okay.

25 COMMISSIONER WINKEL: And approximately what date would that be

1 do you think --

2 MR. BORBA: It would be around --

3 MALE COMMISSIONER: -- by the time --

4 MR. BORBA: -- February 14th or so. Well, we'll have to work
5 with the publishers. Well, I could figure out (inaudible).

6 COMMISSIONER WINKEL: I don't have an objection. I'm just
7 trying to get a handle on the (inaudible).

8 MR. WALLS: Yeah. I think we can do -- We'll have to work with
9 OSHPD when we file and actually get it published so.

10 COMMISSIONER WINKEL: So it would be February or March?

11 MR. WALLS: Yeah.

12 COMMISSIONER WINKEL: Okay. That doesn't change my motion.

13 MR. BORBA: Thank you.

14 CHAIR SHEEHY: Ms. Walls, a motion that's on the floor is still
15 appropriate given what Mr. Borba is requesting?

16 MR. WALLS: Yes. I think just the effective date is really
17 established by the filing with the Secretary of State and
18 publication, and so I think maybe we should go ahead and
19 clarify the motion and make sure that --

20 COMMISSIONER WINKEL: Okay. Then it would be the document we
21 received today and move approval of the document with the
22 stipulation that it would go into effect with Part 1, which
23 would be 30 days after publication.

24 CHAIR SHEEHY: Okay. Ms. Jamison, are you still seconding that
25 motion?

1 COMMISSIONER JAMISON: Yes, I'll second it.

2 CHAIR SHEEHY: Okay, very good. We have a motion and a second.

3 Is there any further comment on this item? Seeing none,

4 all in favor?

5 COMMISSION MEMBERS: Aye.

6 CHAIR SHEEHY: Any opposed? Any abstentions? Hearing none,

7 that item is approval.

8 MR. BORBA: Thank you.

9 CHAIR SHEEHY: Okay. Our next item of business is Item 5 b).

10 Who is going to present?

11 MR. WALLS: That would be the Department of Housing and Human

12 Development, and this was adopted by emergency back in

13 July, and this is for the final certification.

14 CHAIR SHEEHY: Ladies and gentleman, I'm sorry. I didn't lie

15 and I need to make an announcement, so we're going to pause

16 for one moment. Originally, we had -- our procedure was to

17 do webcast of this proceeding with audio -- a full webcast

18 audio/visual. I'm advised by our staff that due to

19 technical problems that apparently are beyond our control,

20 which we tried to fix during the closed session, that the

21 video feed is not working but we do have the audio feeds.

22 So hopefully all of those of you out there that were

23 interested in participating via the net can at least hear

24 the proceedings. That's the first announcement.

25 And the second announcement is, as long as none of my

1 fellow commissioners object, I'm planning to recess at 12
2 noon today for our lunch break. And if that's okay, then
3 that's the instructions we're going to give to staff, okay?
4 Hearing no objection, please proceed.

5 MR. HENSEL: Mr. Secretary and members of the Commission, I'm
6 Doug Hensel. With me today is Jim Roland (phonetic). We
7 represent the Department of Housing and Community
8 Development. The action we have before you is
9 certification of our emergency rulemaking package that was
10 approved by the Commission July 30th and making it
11 permanent. We did go back and made some revisions to that
12 proposal -- the initial proposal. There was a lot of
13 discussion about some of the permitting exemptions that we
14 originally included. We made revisions to those to limit
15 those significantly. And having said that, we're
16 requesting that you certify our package and make it
17 permanent, and I'd be happy to answer any questions.

18 CHAIR SHEEHY: Thank you, Mr. Hensel. Mr. Walls, did you want
19 to add any comments to that?

20 MR. WALLS: No, I have nothing to add. No, I have nothing else
21 to add.

22 CHAIR SHEEHY: Okay, great. Do we have any questions or
23 comments from our Commissioners?

24 COMMISSIONER JAMISON: I have one comment. Mr. Hensel, I just
25 wanted to say thank you for working with the stakeholders

1 and providing consensus.

2 MR. HENSEL: You're welcome.

3 CHAIR SHEEHY: And I want to thank you for all the hard work at
4 HCD did in this matter particularly given the fact that
5 over the last 12 months you guys worked under very
6 difficult circumstances with the furloughs, and so I want
7 to just recognize the fact that the furloughs have, in
8 fact, been a real challenge for all state departments and I
9 know they've been a challenge for you, so I'm especially
10 appreciative of work that you've done over the last year to
11 get this ready for today's vote.

12 Do we have any comments or questions -- or any comments, I
13 should say, from the members of the general public on this
14 item? Please come forward and state your name for the
15 record.

16 MR. RAYMER: Thank you, Mr. Chairman and Commissioners. I'm
17 Bob Raymer, Senior Engineer and Technical Director with the
18 California Building Industry Association and in strong
19 support of HCD's adoption in the graywater standards. This
20 has been a very work-intensive effort at the same time that
21 they were doing the green building standards and the
22 adoption of the other codes. I know for a fact that the
23 staff has been very (inaudible). I think the resolution is
24 (inaudible) with regards to the (inaudible) inspection
25 issues are just fine, and we support adoption today. Thank

1 you.

2 CHAIR SHEEHY: Thank you, Mr. Raymer. I'd like to just
3 comment. I don't know if this was distributed to all of
4 the Commissioners, but we are in receipt of a facsimile
5 here from Senator Alan Lowenthal, who chairs the Senate's
6 Housing and Transportation Committee, and it is regarding
7 the graywater systems item, and this letter is urging us
8 to approval this and is in support. If any member would
9 like to see Mr. Lowenthal's letter, we have it here on a
10 dais. Do we have other public comment? Okay. Yes, Ms.
11 Jensen?

12 COMMISSIONER JENSEN: I'd move approval.

13 COMMISSIONER JAMISON: Second.

14 CHAIR SHEEHY: Okay. We have motion to approve and a second.
15 All in favor?

16 COMMISSION MEMBERS: Aye.

17 CHAIR SHEEHY: Any opposed? Abstentions? This item is
18 approved. Thank you very much, Mr. Hensel. All right,
19 very good. We are going to keep moving. Our next item is
20 Item No. 6. And staff please -- which staff is going to
21 present this item, Mr. Walls?

22 MR. WALLS: I believe there's someone here from the California
23 State Lands Commission that's coming up right now and is
24 going to present that. And this is an item again that they
25 have adopted and our motion would be to approve it if the

1 Commission so pleases.

2 MR. ESKIJIAN: Okay. Thank you, Mr. Chairman. My name is
3 Martin Eskijian, and I'm the Supervisor for the Engineering
4 Group of Marine Facilities Division of the California State
5 Lands Commission. Item 6 was approved by the California
6 State Lands Commission on October 22nd of 2009 after an
7 intensive review by the industry, and it is update of our
8 current regulations, which are Chapter 31F of the
9 California Building Code. We're proposing approval of this
10 today to incorporate these changes into Chapter 31F and to
11 move forward (inaudible) our website as far as all the
12 details. The original document is about 100 pages, and
13 this is a few pages of typographical corrections in the
14 (inaudible) updates and things that make the code more user
15 friendly and updated.

16 CHAIR SHEEHY: Thank you. And I want to apologize to my fellow
17 board members. I should have had the speaker down before
18 this moment, but I want to ask Counsel, Teresa?

19 MS. BORON-IRWIN: Yes.

20 CHAIR SHEEHY: I was a sitting member of the State Lands
21 Commission at that October 29th meeting representing the
22 Director of Finance, Mike Genest, and so I was directly
23 involved in that item. Is there any reason for, and I
24 don't know that there is but I want to ask to make sure
25 that I'm fully transparent here, is there any reason for me

1 to abstain from voting on this item now that it's come to
2 this body and I've changed jobs. I'm no longer on the
3 State Lands Commission, and I'm no longer with the
4 Department of Finance, but I just want to make sure that my
5 participation on this matter is okay.

6 MS. BORON-IRWIN: Well, I am going to opine extremely
7 conservatively in this --

8 MALE COMMISSIONER: You got to turn (inaudible).

9 CHAIR SHEEHY: I didn't mean to hit you with a curveball. I
10 know we didn't talk, but I just realized now that I
11 probably should double-check.

12 MS. BORON-IRWIN: Yeah. I am going to opine conservatively and
13 request that you abstain.

14 CHAIR SHEEHY: Okay, very good. So I will abstain on this. I
15 apologize. Were you done presenting that item?

16 MR. ESKIJIAN: Yes. That's all we were planning on saying
17 about it.

18 CHAIR SHEEHY: Okay. Are there any other questions or comments
19 from the board members on this item? From the general
20 public? Yes, please come forward and state your name for
21 the record.

22 MR. BOLT: Good morning, Mr. Chairman and Commissioners. I'm
23 Dennis Bolt. I'm with the Western States Petroleum
24 Association. We represent 28 countries -- companies in
25 California, (inaudible) who produce, transport, (inaudible)

1 market petroleum and petroleum-based products. These
2 regulations are applicable to our members who operate
3 marine oil terminals in the state. We can envision tankers
4 and barges bringing in crude oil and petroleum products
5 from those terminals, and that's part of the business that
6 we are in.

7 We continue unfortunately to stand opposed to these
8 regulations based functional procedural grounds, and we
9 talked with the agency. We have an excellent dialogue with
10 the gentlemen and women at the Marine Division. However,
11 we didn't oppose these regulations at the State Lands
12 Commission because the statement or reasons and the
13 response to comments were not out at that time.

14 (Inaudible) informative digest, it states the purpose of
15 the motion comes from marine oil terminal engineering
16 maintenance standards are to minimize the possibility of
17 discharge of oils. In our comment, comment 32 in the final
18 statement of reasons, we make the point that in the
19 development of the regulations, we believe the agency
20 should state why provisions are necessary to minimize the
21 discharge of oil. And the agency in their response simply
22 says we have enabling statute that authorizes us to require
23 (inaudible) petroleum technology, but they don't really
24 speak in regulatory process of how that's adopted. And we
25 had a very good dialogue with the agency, and we have

1 another day -- and we have a daylong workshop in September,
2 and we're having another one in February, so it's not
3 (inaudible) activity at that level. But really in the
4 process, we believe that the agency should be forthcoming.
5 It's a very complicated, it's a very technical building
6 code, and it's the first of its kind regulating oil
7 terminals in the world and it really is a gold standard.
8 We're proud of the dialogue we had in its original
9 adoption, but we believe that more process should be put
10 into the administrative process.

11 An example of that is in comment 34 in the final statement
12 of reasons. There's a new requirement in the amendments
13 that require the marine oil terminal operators to
14 (inaudible) how sea level rise is going to impact our
15 marine oil terminals. Well, we don't want go under water
16 and neither do you. Well, what does that mean? It is a
17 nebulous term and we don't know what compliance looks like.
18 And now in other portions of the regulations, however, this
19 issue is already in the code, this issue has already
20 thoroughly been addressed because we have to perform our
21 audits of the structural integrity based on the tides that
22 exist and are predicted and on the currents, so we already
23 addressed the issue of sea level rise on a recurring and
24 repetitive basis throughout the life of the terminal.
25 So we think that a subjective (inaudible) change is going

1 to do to marine oil terminals 40 or 50 years from now is
2 (inaudible) work, unnecessary, and a costly provision. And
3 we (inaudible), back to my previous point, the agency
4 should have stated clearly in the regulatory process why
5 this provision is necessary to minimize the discharge of
6 oil. Thank you very much.

7 CHAIR SHEEHY: Mr. Bolt, so --

8 MR. BOLT: Yes, Sir.

9 CHAIR SHEEHY: -- you know I was just going to ask you, I mean
10 I, since I was there, the State Lands Commission process
11 was open, public. There was a long period of time proposed
12 to be involved in the comment. I mean are you now opposing
13 this at this stage of the -- It seems like you sort of
14 waited until the last minute to come forward with your
15 opposition, and you certainly didn't give -- You certainly
16 didn't give the Lands Commission an opportunity to work
17 with you on this, so I'm not -- I'd like to understand
18 better what exactly you're asking us to do today.

19 MR. BOLT: And it is a fair point, Chair. It is absolutely a
20 fair point, and frankly, it's my first time before your
21 Commission and I'm not even sure I'm on procedural grounds,
22 but I'll speak to your point.
23 We did talk to these issues about the staff and they said
24 basically we don't have to, and I appreciate that. We
25 requested a response to comments for our two-day hearing so

1 that we could understand what the agency's response was,
2 and we only got a response to our written comments and our
3 public testimony as part of your meeting packet. And we
4 spoke to the head of the State Lands as well as the head of
5 the Marine Division, and they said that they checked with
6 their counsel and that they would not have to -- that they
7 weren't (inaudible) to response to comments prior to your
8 Commission meeting, so I was not really able to process the
9 Marine Division's response to our comment at your
10 Commission hearing, so I did not (inaudible), and this is
11 my only remaining recourse. And if it's not appropriate to
12 bring it here, I accept your judgment, but I think it's
13 important for it to be in the record.

14 MR. ESKIJIAN: Can I respond to that at this time or is this
15 the right way to do this?

16 CHAIR SHEEHY: From what I can tell and from what Mr. Walls
17 tells me also in more discussion, I think that from a
18 procedural standpoint, we've done everything by the book.
19 And I know that the other Commissioners didn't have the
20 same experience that I did, but I'm concerned and
21 disappointed that WSPA has waited until the last moment
22 literally to raise this issue. I mean there was plenty of
23 time, lots of time to raise this not only with this body at
24 the earlier stages but with the State Lands Commission.
25 And in fact, even though Bob Poole from WSPA has attended

1 the State Lands Commission on multiple occasions in the
2 last calendar of 2009, and this issue never came up, and so
3 I'm concerned that this is a bit of a curveball coming at
4 us at the last minute. I'm not sure that it's entirely
5 appropriate at this point, but I am advised that we have
6 gone completely by the book procedurally with respect to
7 the ABA. And as such, just speaking from my viewpoint on
8 this matter, I appreciate your input, but I wouldn't be
9 inclined to change the matter before us, so I'll leave it
10 with those comments. Mr. Hasenin?

11 COMMISSIONER HASENIN: Thank you, Mr. Sheehy. I'd like to hear
12 back from staff. I think they might have maybe some
13 response to those comments.

14 MR. ESKIJIAN: Sure. Sure. And what Mr. Bolt has presented
15 was provided to us in comments, and we followed the
16 procedural requirements to address those comments, and we
17 did that in the final stated reasons, which is on our
18 website. So to the best of my knowledge, we have followed
19 all the procedural steps needed to go before you today.
20 Back to the original statement, there's two things that Mr.
21 Bolt is questioning and I'll go to the first one, and that
22 is our (inaudible) to do this, another (inaudible) response
23 to the Commission in 1990 clearly stated the California
24 State Lands Commission has the authority to create
25 standards for the performance standards for marine oil

1 terminals, and that's what we've done to prevent the
2 discharge of oil.

3 And if anybody thinks that this is -- this is not
4 necessary, I would invite you to go Eureka today. Our
5 engineers are up there inspecting the work that was damaged
6 during the last earthquake of 6.5 in Eureka. There was
7 damage to the pipelines, and it is a real problem and this
8 code addressed that problem.

9 This code is being used around the world by non-marine oil
10 terminals as well as marine oil terminals. Even in foreign
11 countries, this has become the established code. We
12 believe it is the proper code. We passed it before your
13 organization in 2005, and it became law in California in
14 January of 2006 enforceable, and the train has left the
15 station and it's been gone now for three-plus years. So to
16 come in now and say that this is not an appropriate code I
17 believe it is not the right time to do this. So that's
18 question one from Mr. Bolt's statements.

19 Question two addresses sea level rise, and we were
20 instructed by our executive officer to include this into
21 this revision, and we've done that. And we say in this new
22 revision that the operator must consider sea level rise in
23 its operations and processes. We believe that's a real
24 concern. It's rather subtle when you have more water under
25 the wharf and you can bring your vessel in with a deeper

1 draft, which means higher mass, which means higher impact
2 velocity, which means your (inaudible) system has to
3 accommodate that as well as changing the angles for more
4 rise. We believe it should be considered. We don't go
5 beyond that, and we just say you need to think about it.
6 Now the State Lands Commission has issued a document, which
7 is also on our website, regarding sea level rise, and it is
8 out there in literature. It was reported in the LA times
9 and (inaudible).

10 That's my initial comments to what Mr. Bolt is saying. I
11 welcome any comments from Commissioners to ask about these
12 questions. This revision to this code is miniscule
13 compared to the initial 100 pages of code. It corrects and
14 updates many things such as we've done now in a tsunami
15 study from the San Francisco Bay that to our knowledge has
16 never been done before. We now have (inaudible) heights
17 all the way into Richmond and beyond the San Francisco Bay,
18 which helps the entire marine community of the San
19 Francisco Bay. We've included now the seismic spectrum for
20 the ports of LA and Long Beach, which was updated thanks to
21 the ports of LA and Long Beach. We've also included in the
22 report by the ports of LA and Long Beach for tsunami threat
23 to those two ports. We've included an update on the
24 information of passing vessels studies, which we did in
25 cooperation with U.S. Naval Academy and Professor David

1 Creedman (phonetic). So we've updated, we've closed the
2 loopholes, and we've made some material changes. We have a
3 better document than we had when we came before you in
4 2005. We will continue to make revisions to this code as
5 life progresses because all the codes need to be updated to
6 be concurrent with other codes at the same and (inaudible)
7 practice throughout (inaudible). So I'll welcome any
8 questions from the Commissioners regarding any of these
9 comments.

10 CHAIR SHEEHY: Yes. Mr. Winkel?

11 COMMISSIONER WINKEL: It seems to me that both the proponent
12 and opponent have followed the procedural issues closely.
13 I don't think that there's anything procedurally that would
14 force us to not adopt this today. Also, looking at the
15 second specific comment, which I believe is 31 and deals
16 with the sea level rise, I think that as a work-in-progress
17 code, which is what you're talking about, is the language
18 which is in here, all (inaudible) shall consider, and it
19 doesn't say anything about what the outcome of the
20 consideration is. I think it's pretty innocuous language,
21 and I don't -- I don't believe that it could -- It could
22 have a major impact if indeed sea level rise is going to
23 impact the wharf, but the code doesn't mandate you to do
24 anything and basically calls to the fact that you should be
25 paying attention to it, and I think that's a proper thing

1 to have in the code.

2 CHAIR SHEEHY: Thank you, Mr. Winkel. Mr. Bolt, did you want
3 to say anything else before we move forward?

4 MR. BOLT: Yes, thank you, Commissioner and Chair. First of
5 all, I absolutely appreciate the courtesy and I understand
6 the position you take today. And just so it was clear, we
7 did not speak to the Commission because we consulted with
8 the executive officer without the response to comments in
9 front of us, and that's why I'm even sitting at the
10 hearing, and we're here today just to make sure we're doing
11 everything right, and I accept the decision of the
12 Commission, and I appreciate the courtesy.

13 CHAIR SHEEHY: Well, thank you, Mr. Bolt. Your comments can
14 certainly be part of the official record going forward, and
15 we will be revisiting this code in the future.

16 MR. BOLT: Absolutely.

17 CHAIR SHEEHY: With that said, any other follow-up comment on
18 this item? Seeing none, is there a motion?

19 COMMISSIONER BARTHMAN: Move to vote.

20 COMMISSIONER JAMISON: I'd like to make a motion, but I just
21 wanted to confirm that again this is a motion for approval
22 only. I'll make a motion for approval as submitted.

23 CHAIR SHEEHY: That sounds like what I had, Ms. Jamison. This
24 is a motion for approval only as opposed to --

25 COMMISSIONER JAMISON: Approval and adoption because they

1 already went through the adoption process.

2 MR. ESKIJIAN: At the State Lands Commission.

3 CHAIR SHEEHY: Thank you. Okay. We have a motion.

4 COMMISSIONER BARTHMAN: Second.

5 CHAIR SHEEHY: And we have a second. All in favor?

6 COMMISSION MEMBERS: Aye.

7 CHAIR SHEEHY: Any opposed? And the Chair will abstain. That

8 motion carries.

9 MR. ESKIJIAN: Thank you very much, gentlemen.

10 CHAIR SHEEHY: Thank you. Tell the folks back in your respect

11 offices I said to say hi especially Mr. Thayer and Mr.

12 Fosset (phonetic).

13 MR. ESKIJIAN: Okay. Thank you.

14 CHAIR SHEEHY: All right. Okay. Item No. 7(a), this is -- I

15 know there's not going to any question or public comment at

16 all on this item in a few moments. Dave, who is going to

17 present our Green Building Standard Codes to us today for

18 Part (a), which is the first part?

19 MR. WALLS: Yeah, I will present Part a), and I think if the

20 Commission so pleases, have you take comments and responses

21 to the Item a)(I), (II), (III), and (IV). And I let each

22 of the agencies that are proposing them (inaudible) and

23 many of the items are adopted similar or the same as, so I

24 think the code itself has been an update to our 2008

25 voluntary code. We made the next step to a full adoption

1 of mandatory and voluntary provisions. One substantive
2 change that I think you'd notice we made between the 2008
3 and beside the mandatory (inaudible) and our new
4 (inaudible) version would be for the 2010 code is that it
5 separated residential from the non-residential provisions
6 in the code.

7 We did find that a lot of comments during the 2008 code
8 that people were confused even though we meshed together
9 (inaudible) some of the codes. That was kind our goal, but
10 with this new code people were very confused in applying
11 commercial to residential and visa versa, so we separated
12 them out to make it easier to use. And we do have proposed
13 voluntary measures, which include a Tier 1 and Tier 2 and
14 is designed to provide local jurisdictions that want to go
15 over and above our minimum mandatory to adopt those in an
16 effort to try to provide some uniformity and consistency
17 among those jurisdictions who choose to go above our
18 minimum mandatory set of codes. And again, that's the
19 Department of Housing and Community Development, Building
20 Standards Commission, Statewide Health Planning and
21 Development, and Division of State Architect. And with
22 that, I'll turn it over to --

23 CHAIR SHEEHY: Oh, yes. Before we get there, there's quite a
24 bit of interest on this item today, so we're going to have
25 a lot of public comment and we're looking forward to that.

1 Thanks for the reminder. Before we get to the public
2 comment, I'd like to deliver a few prepared remarks.
3 First of all, I want to thank everybody who is
4 participating here today. And for those of you that aren't
5 here, I want to thank everybody who has participated over
6 the years in order to bring this before us today. And
7 today we're going to consider an issue that no other state
8 in our country has, in fact, considered before, and that's
9 to integrate green construction practices into the very
10 fabric of our state construction code.

11 In 2007, Governor Schwarzenegger directed our Commission to
12 work with a number of different state agencies on the
13 adoption of green building standards for residential,
14 commercial, and public building construction. And the
15 Governor asked us to set a target date of implementation of
16 2010, and I'm glad to see that we're here today in a
17 position to do just that. Following the Governor's
18 direction, we are presented here today with the option to
19 adopt the nation's first mandatory green building code.
20 This code will essentially revolutionize the way we build
21 structures in our state. By implementing a sensible, cost-
22 effective foundation of green practices, we will usher in a
23 new error of greener communities and more sustainable
24 buildings.

25 This effort could have only been achieved because of the

1 countless man hours that have been dedicated by Commission
2 staff, by all of the stakeholders who have participated in
3 this process, the general public and, of course, thousands
4 of volunteers who have participated.

5 There was a tremendous amount of input and feedback from a
6 wide variety of individuals who were encourage by and
7 interested in the Commission's efforts in this matter.

8 Numerous focus groups were held, public comment solicited,
9 and many, many meetings that always elicited valuable
10 insight. All of these entities and individuals are to be
11 commended. California should be proud of the Commission's
12 efforts to be as inclusive and transparent as possible, and
13 I applaud the Commission's Green Building Standards
14 Committee and the Green Building Standards Code and
15 Advisory Committee for all of their hard work.

16 Governor Schwarzenegger has made it clear that safeguarding
17 our environment is sound public policy. Climate change is
18 a critical issue for our state and he has solidified
19 California's reputation as a leader in protecting our
20 natural resources and in reducing our carbon footprint.

21 Today's code adoption was born of the Governor's
22 comprehensive green building initiative calling for
23 California to lead the country in designing, constructing,
24 renovating, and operating its building to make them the
25 most energy and resource efficient public buildings in the

1 nation.

2 What we will consider today is a set of statewide standards
3 that mandates a 20 percent reduction in water use, requires
4 50 percent of all construction waste be diverted from
5 landfills, and ensures that all energy systems are working
6 at their maximum design capacity and requires the use of
7 low pollutant of any materials. In fact, the California
8 Air Resources Board has estimated that new buildings that
9 come into compliance with CALGreen, our code, will reduce
10 the greenhouse gas emissions by three million metric tons
11 and carbon oxide equivalent by the year 2020.

12 Today's adoption will establish an exemplary model for the
13 world to follow to significantly reduce greenhouse gas
14 emissions, ensure resource conservation, and create
15 buildings that are more resource and energy efficient.

16 While our mandatory provisions will break the ceiling on
17 mainstreaming green construction practices, we've also
18 created voluntary provisions so that local governments can
19 continue to expand their capacity and create green
20 communities for all of their residents.

21 We've set the bar for green construction practices and
22 we're looking forward to local jurisdictions leaping over
23 that bar. We realize, of course, that our work is not
24 done. Today is not a final action in this matter. The
25 beauty of this Commission's structure is that this code can

1 and will continue to evolve to be a better and better code
2 in the future as new opportunities present themselves, and
3 that will allow us the flexibility to adapt and improve
4 upon the structure we hope to adopt today.

5 I look forward to continuing our work with our valued
6 partners in the building industry, in the environmental
7 community, and the environmental industry, and local
8 governments, and our many other partners. Together, I know
9 that we will continue to find ways to improve upon the
10 great work that has already been completed, and I want to
11 thank each and every one of the stakeholders whether you
12 are in full agreement, partial agreement, or only a little
13 bit of agreement. Everybody that has participated in this
14 process has made this work product what it is today. And
15 on behalf of the entire Commission and the Schwarzenegger
16 administration, I want to thank all of you for
17 participation. It's been extremely helpful.

18 With that, I'd like to open up the public comment on this
19 item, and hopefully we will get to a vote. We may not get
20 to it before lunch, but we will get to a vote on the
21 nation's first green building standards code. We have
22 quite a bit of public comment today, and so I'm assuming
23 everybody is here in the room, and I thought the easiest
24 way to do it would be rather than have you all line up,
25 I'll just starting calling on you, and if I miss anybody,

1 we'll catch you on the way back. And first I'd like to
2 hear if we can from Elizabeth Echols. Is Ms. Echols here
3 today?

4 MS. ECHOLS: Hi. Good morning. My name is Elizabeth Echols.
5 I'm the Director of the U.S. Green Building Council's
6 Northern California Chapter, and I'm also speaking on
7 behalf of all of our California Chapters today. As
8 you probably know, USGBC is a national nonprofit
9 organization. We have about 20,000 member companies around
10 the nation. Those companies include builders, architects,
11 engineers, and entrepreneurs all committed to a more
12 sustainable future.

13 Since the time that tiers were first introduced in the
14 draft code, the USGBC has been making its views clear about
15 the tiers. We've participated in the focus groups. We
16 have submitted six sets of comments on the tiers as well as
17 other comments on technical points, and we have given
18 testimony in the code advisory committee meeting, and we
19 have participated in a number of meetings with Dave Walls
20 and Doug Hensel and others in the agencies. Nonetheless,
21 our concerns still have not been addressed, which is why I
22 am here today.

23 We are still very concerned that the tiers will result in
24 significant market confusion within the building community
25 and the general public. Tiers imply benchmarks or levels

1 with clearly delineated criteria that separate them and a
2 rigorous verification process. We're concerned that this
3 structure will create in the public's mind a presumption
4 that these ties and the attainment of these tiers are
5 verified and have meaningful additional environmental
6 standards. The draft code does not provide an adequate
7 verification mechanism for the tiered structured. The
8 verification relies on local building officials to evaluate
9 performance.

10 Now I just want to assure you I have the utmost respect for
11 our local building officials. They're smart. They're hard
12 working. They're good civil servants. But this is a new
13 and complicated structure, which will be handed over to
14 them to implement without sufficient resources or training
15 or a compliance document, and many building departments are
16 already over burdened and short staffed. Some don't even
17 exist anymore.

18 In addition, many of these measures are hard to verify.
19 Some are so vague that they can be interpreted vastly
20 differently by the different localities that adopt them,
21 which would undermine one of the goals of providing the
22 tiers, which is to provide uniformity around the state.
23 Take, for example, A5.304.4.1 in Tier 1, which is to reduce
24 the use of potable water to a quantity that does exceed 60
25 percent of the evapotranspiration rate times the landscape

1 area. Now we, of course, support the reduction of potable
2 water uses. It's incredibly important, but how is this
3 going to be implemented? Reduce the amount of potable
4 water use for what exactly? Landscape irrigation,
5 something else, 60 percent of what exactly, of the annual
6 average, of the evapotranspiration rate, the monthly
7 average? How will these reductions be documented and
8 verified? Will the building officials have to request
9 documentation annually? Is this just a one-time reduction?
10 There are a lot of issues here still to be resolved.
11 And I want to make it clear that we feel very strongly
12 about having a strong code. California is a leader in this
13 area, and we support the work that's been done on the
14 mandatory provisions, as well as the voluntary measures, so
15 we're not asking that you somehow get rid of all this great
16 work that's been done. What we're asking for is to just
17 take the approach that the Division of the State Architect
18 has taken, which is to adopt the mandatory measures and the
19 voluntary measures and just use what's currently there as
20 the tiers as a sort of educational tool. It doesn't have
21 to be structured as a tier. It doesn't have to have that
22 additional rating system, that additional clear labeling
23 that we do feel would cause confusion.
24 As you probably know in the last few days, the Governor
25 and our Chair, Mr. Sheehy, has received nearly 300 letters

1 from industry members concerned about the tiers. And in
2 addition, I know there's another trade agency that will
3 speak later that has also gotten another 140 signatures.
4 And so these industry letters they're from big names, big
5 names that you would recognize like Phil Williams, the VP
6 of Webcor, and Webcor, as you know, is the largest builder
7 in the state; Mike Re, who is the CEO of Swinerton; and
8 Kevin Surace who has been named entrepreneur of the year of
9 Inc. magazine and CEO of Serious Materials; David Pogue,
10 the National Director of Sustainability at CB Ellis -- of
11 CB Richard Ellis, Ted van der Linden of DPR Construction
12 and then on and on. I don't want to take up all of your
13 time naming people, but we're happy to provide you with any
14 copies of those.

15 We're concerned that rather than raising the bar like the
16 approach that's currently on the table could provide
17 builders that are unable or unwilling to invest in
18 significant above-code enhancements with an opportunity to
19 describe their buildings as CALGreen Tier 1 or CALGreen
20 Tier 2 without (inaudible) substantiating their claims.
21 And as the letters made clear, we don't really need another
22 rating system right now. What's important and what we need
23 is to lift the mandatory standards to provide guidance
24 about where the code is going through the voluntary
25 measures.

1 And again, we think that the approach that the Division of
2 the State Architect has taken is really very
3 straightforward and quite simple. They provided this
4 language in their 15-day language, so we don't see that
5 this would cause a big delay because I know that there's
6 time urgency. We also feel the urgency. We want to see a
7 great code that's created.

8 So in closing, we would be very pleased to offer our full
9 support for the California Green Building Standards Code
10 if we can find some resolution on these changes. We in
11 the green building community and in the environmental
12 community look forward to continuing to work with you in
13 the future to promote our shared goals for California's
14 leadership on green building. Thank you very much.

15 CHAIR SHEEHY: Thank you very much, Ms. Echols, for your
16 comments this morning. We appreciate them.

17 COMMISSIONER JAMISON: Can we ask her a question of
18 (inaudible)?

19 CHAIR SHEEHY: Absolutely.

20 MS. ECHOLS: Of course.

21 COMMISSIONER JAMISON: Thank you. I'm a little confused at
22 your position particularly when a lot of it is based on
23 the I believe your opinion on not the abilities of the
24 local code officials but your statement saying that this
25 is confusing and complicated for them to apply. And I'm

1 trying to get some background on what made you use that
2 statement.

3 MS. ECHOLS: Yeah. So the revisions that are included in the
4 measures have been developed to at least some extent
5 without full inclusion of the people who are working very
6 hard in this field and in this area. Now as I said, we
7 participated and we provided comments. I don't feel that
8 all of our comments have been and obviously all of our
9 comments have not been addressed because I wouldn't be
10 here today, but the point is is that there are vagaries in
11 the measures. There are complexities that are involved in
12 green building, so having the local officials try to
13 implement this without -- without, first of all, more
14 clarification of what those measures are, I mean how you
15 verify it, it's going to be -- it's going to be tough for
16 them, and it doesn't -- What I'm trying -- I guess what
17 I'm trying to say is that, you know, this doesn't say
18 anything bad whatsoever about local building officials. I
19 know how hard they work and they do a wonderful job. But
20 without having the resources to adopt a new and implement
21 this type of area, it's going to be very difficult for
22 them.

23 COMMISSIONER JAMISON: That's okay. Go ahead.

24 COMMISSIONER HASENIN: If I may just to continue on that
25 thought, so without the tiers, is it the position of your

1 organization for the mandatory provisions, what is --
2 where do you stand on that, for example?

3 MS. ECHOLS: Yeah. We support the mandatory provisions and we
4 also support the voluntary provisions, so all we're asking
5 is that rather than take the voluntary provisions and
6 mandatory provisions and pull them into this structure of
7 all the tiers that you could still leave all of the
8 substance in the code. So you could still have the
9 mandatory provisions and voluntary provisions. You would
10 basically you would be taking out pages 74 and 75 and then
11 modifying those tables in the appendix. That's what we're
12 talking about. It's pretty much the same formula of the
13 Division of the State Architect.

14 COMMISSIONER HASENIN: So why would you be opposed to a local
15 jurisdiction the opportunity or flexibility to adopt
16 something that potentially could more (inaudible) and can
17 provide for more green if they so choose to --

18 MS. ECHOLS: Yeah. Well, I --

19 COMMISSIONER HASENIN: -- and (inaudible).

20 MS. ECHOLS: I think -- I think it would be great for the local
21 cities to pull as many measures as they want. I think the
22 difference comes in when you pull those measures into a
23 structure and put a label on it, and say, okay, now you've
24 met CALGreen Tier 1 or CALGreen Tier 2, so that's where
25 the difference is because it's a labeling. It says, okay,

1 you've attained this certain level as opposed to, okay,
2 you're meeting the mandatory provisions of your city.

3 COMMISSIONER HASENIN: So then you're opposed to the labeling,
4 the (inaudible) of the labeling or the actual (inaudible)?

5 MS. ECHOLS: Well, it's -- Well, it's -- They're very closely
6 interrelated, but the CALGreen, yeah, we are -- we are
7 concerned with the CALGreen labeling, but also the
8 structure of the tiers itself.

9 COMMISSIONER HASENIN: But I just -- It can be concluded -- I'm
10 just not seeing where, you know, like all the codes we
11 adopt, just like the previous item that we just discussed,
12 and all of our codes are evolving. We always start
13 somewhere and continue year after year with making
14 improvements and enhancements and (inaudible)
15 certification with this code especially with the dominance
16 of the building code.

17 MS. ECHOLS: Absolutely.

18 COMMISSIONER HASENIN: So I'm not seeing where the value would
19 be as to make the changes. I see no value of having these
20 options. You must meet with the building officials in
21 their own departments. Fortunately, for us in California,
22 because this is not the first time we'd be applying these
23 standards, we had California For Energy for many, many
24 years, and all the building departments adapted to that,
25 you know, and made the changes (inaudible) to implement,

1 to enforce, and they've done that. We have ASHRAE 90.1 as
2 a basis that we've done before and have been using for
3 many years. So in terms of how to interpret and how to
4 apply, I don't expect that local jurisdictions are going
5 to go beyond it based on mandatory of provisions and adopt
6 one of the tiers. They will have to address some of the
7 questions you asked in terms of water usage and so on,
8 so --

9 MS. ECHOLS: Right.

10 COMMISSIONER HASENIN: -- I'm just not seeing that as, you
11 know, a negative at all. If anything, it really would
12 open up the, you know, the doors for much more in terms of
13 green.

14 MS. ECHOLS: Right. Right. I don't actually think we disagree
15 because I absolutely and USGBC absolutely believes that
16 the voluntary measures are useful and helpful and so --
17 and I think it's important to give guidance to the cities.
18 So what I'm saying is that it's that additional structure
19 called the tiers that we have concerns about because it is
20 still in the testing phase. It is still evolving and so
21 why, you know, why give a label to it and it cause market
22 confusion and cause market disruption without giving it
23 the time to really work it through and figure out, okay,
24 how can these measures best be written, how can these
25 measures best be verified. I think that's the difference.

1 CHAIR SHEEHY: Yes, please, Mr. Sawhill? Mr. Sawhill and then
2 was that Mr. Hoffman next? Did I see (inaudible)? Again,
3 I don't know if (inaudible). Mr. Sawhill and then I've
4 got Mr. Winkel. I can hear you.

5 COMMISSIONER SAWHILL: I just wanted to make sure I understood
6 your comment that your only real concern is the
7 application of the tiers.

8 MS. ECHOLS: That's right.

9 COMMISSIONER SAWHILL: And the rest of the code you don't have
10 a problem with?

11 MS. ECHOLS: That's correct.

12 COMMISSIONER SAWHILL: And you don't have a problem with term
13 CALGreen because I'm going to raise a couple of issues
14 about the term CALGreen as this process goes through.

15 MS. ECHOLS: Right. No, I'm actually not saying -- Well, I'm
16 saying that we have a concern about the tiers and about
17 the label of CALGreen. Our bigger concern is about the
18 structure but we don't like CALGreen either.

19 COMMISSIONER SAWHILL: Okay. I'm concerned when I hear those
20 comments because I notice that -- And I think it's
21 important that we identify the code as CALGreen, and I
22 think we need to identify buildings that comply with this
23 new building code as CALGreen buildings. You talk about
24 wanting to avoid market confusion. I think if you don't
25 delineate the difference between say a LEED certified

1 building and a CALGreen building that you're going to find
2 in the marketplace building are just going to be called
3 green and we're not going to know which building that is
4 or what that standard is.

5 And if you're truly -- If it truly is important to your
6 organization or organizations that we're able to market
7 the different types of buildings in the marketplace, we
8 need to be able to say that that building is a CALGreen
9 building, and I support staff putting the word CALGreen
10 back in for buildings. And if this is the first code in
11 the country and it's going to be circulating all around
12 the county, then when this code goes into any other state,
13 I want them to know that this is the California code and
14 CALGreen code. And so I support the use of CALGreen and
15 will be bringing that up at a later time.

16 MS. ECHOLS: So what you're suggesting is putting CALGreen back
17 into the paragraph that says that any building meeting the
18 state minimum could be called CALGreen?

19 COMMISSIONER SAWHILL: That's correct and I do support that.

20 MS. ECHOLS: Okay.

21 COMMISSIONER SAWHILL: I think it will eliminate the confusion
22 that you just spoke about.

23 MS. ECHOLS: That's correct. Well, we would --

24 COMMISSIONER SAWHILL: I think that --

25 MS. ECHOLS: We would have to disagree.

1 COMMISSIONER SAWHILL: Well, we may disagree, but I think the
2 fact is if you don't use it we're going to create the
3 confusion in the marketplace you're trying to avoid. I
4 think by putting it in it gives you a marketing
5 opportunity to go out and say that may be a CALGreen
6 building but for the customers that are really concerned
7 we're going to take you to the next standard or a higher
8 level. Without the use of CALGreen, I think we're going
9 to create a lot of confusion in the marketplace.

10 CHAIR SHEEHY: Thank you, Mr. Sawhill, and I was just checking
11 with Dave and we will the opportunity to have a full
12 discussion about that matter probably as we approach the
13 end of this item. And I'm sorry. I believe that Mr.
14 Winkel had some questions for Ms. Echols.

15 COMMISSIONER WINKEL: I think Mr. Sawhill answered or got the
16 answered already. I just wanted to kind of ask it in my
17 own way. The tiers and voluntary measures are all in
18 appendices, either appendix four or appendix five.

19 MS. ECHOLS: Right.

20 COMMISSIONER WINKEL: So which is local adoption, so they
21 wouldn't become effective unless they were locally adopted
22 and locally mandated. So I guess the question is, and I
23 think you answered Ms. Sawhill this, but I just wanted to
24 ask again, the base body of the code without the
25 appendices you don't have any concerns with?

1 MS. ECHOLS: Yeah. In fact, we don't -- Well, I'm going to say
2 we don't have any concerns.

3 COMMISSIONER WINKEL: Well, but we don't have the same level.

4 MS. ECHOLS: (Inaudible) to support. Yes, we don't have the
5 same level of concern, so we support the mandatory
6 provisions, and we actually support the voluntary
7 provisions. What we don't support is then taking those
8 voluntary provisions and putting them into a tiered
9 structured. So what we do support is what DSA has done.

10 COMMISSIONER WINKEL: Okay. Thanks.

11 CHAIR SHEEHY: Anybody else have any questions for Ms. Echols?

12 Okay, great. So why don't we move along. Justin Malan,
13 would you to come address us here on this item? Thank you
14 very much and please state your name for the record.

15 MR. MALAN: Mr. Chair and Commissioners, thank you. Justin
16 Malan on behalf of the California Chapters of USGBC. I
17 really don't want to echo or reiterate what Ms. Echols has
18 just said. In this space of time, I wanted to try and see
19 if I can clarify something and what I believe the position
20 is of USGBC and a number of organizations that signed onto
21 a letter I believe you all have copies of our December the
22 22nd letter.
23 I'll just sort of cut to the chase. The issue of the tiers
24 and the verification of the performance is crucially
25 important. I believe when the Governor issued the

1 Executive Order back in 2004 to establish LEED solar as
2 the benchmark for state buildings that was a very, very
3 clear message. Now whether they had established LEED or
4 whether they had established Build It Green, or some other
5 critical well-recognized, internationally recognized
6 rating system, that's not really the issue. The point is
7 there was already a system that was internationally
8 recognized and very, very well spelled out and
9 implemented.

10 Our concern here and the concern with the environmental
11 community, and I'll just refresh you of the folks in the
12 environmental community that have raised the concern about
13 the structure of tiers, the Sierra Club, Planning and
14 Conservation League, Environment of California, the
15 Environmental Defense Fund, and NODC. Those are the five
16 biggest environmental groups in the state all of whom to a
17 lesser or greater extent have been involved in this issue
18 of greening California.

19 Now they have applauded the Governor's move in 2004 and
20 after a little bit of adjustments, we were here 18 months
21 ago supporting the adoption of the green code, and we
22 commended the Commission and Governor for actually
23 embarking on this green code. We were also heavily
24 involved in ensuring that local governments could retain
25 their authority, which we believe had (inaudible) sort of

1 raised our goal of Build It Green and others, and believe
2 they had the authority to push the envelope further. And
3 through Mr. Walls, through some legislation, and through
4 the Commissioners consistent reassurance to local
5 governments, I believe we have that. I believe that
6 there's little question now that the locals can push that
7 envelope further, and you have repeatedly supported that.
8 This is where the issue comes in and it may be a fine
9 point, but in this case I think a fine point is worth
10 discussion. If you were to have stretch goals, as we --
11 the alternative term that we use for these voluntary
12 measures, those stretch goals can be adopted by local
13 agencies in their green ordinances. Those stretch goals
14 then are the very guidance I believe you are talking
15 about. It's getting the guidance to the local
16 jurisdictions and giving them some parameters. When they
17 adopt it as an ordinance, then it's that local
18 jurisdiction that has the obligation to verify compliance
19 with their ordinance. That's fine for us. LA does it.
20 These local jurisdictions do it.

21 The distinction that we made here is that, even though the
22 tiers may be designed to be adopted by local governments,
23 you can get a builder build to a Tier 1 or Tier 2 without
24 necessarily having had a local business -- building
25 official verify that, build to that level, and then hold

1 it out and say you've got a CALGreen Tier 1 building. Now
2 that's the concern. That's where the marketplace
3 confusion comes in, and that's referring to the
4 environmental community's concern of the potential of
5 green washing. And we've tried not to use the word green
6 washing because it's a pejorative term, and it also
7 implies intent or can imply intent. We're not suggesting
8 people are intentionally going to try and green wash
9 anything. We just feel that this opens up the opportunity
10 to have a plan be made that's non-verified if there isn't
11 a mechanism to ensure that it's fully adopted in a local
12 ordinance. So that's where the environmental people
13 within the environment community view the differences, but
14 the five main local -- five statewide environmental
15 organizations concur that we can achieve much of what we
16 want to do to get these stretch goals by following the
17 DSA's approach. And rather than have this bifurcation
18 within your own industry here, USGBC and the others
19 represent a large section of the building industry and the
20 green building industry. We'd be 100 percent supportive
21 if you could just follow the DSA approach.

22 CHAIR SHEEHY: Thank you, Mr. Malan. Thank you for your
23 comments. But before you go, I have a follow up, and I
24 don't know if any of my colleagues do. This sort of
25 verification has been a consistent thread in the

1 communication that I've seen, and that's the exact same
2 thread in every communication I've seen. In your opinion,
3 which do you think has the potential to be a more effective
4 way of verification if that's done by somebody hundreds of
5 thousands of miles away or an actual field inspection on
6 site where improvements were being installed?

7 MR. MALAN: I believe it would be field inspection is always
8 preferred if it's reasonable and reliable. It's not always
9 necessary depending on what you're verifying.

10 CHAIR SHEEHY: But you think the field inspection would be
11 superior to a (inaudible) filing?

12 MR. MALAN: I would say in most cases depending on what you're
13 verifying. I mean there are going to be some things that
14 you're verifying, a study or analysis of the carbon
15 footprint that you're not going to miss and you'll be able
16 to go into the field and verify that (inaudible).

17 COMMISSIONER JAMISON: Yeah, and again you speak a lot
18 essentially from the perspective of a local code official.
19 And I think if you had compared the rest of the provisions
20 that a local code official enforces throughout Title 24,
21 you'll find that there's very similar circumstances. And
22 although it may be confusing to you, I don't believe it's
23 confusing to local code enforcers. This is something that
24 we do and in many aspects of our jobs everyday in the same
25 way related to adopting additional provisions locally and

1 this is just nothing new procedurally or different from a
2 lot of the other things we do throughout the code. So
3 although it may be confusing to you, I don't see that
4 confusion of the local officials based on the testimony
5 that you provide.

6 MR. MALAN: Commissioner, I understand what you say, and I'll
7 certainly not (inaudible) sort of in the verification at
8 the local level. One of our concerns as being, and I
9 certainly don't want to speak for CALBO, is we are unsure
10 of whether they are willing and able to adopt (inaudible),
11 and maybe we need to hear from them. But what is I'm sure
12 for us is whether the local officials -- If a local
13 jurisdiction does not adopt the tiers verbatim, or whatever
14 the measures in the set of tiers is, and a builder outside
15 of an ordinance, in other words, takes those as the
16 guidance of those tiers, the actual measures, applies that
17 to a building or a development, they are still -- the way
18 we read it, they're still entitled to claim that this is
19 CALGreen building that's a Tier 1 or 2. There's nothing in
20 the code the way it's written now that requires
21 verification by a local jurisdiction and a local building
22 (inaudible).

23 CHAIR SHEEHY: I'm sorry. I'd like to have Mr. Walls respond
24 to the comment you just made, that there's nothing in the
25 code that requires that because you're implying that if we

1 were to adopt this that there would be no requirement to
2 verify, and I'll have Mr. Walls respond to it.

3 MR. WALLS: Yeah. And I think we said it before. State law
4 requires that all of Title 24 be enforced by the local
5 jurisdictions, and I think we put that in our final
6 statement of reasons (inaudible). If not, we can certainly
7 provide that information to you. I know one of the
8 provisions is Health and Safety Code 17960, and then I
9 forget the provisions within building standards law as
10 well, so there is a requirement. You don't have to put it
11 in here because it is requirement that jurisdictions adopt
12 and enforce -- well, not adopt, but enforce Title 24, any
13 provisions that would be adopted so

14 MR. MALAN: But these are voluntary provisions. How can one be
15 forced to --

16 MR. WALLS: If they adopt them -- If they adopted them, then it
17 becomes enforceable. Then they have to enforce it. If
18 they choose not to adopt it, then they don't have to
19 enforce it. That's the beauty of having them in the
20 appendix.

21 MR. MALAN: Correct. But I guess our question remains why go
22 to the tiers if you have the same set of voluntary
23 standards or voluntary measures, as we referred before,
24 then you still are providing the guidance to those local
25 jurisdictions that can pick and choose and then you call it

1 tier (inaudible) and just one string of voluntary measures.
2 It's that confusion and frustration within a large set of
3 the green building community and building community that
4 seems to be unnecessary to force their hand on those that
5 don't want it because otherwise you could get it would
6 appear 100 percent support for this and an accolade for the
7 administration and the Governor for having truly agreed
8 without even a smack or hint or a concern of it being
9 undermined. That's what we're trying to suggest. We're
10 not sure whether insisting on these tiers, which still have
11 to be adopted at the local level to be enforced, whether
12 the insistence on the tiers is really worth it. That's our
13 question.

14 CHAIR SHEEHY: Thank you. Mr. Hasenin?

15 COMMISSIONER HASENIN: Yeah. I understand what he was saying.

16 I see the concern is that you're concerned that somebody
17 will take this kind of (inaudible) method of a Tier 1 or
18 Tier 2, apply it in some jurisdiction that had not adopted
19 those provisions, and they start building their building,
20 you know, Tier 1 CALGreen compliant.

21 MR. MALAN: Correct.

22 COMMISSIONER HASENIN: It's similar to somebody saying my
23 building is LEED Gold when they actually have not gone
24 through the process. So I understand what you're saying.
25 I hear you, but I'm just not seeing how that potential is

1 going to be problem. I think it's just all new to all of
2 us, and I think over time people will adapt to it. I
3 cannot imagine architects or owners of buildings or
4 developers going in and claiming that for a building that's
5 actually in a jurisdiction that has not actually adopted
6 those provisions. But I do understand the point that
7 you're raising. I still think, though, that concerning the
8 pros and cons of having those additional provisions,
9 volunteer provisions or none, that on the whole it's better
10 to have the additional provisions to allow local
11 jurisdictions. We're hoping maybe 50 or 60 percent of the
12 jurisdictions will, in fact, decide to go for our more
13 restrictive, more stringent set of (inaudible). And I
14 would say on the whole it would be better to have the
15 provisions and give them some guidance.

16 You have a lot of small jurisdictions in California that
17 don't have the resources. They would love to have -- They
18 want to probably want to do more than the minimum state
19 code, yet they don't know how to go about it, so this could
20 be the (inaudible) that they can take and run through their
21 Council and adopt. And I think on the whole, that would be
22 a better situation to be in than worry about one or two or
23 how many, you know, developers that may go on to State
24 Planning and I have a Tier 1 CAL. I think still overall
25 it's a better situation to be in.

1 CHAIR SHEEHY: Okay. Mr. Malan, thank you very much for --

2 MR. MALAN: Thank you. Thank you, Commissioners.

3 CHAIR SHEEHY: -- sharing your views. Can we hear from Ms.

4 Tenaya Asan? And we'll hear more perhaps a need from the
5 residential side of things by a member of our prior
6 conversations. Welcome and thank you for coming this
7 morning. Please identify yourself.

8 MS. ASAN: Yes. My name is Tenaya Asan and I'm from Build It
9 Green. Thank you for allowing me to make comments, and
10 they will be on the same line, which you've heard from
11 USGBC. Build It Green is a nonprofit organization centered
12 here in California. We specialize in promoting green
13 residential construction, and we work throughout the state
14 and also we also started to work actually outside the
15 state.

16 We have very well established training for builders. We've
17 trained over 300 green builders. We have 1,000 members.
18 We work with over 100 local jurisdictions, so we have
19 ongoing meetings with local jurisdictions that are trying
20 to adopt and provide green building ordinances. Twenty-
21 five of those cities that we work with have mandatory
22 ordinances to date for green building and another 67 have
23 voluntary ordinances.

24 First, before I talk about our concern with the code or the
25 tier structure of the code, I want to say that -- is

1 acknowledge what the State of California has completed that
2 is in the way of environmental code. They are very, as we
3 all know, we have the strongest energy code in the nation
4 and probably in the world. We have now a water ordinance
5 that may be the strongest in the nation as well. We have
6 now a provision for reducing the formaldehyde in homes
7 through composite wood. We have standards for low PLC
8 emissions for products that are used. All of these codes
9 are very well established. They're strong. They have
10 verification protocols that are very strong.

11 Our belief in the tier structure and we don't -- Well, let
12 me back up a minute. We understand that a code takes time
13 to adopt and to work through and develop, and we feel as
14 though that it would be a better approach to get those
15 measures strong and complete, clear. And if the state
16 still is wanting to put together this what I call kind of a
17 quasi-rating system with these tiers, then at least you'll
18 have something that's strong.

19 I would like to note that at the national level,
20 environment groups have been at the table developing
21 programs for green codes. They are mirroring what is
22 already in place, so they're mirroring LEED commercial.
23 They're mirroring the NAHB program. They not developing
24 something that's completely different, that is not very
25 compatible with the other programs that the builders are

1 already using. They're developing something that can be
2 used, that can be put in place, that is very compatible
3 with what is already happening.

4 So in California, GreenPoint Rated is the program that's
5 managed by Build It Green. We've developed it with
6 stakeholders and agencies -- state agencies, the CEC, Air
7 Resources Board, and a lot of those folks have been
8 involved with developing that program. A lot of cities
9 have adopted it either mandatory or voluntary that program.
10 LEED for homes has been adopted in some places as well.

11 These are programs that are being used and ongoing are the
12 daily line of new builders that want to use these programs.
13 They want these labels. They want the third-party
14 verification that they can sell to their customer. And
15 when having a program like these tiers that is completely
16 different that the cities are going to say, okay, you need
17 to do this, then the only thing -- the consequence is
18 confusing. It becomes confusing from the marketplace of
19 the consumer of what's verified, what's not verified, what
20 is truly a green program, and what may or may not be.

21 And again, I agree with Elizabeth Echols that the building
22 officials that we have in the State of California are
23 strong. They're smart. We've trained a number of them in
24 green building; however, we also we've worked with our
25 cities and know that their resources -- there are serious

1 resources constraints. In those 100 cities that we've
2 talked with, a number of them are very concerned about this
3 tier structure and their ability to be able to verify the
4 measures that are there. Some of the measures, as
5 Elizabeth also mentioned, are not clearly defined, and so
6 they're not really verifiable and I can give some examples
7 if (inaudible).

8 So those are our main concerns. We are happy with what's
9 happening. We'd be happy to work even more with the
10 Building Standards Commission. Build It Green has
11 approached the Building Standards Commission to try to talk
12 about compatibility with the programs that are out there
13 that really -- didn't really get very far, so those are our
14 comments and thank you.

15 CHAIR SHEEHY: Thank you, Ms. Asan. I wanted to just make one
16 comment before I turn it over to my colleagues. When you
17 had mentioned the importance of not doing things in a
18 vacuum and doing things that are consistent and that will
19 dovetail with what's happening nationally and
20 internationally, and I know that Ms. Walls here, our
21 Executive Director of the Building Standards Commission, is
22 in fact a key member on the International Code Council and
23 is very much involved in working on an international green
24 code, so I'm not -- I think your comments are accurate.
25 I'm just not sure on that matter that they're necessarily

1 apropos to us having them here.

2 Sorry about -- Who was first? Ms. Jamison and then

3 Mr. Daley. Did you have a comment, Ms. Jamison?

4 COMMISSIONER JAMISON: My comment was somewhat in the same
5 line. Your testimony of the national organizations
6 participating in the code development and then discussing
7 the programs that are being developed, and there's a
8 distinction between the two, between developing a code and
9 developing a program. And to me, that has a lot to do with
10 an open public process and enforceability. And when I look
11 at providing uniformity in the future and less confusion, I
12 think it's better for code officials, who are going to be
13 responsible for enforcement, to be working in the code
14 development organizations. And when we talk about those
15 programs, again I think that creates more confusion to the
16 general public and then user.

17 MS. ASAN: I think what I'm trying to say is that there are
18 very -- The environmental groups and the Build It Green
19 green building groups have been around for a very long time
20 for, you know, our lead technical folks have been in the
21 green building industry for almost 20 years. And that to
22 having their expertise at the table to develop programs
23 that are compatible with what is already out there and
24 being use would be a better approach rather than developing
25 this whole other thing that's unlike a quasi-rating system

1 that is not really a rating system but it causes confusion.
2 It's not compatible with what the builders already are
3 doing or what to do, so it makes it complicated for them to
4 complete a system that they may want to. So if a city
5 adopts this Tier 1, what about a city or builder that wants
6 to do LEED for homes? Well, does he have to do both
7 because they aren't that same? No rating system is exactly
8 the same.

9 So my approach would be if this is really important to the
10 state that they want to have this structure that they're
11 talking about, that there be more compatibility, that there
12 be more conversation, that those environmental groups are
13 at the table, and not that we're having to comment on
14 something, but that we're at the table developing a program
15 that works for the builders, the stakeholders, the local
16 jurisdictions, and everyone involved.

17 COMMISSIONER JAMISON: When you talked about working with 25
18 local jurisdictions that have ordinances that are mandated
19 and 67 that are voluntary, the idea that these provisions
20 or being mandatory provisions going into the community and
21 having the opportunity to structure into the green goals, I
22 still believe that just coming in from a code perspective,
23 it's going to bring in all of those other local
24 jurisdictions and this is going to be what they know
25 because they don't have anything else yet, so it will be

1 the most familiar thing for them because they're not using
2 these other programs right now.

3 MS. ASAN: A lot of --

4 COMMISSIONER JAMISON: We're looking at whole other future.

5 MS. ASAN: So the cities that are in mandatory programs are
6 very -- have talked to us about it, and they're also very
7 concerned about these tiers. The fact that they aren't --
8 There are a number of measures that are in that are not
9 verifiable. They're not as strongly defined, and it causes
10 confusion for them in terms of where do we go now. There
11 are programs out there that can be, you know -- A city can
12 develop green building ordinances that is -- and that's
13 what they've in the past. They have been compatible with
14 what's working out there now --

15 CHAIR SHEEHY: Thank you.

16 MS. ASAN: -- without creating a whole new thing.

17 CHAIR SHEEHY: I apologize. I want to just say it's -- I'm not
18 cutting you off completely. If one of our other members
19 wants to ask you another question, we'll go there, but I do
20 want to say it is ten minutes until 12:00, and I think out
21 of fairness, it would be appropriate to hear from the
22 others -- to hear at least from one individual on the other
23 side before we break for lunch. So unless we have another
24 question for Ms. Asan at this time, I would like to give
25 the opportunity to other side to be heard before we break

1 for lunch. Is there any objection from my colleagues? Ms.
2 Asan, thank you so much --

3 MS. ASAN: Thank you so much.

4 CHAIR SHEEHY: -- for coming this morning.

5 MS. ASAN: All right.

6 CHAIR SHEEHY: Can we hear from Mr. Bob Raymer, please? Please
7 identify yourself for the record.

8 MR. RAYMER: Thank you, Mr. Chair and Commissioners. I'm Bob
9 Raymer, Senior Engineer and Technical Director for the
10 California Building Industry today. And in the interest of
11 consolidating and time efficiency, I've also been sort of
12 designated as the designated hitter for 17 other industry
13 groups, and at this point I'd like to read off those
14 groups. From general industry, we have the Chamber of
15 Commerce supporting our comments, as we do the California
16 Association of Realtors, the California Manufacturers and
17 Technologies Association, the Plumbing and Heating
18 Contractors of California, the American Institute of
19 Architects California Council, the California Forestry
20 Association, the California Professional Association
21 especially contractors, Western Electrical Contractors
22 Association, and the American Council of Engineering
23 Companies. From the residential sector, of course, there's
24 us, CBIA, there's the California Apartment Association,
25 ConSol, Inc., one of the largest energy and green building

1 consulting firms in the Western U.S. The commercial sector
2 we have the California Business Properties Association, the
3 Building Owners and Managers Association, International
4 Council of Shopping Centers, NAIOP of California, that's
5 the Commercial Real Estate Association, and lastly the
6 Associated General Contractors of California.

7 To put it simply, we are in strong support of the HCD and
8 BSC green building standard proposals including the
9 provisions related to the voluntarily Tier 1 and Tier 2.

10 In the interest of time, we won't just cover why we're
11 supporting so many of the aspects. I'm going to focus my
12 comments solely on the Tier 1 and Tier 2 provisions. And
13 by the way, each of you should have been provided the copy
14 of our testimony today.

15 Number one, the benefits of keeping the tiers; the national
16 code writing bodies have already made the decision to
17 utilize point-based and tier-based systems of compliance
18 with the green building standards. For that matter, the
19 national green building standards produced by ICC in
20 conjunction with the NHB process has four stars, which are
21 roughly definable as tiers. Simply, each star is gives you
22 a certain level of compliance. In addition, ICC is
23 developing a green building code for commercial buildings.
24 This is also going to have at least four and perhaps as
25 many as five tier levels of compliance.

1 Under two, the voluntary tiers will help introduce new and
2 unfamiliar concepts to the design, enforcement, and
3 construction communities that may at some later date be
4 moved into the mandatory set of green building standards.
5 Having voluntary tiers also provides an opportunity to work
6 out the bugs on some of the newer concepts prior to the
7 state adopting them as a mandate. The Energy Commission
8 has been using this philosophy for the last 15 years with
9 some success. For the first ten years in the energy
10 race, they didn't do this. By having these alternate
11 provisions now that we can use to bring into compliance has
12 helped us make transition from one set of mandatory regs to
13 the others. It's very positive to have this in the code.
14 Number three, the availability of the voluntary tiers in
15 the California Green Building Standards Code provides
16 green standards for consideration by jurisdictions,
17 designers, and builders. The tier system provides local
18 jurisdictions with a uniform and consistent way to go
19 beyond minimum code and allows regional flexibility in the
20 design of buildings. Local jurisdictions will verify the
21 provisions of the code through their normal inspection
22 process and plan review.

23 And in difference to what had been indicated two speakers
24 ago, the fact is the local jurisdiction if you adopt this
25 today, it gets published, and printed in 2010 codes, the

1 mandatory provisions will have to be plan checked and
2 enforced by each any every jurisdiction in the State.
3 Furthermore, if a local jurisdiction were to adopt Tier 1
4 or Tier 2 or some other program as part of their local
5 code, just like the state regs, they'd have to be planned
6 checked and enforced just like the fire safety, the
7 structural, and the disabled access provisions. So once it
8 becomes a part of a local mandate, it's part of the local
9 building department's sphere of influence.

10 With regards to Tier 2, which we haven't heard a lot about
11 today, there's a very strong possibility that compliance
12 with AB 32 and SB 375 may well prompt the need for access
13 to a state-sanctioned tier system produced by the builders
14 in local jurisdictions. In particular, the energy
15 efficiency component in Tier 2 requires that you go 30
16 percent beyond the state minimum energy efficiency
17 standards.

18 Right now ARB, the CEC, and PUC are projecting that for
19 local builders building large projects that they may well
20 have to show a reduction in greenhouse gas production by
21 about 28.5 percent. Energy efficiency and the user renewal
22 energy will be absolutely key in accomplishing that.

23 (Inaudible) in the State-sanctioned package with a 30
24 percent increase in energy efficiency, that's just one more
25 tool that we can use and have easy access to.

1 Local authority: For over 30 years, local jurisdictions
2 have had the authority to adopt building standards more
3 stringent than those adopted by the State. Last year, the
4 Governor signed Assembly Bill 210, which clarified this
5 authority includes green building standards. If they want
6 to go beyond state minimums, they can, that they have the
7 complete authority to do that. If a local jurisdiction
8 wants to go beyond a minimum state code and they do not
9 want to adopt Tier 1 or Tier 2, they have the authority to
10 adopt Built It Green, LEED, California Green Builder, or
11 any of the other many green building programs that are
12 already out there and some are doing this. The adoption of
13 a state green building standards code does nothing to
14 prevent this local authority more flexibility.

15 Market confusion: The contention that a tier-based program
16 will lead to confusion is not borne out by the facts. Most
17 of the private sector green building programs use point-
18 based or (inaudible) based tiers. The confusion fact is
19 quickly overcome by reading the contents of the particular
20 documents and getting familiar with the individual
21 provisions. And as with any new updated code, education
22 and training can help alleviate that. And to that extent,
23 last year CBIA and the Business Properties Association and
24 the State Pipe Trades Council cosponsored legislation,
25 Senate Bill 4273, which helped set up a fund at the

1 Building Standards Commission to help pay for the
2 production of implementation and education tools precisely
3 for green building standards.

4 Number seven, the adoption of a statewide green building
5 standard effectively mainstreams the emerging (inaudible)
6 into the state building code. Just as with energy
7 efficiency standards in the last 1970s, and with the
8 disabled accessibility provisions in the 1980s, green
9 building issues are now being brought into the body of the
10 state building code. This will be an evolving set of
11 building standards, as the Chairman indicated, and it is
12 understood that there will be amendments made to these
13 standards on a very regular basis just as we've had with
14 energy, just as we've had with disabled access. But your
15 approval today would mark the first time that any state in
16 the nation has taken the historic step of mainstreaming
17 green building measures into the body of a state code.
18 And lastly, the downside of removing Tier 1 and Tier 2,
19 from an administrative law standpoint, doing so, as you're
20 being requested to do today, would delay the adoption and
21 push the effective date well back into the 2011. Removing
22 the Tier 1 and Tier 2 provisions is not simply extracting
23 out one small table on a page. You have to extract out 25-
24 plus pages in each of the two proposals. That is a huge
25 regulatory endeavor. It would require HCD and the Building

1 Standards Commission to effectively rework and reword and
2 resubmit, and that 45-day language period takes on average,
3 as you well know, about three to four months to accomplish.
4 These two agencies would be back here sometime in May or
5 June with an approval. We would miss our July publication
6 date, and the effective date of these regulations including
7 the mandatory provisions would be pushed back well into
8 2011.

9 Commissioners and Mr. Chairman, we strongly urge your
10 adoption of these standards today. If you've got any
11 questions on the legal aspects that were raised, we'll
12 certainly hear them.

13 CHAIR SHEEHY: Mr. Raymer, I have a question. As Ms. Echols
14 had commented in her opening remarks, I've been one of the
15 recipients, and a number of others, although I may not have
16 been as popular, as the others were sent because I didn't
17 get 300 but I could assure you I got a lot. And so there's
18 no question that there's a lot of interest in this item on
19 both sides.

20 But one of the common themes in those letters, in fact I
21 think it was in every one, was this issue of verification.
22 And I had been -- Of course, everybody here knows that
23 follows this and I am not the subject matter of expert
24 here. I'm new but I'm a pretty quick study. And as I
25 looked into this in depth, I just haven't quite gotten the

1 certification argument because I know that there are
2 building codes notwithstanding the fact that some
3 jurisdictions may not be not be as resource rich as others,
4 but the building codes requires physical onsite inspections
5 to see that these codes are actually being enforced and
6 that somebody is (inaudible) a particular device has been
7 installed or something has been retrofitted and it's
8 actually inspected. And I understand that with some of the
9 other systems that's not necessarily the case, so I'm
10 wondering if you can shed any light on your understanding
11 of the certification part of that, and you know what your
12 thoughts are about that. Is this something that we should,
13 in fact, be considering valid?

14 MR. RAYMER: Thank you, Mr. Chairman. And the fact of the
15 matter is, as with our disabled accessibility regulations,
16 as with our structural standards, our fire safety
17 standards, the building officials are sort of where the
18 rubber meets the roads. To be sent into local
19 jurisdictions that has the resources to do a good job, they
20 will. We're doing what we can to make sure that they have
21 these resources at both the state and local level.
22 The fact of the matter is is that when this goes into the
23 state code, state law and state regulation requires that in
24 the case of residential dwelling when you submit your plans
25 requiring a check at the local jurisdiction, they have to

1 check from compliance on paper. At that time, it's going
2 to just going to be a paperwork compliance check. But then
3 as we go through the actual construction of the home and
4 breaking ground and we go through framing, plumbing,
5 electrical, insulation, you name it, all of the various
6 stages of the homes, the houses are getting inspected. And
7 indeed, they will be getting inspected. When you're doing
8 the plumbing check, you're going to looking for that 1.3-
9 gallon toilet, etcetera, etcetera. So the provisions that
10 are in here, you're mainstreaming this into the building
11 code, which by law the local building departments are
12 required to enforce.

13 Now the good news is, in case a local jurisdiction may be
14 strapped, they have the authority right now to farm out
15 some or all of the plan check duties or the inspection
16 duties. In some jurisdictions, I know in Southern
17 California we do this, and I'll list others. Bestco
18 (phonetic) Corporation and few others have a very thriving
19 business that handles a lot plan check and inspection
20 duties for local jurisdictions. But once again, that is a
21 decision best left up to local jurisdiction, but they have
22 the authority to do this. So as far as the third-party
23 inspection process goes, you're putting this into the code.
24 It has to get checked. A builder who does not comply with
25 this risks not getting their final occupancy permit and

1 that's a big thing. Obviously, we're going to do
2 everything we can to ramp up training and education like we
3 do for all codes. There's no difference here, so we're
4 looking forward to getting under way with that.

5 CHAIR SHEEHY: Okay. Mr. Raymer, I'm glad that you touched on
6 education and training, so if you would agree that,
7 particularly with adoption, we (inaudible) about this code
8 today that additional education and training in the field
9 is probably going to be necessary, and without the help,
10 raise the overall veracity of the verification out in the
11 field. Would you agree with that?

12 MR. RAYMER: Absolutely. Now I plan, with CALBO, we plan to
13 work with the California Building Officials and the green
14 building administrative groups to try and make sure that
15 that education is done in a very consistent and uniform
16 manner just like with any other change in the code.

17 CHAIR SHEEHY: Thank you. So it's one thing to say it, but in
18 order to have that education and training, we need to
19 resource it. Now you mentioned a piece of legislation that
20 was recently enacted to help create a fund. What was that
21 legislation?

22 MR. RAYMER: Senate Bill 1473.

23 CHAIR SHEEHY: Senate Bill 1473, and when was that enacted?

24 MR. RAYMER: That was enacted January 1st of last year. Yes.

25 CHAIR SHEEHY: January 1st of 2009.

1 MR. RAYMER: Yes, it took effect. And that bill effectively,
2 and we sponsored the bill, which was effectively a tax on
3 ourselves, that in a permanent evaluation --

4 COMMISSIONER WINKEL: Mr. Raymer, how did you get them to vote
5 (inaudible) for a tax?

6 MR. RAYMER: Actually, we got about half of them to vote for
7 that. We called it a fee.

8 CHAIR SHEEHY: (Inaudible).

9 MR. RAYMER: This is the first time I ever called it a tax.
10 Shame on me. It's a fee. It's a permanent evaluation fee.
11 And for example, on a \$500,000 house, it's \$20. The local
12 jurisdiction can keep I believe 15 percent of that for
13 local education and other purposes. The rest is sent to
14 the state to special fund administered by the Building
15 Standards Commission staff. The primary focus of that is
16 education and (inaudible) of building standards with the
17 primary focus of green building. It can be used for urban
18 wildland interface rates, but for the initial time we
19 anticipated it being used for green building (inaudible).

20 CHAIR SHEEHY: Okay. So a portion of those fees that you're --
21 those fees --

22 MR. RAYMER: Fees. Fees.

23 CHAIR SHEEHY: -- are in fact going to a special fund in the
24 state and managed by the Building Standards Commission.
25 And it's fair to say that 2009 was probably about the worst

1 year you've had in over 50 years we've been keeping records
2 for housing starts; is that right?

3 MR. RAYMER: That is correct.

4 CHAIR SHEEHY: So that was a down year.

5 MR. RAYMER: Yes.

6 CHAIR SHEEHY: Well, in light of that, I'd like to hear from
7 Mr. Walls to hear, you know, how we've done in actually
8 collecting revenues and whether in fact we have resources
9 to put out into the field to do the necessary education and
10 training not just for the green code that's adopted today
11 but the enforcement of all the California codes. Mr.
12 Walls, could you please shed some light on that?

13 MR. WALLS: Yes. We've been already provided starting July 1
14 with resources or with funds to hire three additional
15 personnel, and as of right now there's been an okay to hire
16 three more as the new fiscal year comes around, so there's
17 plenty of funds. We're already working with a number of
18 organizations including CBIA, Laborers International, ICC,
19 (inaudible), and CALBO and other organizations, AIA, to
20 really leverage what we do have in working with these
21 organizations to provide education and training and
22 outreach to again not only to building officials, who are
23 the enforcement, but it's just as important to get it out
24 there to make sure that the contractors, laborers, and
25 people who are doing the work know how to do it correctly

1 to start with, so we're reaching out to everyone, as well
2 designers. I shouldn't have forgot the designers, so we
3 are reaching out to everyone. And we've already started
4 that mechanism in place. We're really just waiting for
5 this, you know, to be done and we can start that next step
6 and move forward.

7 CHAIR SHEEHY: And is it fair to say in your judgment, Mr.

8 Walls, as economy picks up and the number of housing starts
9 increases that we will have more resources coming into that
10 fund beyond what we saw in 2009?

11 MR. WALLS: Absolutely. I mean this is a down year and we're
12 doing fine, and I'm not going to say ACU but they do have
13 some funding to spend as well, so but they can speak to
14 what they've been able to do and will be able to do in the
15 future.

16 MR. RAYMER: We anticipate in a normal year if we were building
17 180,000 to 220,000 units, multifamily, single family, and
18 the commercial industry was back normal, you should be
19 bringing in about \$1.8 million a year for this fund.

20 CHAIR SHEEHY: I'm sorry. How much?

21 MR. RAYMER: \$1.8 million per year for this fund.

22 CHAIR SHEEHY: Okay. Do we have other questions or comments
23 from board members? Yes, please, Mr. Winkel?

24 COMMISSIONER WINKEL: Mr. Raymer, there's varying levels of
25 green consciousness, if you will, in the various

1 jurisdictions around the state. My understanding from what
2 you reiterated about the legal provisions for making
3 amendments and also given the structure of this code, the
4 body of the code, and the tiers being in the appendices
5 that if there's a local jurisdiction, which has a robust
6 green building program whether a rating system or anything
7 else, Built It Green, LEED, anything else, there's nothing
8 that mandates that they would replace that system; is that
9 correct?

10 MR. RAYMER: Absolutely our understanding, and given past
11 practice, that's the case. If a local jurisdiction, for
12 example, has a mandate for California Green Builder, or
13 LEED for Homes, or Built It Green for the residential
14 sector and the state goes ahead and adopts this, there's
15 nothing in this that says that local jurisdiction can't
16 continue to go on with what they have. The only thing they
17 have to make sure they do is, whatever green program
18 they're implementing in their local jurisdictions, it is at
19 least as stringent as the mandatory provisions of the state
20 code. That's it. So for those jurisdictions, the 25 that
21 already have (inaudible) on the books, I don't see this
22 impacting them.

23 COMMISSIONER WINKEL: But the other thing is again reiterating
24 that is it would be as stringent as the mandatory
25 provisions and not any of the tiers because that's what you

1 had impairing the existing provisions against the mandatory
2 pieces. And I would think in almost every case, they would
3 be more stringent and I don't think there would be an
4 argument.

5 MR RAYMER: Commissioner Winkel, you're correct. That's what
6 it was.

7 COMMISSIONER WINKEL: Okay.

8 COMMISSIONER HASENIN: Just to follow up on that thought, I'd
9 like to ask Dave on that because I heard from previous
10 speakers on that same issue of what the level of
11 flexibility that's going to the local jurisdictions so if
12 they -- if it's also true that a local jurisdiction can
13 take a Tier 1 and say -- and expand on that with their
14 local adoption or Tier 2, or address some of the issues
15 that may be possibly, we don't know the day, they may come
16 up in six months that we did not think of the need to be
17 further looked at and verified.

18 MR. WALLS: Absolutely.

19 CHAIR SHEEHY: Thank you. Okay. So we have had some public
20 comment. There's another -- We got a lot more requests for
21 public comment. It is now ten minutes after 12:00. This
22 body is going to recess until one o'clock. That should
23 give us enough time to grab a quick bite to eat and get
24 back to work. So the Building Standards Commission is in
25 recess.

1 [Noon recess.]

2 CHAIR SHEEHY: -- stack of letters that were given to me by Ms.
3 Echols from the GBC. And she asked that these letters be
4 put into our official record, so, Teresa, I would like to
5 give you these letters and have you take care of that
6 (inaudible), okay?

7 MS. BORON-IRWIN: Okay.

8 CHAIR SHEEHY: Okay. And then the second item is we'd like to
9 take the callers on the phone. Do we know how many callers
10 we got?

11 MR. WALLS: We don't but we can check here and see.

12 CHAIR SHEEHY: Okay.

13 MR. WALLS: There you go.

14 CHAIR SHEEHY: Okay. Well, perhaps they'll call back.

15 MALE: Yeah. When they call, then it will chime and we'll know
16 that somebody has called and then we can pull them up.

17 CHAIR SHEEHY: Okay. Well, I feel bad, but you know this is --
18 we all knew this was going to be an all-day meeting, and we
19 have probably got a couple more hours ahead of us here on
20 this one topic, so and everybody else is waiting so I feel
21 bad, but I'm not going to change the proceeding at all
22 because of it. We'll just have to continue and if they
23 come back, we'll try to take them at that time.
24 Okay. So ladies and gentlemen, we're going to pick up
25 where we left off. We had I think a pretty vigorous

1 discussion prior to lunch, and we're going to continue
2 that. I would like to say that before we get too much
3 further into this topic, if we start to see the same issues
4 either in support or opposition repeating over and over and
5 over, I may at some point ask that we put time limits on
6 the testimony and simply ask folks to say whether they're
7 in support or opposition and who they represent and remove
8 having us go over all the same policy arguments over and
9 over. But I'm not -- There again, I want to see how things
10 develop.

11 Okay. So with that said, do any of my fellow Commissioners
12 have anything they want to say -- anything that they may
13 want to say at this time? Okay, very good. Then do we
14 have Judi --

15 MR. WALLS: Schweitzer.

16 CHAIR SHEEHY: -- Schweitzer? Ms. Judi Schweitzer, are you
17 here? Do you want to come address the Commission? Okay.
18 I'm going to you set aside. Maybe you're out getting a
19 sandwich. Do we have Kurt Cooknick here from AIACC? Is
20 Mr. Cooknick here? Okay. Do we have Mark Gilligan?

21 MALE: I think he's here.

22 CHAIR SHEEHY: I'm sorry.

23 FEMALE: Not on the green.

24 MR. WALLS: Not for green. So he's on 7.

25 CHAIR SHEEHY: Sorry, wrong issue. I just wanted to see if you

1 were paying attention.

2 MR. WALLS: He's here.

3 CHAIR SHEEHY: All right. Good to know. You have two of these
4 filled out. Are there two different issues?

5 MR. GILLIGAN: It the same issue, but it's two. It's OSHPD and
6 DSA.

7 CHAIR SHEEHY: Just because you have two of these, you don't
8 get twice as much time. William Schock from CALBO.

9 MALE: Schock.

10 CHAIR SHEEHY: Is Mr. Schock here?

11 MR. WALLS: Yeah, right there. Yeah, with bottle in hand.

12 CHAIR SHEEHY: Great. Welcome and please identify yourself for
13 the record.

14 MR. SCHOCK: Good afternoon. Give one second (inaudible).
15 Well, let me say starting off that I think we've come a
16 long way in California. I mean we're not too far from what
17 I believe will be the first green building code in the
18 nation, and I'm proud of that. And I thank Dave Walls for
19 the opportunity to participate in the process. We have --

20 MS. DAVIS: Do you want to identify yourself?

21 CHAIR SHEEHY: Yes, could you please identify yourself?

22 MR. SCHOCK: I'm sorry.

23 CHAIR SHEEHY: That's okay. Could you please identify yourself
24 for the record?

25 MR. SCHOCK: William Schock, S-C-H-O-C-K, representing the

1 California Building Officials Association.

2 CHAIR SHEEHY: Please continue, Mr. Schock.

3 MR. SCHOCK: Thank you. We have participated in the processes
4 as we've gone along. I'm on the Code Advisory Committee,
5 but the number of our requests and our concerns have been
6 accommodated and incorporated and proposed in the green
7 building code. We think in its entirety we support the
8 concept of the green building code. We look forward to
9 enforcing in California new green building code. We do,
10 however, have a couple of concerns on the commissioning
11 process of the provisions within the commissioning
12 language, and we did forward on to the Commission December
13 21st -- last December 21st some recommended language that
14 we proposed within those sections.

15 And our concerns are primarily with the enforcement
16 particularly now with its California green building code or
17 green building standard, the enforcement of these new
18 provisions that's going to be by the local building
19 department. Is she passing out the information I provided
20 earlier or?

21 MR. WALLS: It looks like from yesterday.

22 CHAIR SHEEHY: Venus is passing out some additional. Are these
23 the letters? Yeah, I think this set was one that had few
24 more letters that were distributed directly to us, and so I
25 believe that's what these are. I'm sorry. Please go

1 ahead.

2 MR. SCHOCK: Is it fair to assume that the Commission now has
3 our December 21st letter with our recommendations. There's
4 some minor revisions to that language.

5 MR. WALLS: It's in the file statement of reasons. Correctly
6 we responded to it. It's been online. I thought I saw it
7 here today. Revisions are -- They were -- Well, I guess
8 they did vary. I'm sorry. They did vary a little bit from
9 the original because we made some changes, right?

10 MR. SCHOCK: Yes, we did do some modifications to our
11 recommendations as we've come along trying to make them
12 easier for the Building Standards Commission to
13 incorporate.

14 MR. WALLS: And that was section five and get ready (inaudible)
15 if you can turn in the books, we can identify the page and
16 go through it.

17 MR. SCHOCK: It starts with section 504.4.5410.2.

18 COMMISSIONER JAMISON: Mines on page 8 of 11.

19 CHAIR SHEEHY: Mr. Schock, where are we?

20 MR. SCHOCK: Well, I'm waiting --

21 MR. WALLS: We're going to go to the --

22 MR. SCHOCK: -- for you to catch up. Hopefully, you have them
23 (inaudible).

24 CHAIR SHEEHY: Was there a specific part that you were
25 referring us to?

1 MR. SCHOCK: Yeah, the December 21st letter.

2 CHAIR SHEEHY: Was that just handed to us?

3 MR. SCHOCK: It was part of our package on the (inaudible).

4 MR. WALLS: I think we sent it -- It's not part of the package
5 here today.

6 CHAIR SHEEHY: Well, how about if you just share with us the
7 main policy points that you made in that letter since we
8 don't -- not all of us have it right at hand at the moment.

9 MR. SCHOCK: The main policy point is that this a document that
10 is now in the state building code and will be we enforced
11 by the local jurisdictions. And these particular
12 provisions, although we're very supportive of
13 commissioning, we believe that these provisions as written
14 contemplated a certain type of project, a certain size of a
15 project. As Dave has included in your packet the study
16 that CEC did on commissioning, you'll note that those
17 particular buildings were 89 percent public buildings.
18 Those were larger structures. Those were over 100,000
19 square feet. They were institutional. They were community
20 colleges, universities, hospitals, campus facilities, high
21 tech facilities, and so forth where you've got a very
22 robust designing team and budget for those commissioning
23 processes. And you actually have for most cases it's an
24 owner/builder -- it's owner/tenant occupied structure.
25 So the recommendations that we had basically were providing

1 some scoping language in the commissioning process that
2 were more align with the scope of that commissioning
3 project, increasing the size of those structures, and
4 making them more in line with the commercial, retail,
5 institutional structures. We believe that the 10,000
6 square foot threshold for all those provisions is extremely
7 low and very difficult to enforce from a local building
8 department perspective. That could be a parking structure.
9 It could be a strip mall. It could be a two-story retail
10 structure.

11 And within those provisions, there's -- in those scoping
12 areas that we have to recommend some higher (inaudible) to.
13 There's some language in there that states to the owner's
14 requirements of the owner's expectations. We believe
15 removing that language and simply saying the project would
16 be easier to enforce so you don't have this argument of,
17 well, you know, how are you going to meet the owner's
18 expectations. We prefer the building code language.

19 CHAIR SHEEHY: Okay. Was there another point that you want to
20 make, Mr. Schock?

21 MR. SCHOCK: There's also some vague and ambiguous language in
22 there that speaks about industry best practices that's
23 vague and unenforceable. So we're recommending and what
24 we'd like the Commission to consider is taking California
25 Building Officials' recommendations of the December 21st

1 and making those modifications to the language that you
2 currently have before you.

3 We'd also note on the record that the Code Advisory
4 Committee recommended most of those sections be put forward
5 for further study.

6 CHAIR SHEEHY: Okay.

7 MR. SCHOCK: We think at this point that if our recommendations
8 were taken that we would have time with the affected
9 stakeholders and industry groups to further study it in the
10 next code cycle, which would give us the opportunity to
11 have a green building code in place sooner and something
12 that the local jurisdictions could enforce.

13 CHAIR SHEEHY: Okay, great. Thank you very much for your
14 testimony. Do you have questions?

15 COMMISSIONER HASENIN: I have a procedural question.

16 CHAIR SHEEHY: Yes.

17 COMMISSIONER HASENIN: If I may, the amendments that CALBO is
18 proposing in their letter of December 21st, would that be
19 considered a substantive change? I mean do we even have
20 the authority to act on that?

21 MR. WALLS: The changes would be substantive for the building
22 size in particular that they're asking for, and that was
23 one of the problems that we ran into and to try and make
24 that change kind of at the end -- towards the end of the
25 process that would push us past today and have it run in

1 the 45-day comment period.

2 So the change they really wanted the training either struck
3 or moved to a voluntary, and I think if we move to
4 voluntary, that could sufficiently related to that section.
5 It could be sufficiently related and we could move that
6 section over there. I don't have all of the specifics. I
7 think the owners, I don't know. I'd have to take a look to
8 see. I think the intent was is that the project
9 requirements are, I mean, it's whether it's owner project
10 means the owner or the owner's representative I think is
11 what we ended up adding thinking that that might take care
12 of it. But you know, I'm surprised at your requirements
13 and it's essentially what it is, and maybe there is --
14 maybe there does become an argument if we had just owner in
15 there, but I mean essentially I think that's a non-
16 substantive change because we're talking about the project
17 requirements, and I have to turn to maybe the staff or the
18 Energy Commission if they're here to discuss that further.
19 But you know, we had a lot of discussion with this, as
20 CALBO submitted their concerns with Air Resources Board and
21 the Energy Commission, who are really, you know,
22 (inaudible) on this issue, and so we really try to find a
23 balance there. I understand, you know, CALBO concerns and
24 Mr. Schock's concerns, and having had more time, I think
25 possibly we could have sat down, as he said, and really

1 worked through it. But the comments came in very late in
2 the process that we couldn't make a substantive change, and
3 we made some modifications. In fact, we ran two 15 days
4 trying to include something that we felt we could in
5 working with the Energy Commission without again losing the
6 kind of support from the other side and taking too much
7 stuff out but did commit to working through, you know, as
8 we go to the next process for the same cycle to address
9 every one of their concerns. But, yes, I mean at this
10 point, that's a substantive change to change to the
11 building types and size. That would be -- That would take
12 the 45 days.

13 COMMISSIONER HASENIN: So I guess I'm a little, and I don't
14 know, disappointed and a little concerned to see that we
15 don't have CALBO on board. We've been -- Obviously, almost
16 everything we've done so far, we've always had the
17 consensus in the building process and we got all the
18 stakeholders, you know, participating and agreeing. To
19 be at this late stage point of the game and to see that
20 CALBO, a major stakeholder and player in this, obviously
21 the enforcing people that are going to have to enforce this
22 regulations should have these concerns, that is an issue of
23 concern.

24 So I guess from the perspective of CALBO and I would ask,
25 Mr. Schock, is I understand your points and you heard the

1 response, and as you all know, this is evolving, living
2 document and we always have a chance -- a second change to
3 go at it again. How will CALBO be agreeable to looking at
4 this as a commitment for the Building Standards Commission
5 and the state-to-state agencies to look at some of the
6 issues you raised as a follow up in the next annual cycle
7 so we can give -- We don't want to wait and have this again
8 be sitting another year or more. So I'm not sure if CALBO
9 would take a position with that or discussions along those
10 lines?

11 MR. SCHOCK: Can I ask a question of staff?

12 CHAIR SHEEHY: Please go ahead.

13 MR. SCHOCK: There was a question regarding the ability of
14 local jurisdictions to make reasonably necessary
15 modifications to the code. And we had some internal
16 discussion regarding if this area, this second of code, was
17 one that a local jurisdiction could make a modification in
18 the State Building Code. For instance, if the local
19 jurisdiction wanted to change the scoping requirements or
20 the threshold requirements from the 10,000 to a 20,000
21 square foot or certain types of buildings or made some of
22 these modifications that CALBO is requesting, would that be
23 possible within the structure that we have today?

24 MR. WALLS: Within the statute, I believe you can.

25 COMMISSIONER HASENIN: Well, wouldn't that be more restrictive?

1 I think that might be an issue.

2 MR. WALLS: But is it more restrictive or is it less
3 restrictive? (Inaudible) correlation.

4 MALE: That's more restrictive.

5 MR. WALLS: As long as you follow the law. You know whatever
6 it says, yes, you can make the modifications. To change
7 it, to lessen it, or to change the building type --

8 COMMISSIONER HASENIN: Yeah, to raise the threshold to 20, it
9 would be less restrictive and, therefore, I think it's
10 shooting off (inaudible).

11 MALE COMMISSIONER: There was some discussion and perhaps that
12 was an administrative provision similar to what we have in
13 the (inaudible) with structures the building code applies
14 to.

15 MR. WALLS: And once again, as we know, we don't make the
16 determination at the state level as to whether your
17 justifications for changes are incorrect or not so.

18 MR. SCHOCK: Yeah. I guess my question is that fair ground or
19 territory for local jurisdictions to apply. And if the
20 answer is yes, then at the local level we could adjust the
21 code to suit the community. In that case, I think we can
22 move forward or if there was some language that gave the
23 local jurisdictions the authority to work on those scoping
24 provisions.

25 COMMISSIONER HASENIN: So, Mr. Schock, is this a such a

1 (inaudible) 10,000 to 20 or is industry supporting that is
2 what I heard from Mr. Raymer before.

3 MR. SCHOCK: Well, Mr. Raymer represents primarily the
4 residential side of the house, if you will, although he
5 does --

6 COMMISSIONER HASENIN: But he had (inaudible).

7 MR. SCHOCK: He does speak -- He does speak for another list of
8 clients. A threshold of 10,000 square feet is a very small
9 building.

10 COMMISSIONER HASENIN: Yeah.

11 MR. SCHOCK: Yeah, that's an urban, infill, two-story retail
12 strip that's a part -- It encompasses a very large
13 universe.

14 COMMISSIONER HASENIN: And you're looking at it from a
15 perspective that it would be onerous -- it would be onerous
16 on the whole building departments to enforce these
17 regulations for such a small building?

18 MR. SCHOCK: Well, actually at the end of the day, the burden
19 is going to fall on the building owner because the building
20 department is going to be in a position not to be able to
21 issue a certificate of final completion until the last 'I'
22 is dotted and the last 'T' is crossed. So for those small
23 buildings you will not be able to get a certificate of
24 final completion or occupancy until you comply with the
25 code. Noncompliance with the building code in most

1 jurisdictions is a misdemeanor or an infraction. It's
2 punishable, you know, by a fine, and if you don't dot the
3 'I's' and cross the 'T's' that's in many people's opinion a
4 violation of municipal law. So you're going to hold the
5 project to the end, until the training has been completed
6 and certified.

7 MR. WALLS: And the way it's designed, just to let me kind of
8 explain, is that there is a requirement that a person
9 doesn't -- the Commission is trained to do that and also
10 there's a Commission report that's required that includes
11 that training has been done by maintenance staff and that
12 is to be supplied for building official so for
13 verification.

14 MS. SCHOCK: And many of these buildings are not going to have
15 maintenance staff on board or tenants on board. They're
16 going to have a shell building or a potential tenant. And
17 the smallest structure --

18 COMMISSIONER HASENIN: Did this issue come up? I mean it seems
19 like it's an issue that should have been discussed prior,
20 so was that always an issue or just --

21 MR. WALLS: The issue on the original (inaudible) with CALBO --

22 COMMISSIONER HASENIN: The threshold issue.

23 MR. WALLS: -- no. Not (Inaudible) the threshold issue during
24 a focus group meeting (inaudible).

25 MR. SCHOCK: Yes, it (inaudible).

1 COMMISSIONER JAMISON: But you didn't have taking the 10,000 --

2 MR. WALLS: No. We didn't have any threshold levels, so then
3 we came back with the threshold. In CALBO's comment being
4 in the 45 days to strike the entire -- to strike in it's
5 entirety and discussions within, but they came back with
6 some other proposed modifications that we tried to work
7 with. And again, working with the Energy Commission, and I
8 don't know, ARB, I don't know if they want to speak to it,
9 but you know their feeling was they told us that, you know,
10 the size of 10,000 square feet, you know, commissioning a
11 building and making sure the mechanical system was working
12 correctly, you know, the 10,000 square foot threshold is
13 they feel not a problem and they are really the ones who
14 really kind of have that -- certainly have an authority and
15 have kind of given us that, you know, this language and to
16 move forward with. So again, trying to work with them
17 because we've been relying on them (inaudible) is kind of
18 what we'll end up with so.

19 MR. SCHOCK: Our original recommendation was to send it back
20 for further study and limit it to just commissioning shall
21 be provided, and then allowing us additional time to
22 further study the nuances of how this language plays out in
23 the building code.

24 MR. WALLS: Right.

25 CHAIR SHEEHY: May I interject for moment, please. Given the

1 issues that Mr. Schock has raised and the discussion we've
2 had, Mr. Walls, what are our options procedurally at this
3 point for us?

4 MR. WALLS: The options are you can disapprove this entire
5 section and have that as part of the process.

6 COMMISSIONER HASENIN: Okay. What are our other options
7 besides that?

8 MR. WALLS: You could move some of the items to voluntary. I
9 think that would be sufficiently related. Anything beyond
10 that, you made some substantive changes such as to the
11 occupancies or the square footage I think would be
12 substantive at this point --

13 CHAIR SHEEHY: Okay.

14 COMMISSIONER JAMISON: Yeah.

15 MR. WALLS: -- and would require an extended 45-day time
16 period.

17 CHAIR SHEEHY: Mr. Winkel.

18 COMMISSIONER WINKEL: I'd like just a clarification. When you
19 say making it voluntary, would that mean moving it to an
20 appendix?

21 MR. WALLS: Yes.

22 COMMISSIONER WINKEL: So that was actually my question. If we
23 could move it to the appendix, it could be locally adopted
24 but would be then not --

25 MR. WALLS: Move that to that --

1 COMMISSIONER WINKEL: -- mandatory. I'm sorry. I apologize.

2 Then not automatically mandatory.

3 CHAIR SHEEHY: We could do that?

4 MR. WALLS: Yes, the preferred parts of it, the parts that
5 you're concerned with rather than moving it in its
6 entirety. I think -- Again, (inaudible) the code, but I
7 think this is a key component.

8 MALE COMMISSIONER: This is a key -- So if we move this to the
9 appendix, it would not be effective. We can even go -- And
10 why is that again?

11 MR. WALLS: Because this is a key component to energy
12 efficiency.

13 MALE COMMISSIONER: All right. I see.

14 MR. WALLS: You know, again, moving parts of it, maybe the
15 training or other things that you have specific concerns
16 with as part of the, you know, additional commissioning
17 portions, I think would be fine. Changing the owners to
18 privately-owned project requirements, which to me is
19 essentially the same thing whether it's the owner or
20 whether it's whoever puts in -- Ultimately, it's the owner
21 that ends up -- It's their requirements to get their own
22 building in. It's probably not substantive.

23 CHAIR SHEEHY: Okay. Do you have additional comments, Ms.
24 Schock?

25 MR. SCHOCK: It also could be moved to further study as well

1 and put over.

2 MR. WALLS: Which (inaudible).

3 MR. SCHOCK: Right. And we would actively work as quickly and
4 expeditiously as we could to flush out these nuances and
5 maybe bring it back as an emergency (inaudible).

6 CHAIR SHEEHY: Okay. Well, we're going to take that under
7 advisement. We need to take some more testimony. In fact,
8 quite a bit more testimony and before we go on for a vote,
9 so that is certainly an option for us at that point. Do we
10 have other comments by Commissioner members? If not, I'm
11 going to go back to Mr. Cooknick. I understand that you're
12 here now, Mr. Cooknick. Thank you very much, Mr. Schock.

13 MR. COOKNICK: Good afternoon members of the Commission. Kurt
14 Cooknick representing the American Institute of Architects
15 of California Council. I'll do the simplest thing and just
16 do a 'me, too,' in addition to all the folks who have come
17 up and spoke today in support of the option of the green
18 code.

19 But I would like to add something because we are in support
20 as an association in the adoption of the code. Something
21 that seems we have forgotten with all the emails going
22 around from the various green groups, and that is there is
23 a process in place and it's a good process. It one the
24 AIACC is especially proud of because we help put it in
25 place back in 1991 through AB 47, and we have great faith

1 in the process. And that is that this process is one that
2 evolves. The code that you see today is not the code we'll
3 be looking in the next triennial code adoption cycle. What
4 you didn't get this time, you can come and move forward
5 next time.

6 And I guess what I'm not seeing is faith in the process,
7 and it troubles me because I believe that should you
8 participate in the process at every meeting and pay
9 attention, you'll have a better chance being satisfied when
10 you walk away from this body than being disappointed. And
11 again, I can't emphasize enough having participated in the
12 process that the overall curiosity I have about those who
13 claim disenfranchised from it when, in fact, it is an
14 extremely open and probably the most open public process
15 there is in state government. So with that having been
16 said, the AIA California Council fully supports the
17 adoption of this. We look forward to supporting the
18 Building Standards Commission with our state agencies as
19 they move forward with this. We support tiers. And in
20 fact, I worked with Mr. Walls on the national level on the
21 National Green Construction Code where we're using the
22 tiers as well. I think it makes sense. As California
23 goes, so goes the nation, and we don't want go just to the
24 border of Nevada and have us collide with (inaudible)
25 direction and the rest of country is moving in (inaudible)

1 in the right direction. Thank you.

2 CHAIR SHEEHY: Thank you very much, Mr. Cooknick. Next -- I'm
3 sorry.

4 COMMISSIONER HASENIN: Can I? I'm sorry.

5 CHAIR SHEEHY: Absolutely.

6 COMMISSIONER HASENIN: Since you represented the AIA and the
7 issues that were raised by CALBO, I would imagine it impact
8 your clients, meaning the architects, you know, the
9 architects' clients being the builders, developers, and
10 owners. What about that issue of the small commercial
11 office buildings?

12 MR. COOKNICK: You've got me at a disadvantage because I
13 apologize I was not in the room when William came up and
14 spoke, so I only caught the tail end of the discussion.

15 COMMISSIONER HASENIN: Well, he's also reducing or increasing
16 the thresholds for buildings needing to be commissioned.

17 MR. COOKNICK: You know, you're talking about if you wanted to
18 move it over to the appendix, I don't see a problem with
19 that at all. It's you know --

20 COMMISSIONER HASENIN: But do you see it as an onerous process
21 for developers of small buildings to be going through that
22 commissioning process?

23 MR. COOKNICK: The first time through, yes.

24 COMMISSIONER HASENIN: Yes.

25 MR. COOKNICK: As you learn, no. I think that when you say the

1 owners, you're probably actually referring to the owner's
2 representative, and that requires due diligence on the
3 property owner to hire the correct representative and
4 someone who is knowledgeable, so I don't it as a problem
5 thus far.

6 CHAIR SHEEHY: Okay. Thank you very much, Mr. Cooknick. Next,
7 I'd like to go back to a woman who I called who was out of
8 the room right after the break, Ms. Judi Schweitzer. I
9 understand you're here now. Ms. Schweitzer, hi.

10 MS. SCHWEITZER: Hi.

11 CHAIR SHEEHY: Welcome.

12 MS. SCHWEITZER: Thank you.

13 CHAIR SHEEHY: Please identify yourself for the record.

14 MS. SCHWEITZER: Chairman and Commissioners, thank you for
15 having me.

16 CHAIR SHEEHY: I'm sorry. Can you -- Can you push the
17 microphone more. Yeah, that's better. Great.

18 MS. SCHWEITZER: My name is Judi Schweitzer and I'm with
19 Schweitzer and Associates. We're a single real estate
20 development advisors and we work with developers of
21 organized planned communities. I've also involved -- I'm
22 part of the Code Advisory Committee and have been involved
23 with the City of Santa Ana rulemakings and (inaudible).
24 And I want to (inaudible) support on the green building
25 code, and I'm not going to repeat everything. I just want

1 clarify a couple or underscore a couple points.

2 This eliminates a lot of the confusion in the marketplace.

3 One of the things I've done for a number of years is help
4 my clients understand the variety of these third-party
5 programs because they're apples, cumquats, and grapevines.

6 Some of them are performance-based. Some of them are
7 prescriptive. And so having a performance-based program
8 with voluntary stretch rules that are consistent clearly
9 helps the marketplace understand. Yeah, there probably is
10 a learning curve, but I think this is real positive and
11 moving in the right direction.

12 It also eliminates barriers at the local jurisdictions. If
13 less than ten percent green building (inaudible) standards,
14 90 percent don't and sometimes typically my clients, my
15 developers want to create an integrated sustainable
16 community, and sometimes the jurisdiction is the barrier
17 because they're not familiar with certain techniques or
18 things, so that is going to help reduce barriers at the
19 local jurisdictions to really enhancing the integrated
20 sustainable community.

21 I also want to mention this does exclude the third-party
22 programs. Certainly, this process has been open to them
23 and will continue to be. And they can be, you know, help
24 with compliance, and so that's not an exclusion, so I see
25 us all hopefully keeping it positive for all of us moving

1 forward. And in (inaudible) to (inaudible), one of the
2 other state programs such the California (inaudible)
3 Partnership and the tiers there, so California bringing in
4 tiers is something also that I support. And I just wanted
5 to keep it brief with the main points that I wanted to
6 mention unless you have any questions.

7 CHAIR SHEEHY: Mr. Schweitzer, I have a follow up. Thank you
8 very much for your concise testimony. You commented that
9 you think it helps remove confusion in the marketplace.
10 I've had a number of folks lobby me and trying to make it a
11 point that they're concern that it will create confusion in
12 the marketplace. Could you please just articulate a little
13 more about why you think it will help reduce confusion in
14 the marketplace? I'd be interested in hearing that.

15 MS. SCHWEITZER: Yeah, because it's standardized. Instead of
16 having three or four or five different programs and
17 processes, it has one but it's got to be appropriate for
18 the bioregional climate, so it's appropriate in that way.
19 And it's not 15 different programs. It's one program, so
20 over time it's always going to evolve, but it's
21 standardization, and so at least the developers and the
22 builders know where the ball is in order to have a reach
23 to. Some of the -- Some of the complaints that I've had
24 from my client is if a jurisdiction adopts a program,
25 sometimes the organization will change the program and then

1 they're in the middle of processing a project and there's a
2 different program. (Inaudible) the national is adopting
3 and that creates a lot of confusion, and that's on the
4 implementation side.

5 But even on making a choice of what program to choose, most
6 of my clients -- We actually developed customized programs.

7 We worked with a couple of the IOU's and developed
8 integrated sustainable communities program that I filed
9 with PUC and approved because it's performance-based, it's
10 integrated, and it's outside of the silos. So we decided
11 to create our own program as result of, you know, what
12 confused us. And we're looking at (inaudible) underwriting
13 abilities for institutional (inaudible) and banks and
14 country clubs, and so I'm always looking at where's the
15 value. How does this translate into savings, you know,
16 kilowatt-hours, gallons, and clean up gas emissions.

17 And the standardization and the calibration with tiers and
18 in other programs like this forms a partnership and the
19 state looking at achieving AB 32 goals and some of the
20 other related legislation, and hopefully this is moving in
21 the right direction to help bring that altogether in a way
22 that's kind of organized, orchestrated and normal
23 (inaudible) way, you know, and help each other get there.

24 CHAIR SHEEHY: All right. Thank you.

25 COMMISSIONER JAMISON: You're on the Green Building Code

1 Advisory Committee.

2 MS. SCHWEITZER: Correct.

3 COMMISSIONER JAMISON: And this is the second round for you on
4 the Advisory Committee, and thank you so much for your
5 (inaudible) work and you've really dove through this from
6 the technical merit aspect of the provisions. Can you
7 comment on the Advisory Committee meetings and whether or
8 not there was a lot of public participation and did you
9 feel that it was valuable in trying to gain consensus of
10 all the interested parties?

11 MS. SCHWEITZER: Well, you know, from my perspective, it was.
12 We heard from most of the, you know, (inaudible) heard
13 (inaudible) concerned today, and I think the concerns were
14 taken into account to the extent that, you know, given
15 everybody's expertise. You know, I'm not an expert at
16 everything, but you know we asked GBC, and Bill Rooney, and
17 the California (inaudible) Builder were all there, and a
18 variety -- as was, you know, the HCD, and the BSC, and all
19 those, so everybody had time to (inaudible) concern. I
20 believe that everything was heard.

21 At this last mention of BSC with the threshold of 10,000
22 square feet being moved into voluntary, I don't have an
23 issue with. That might help this first round, you know, if
24 we have some concerns and we don't have to start the
25 process over again and continue to move forward. And given

1 kind of where the economy is, maybe that will make things
2 easier in this first go around.

3 COMMISSIONER JAMISON: Thank you very much.

4 CHAIR SHEEHY: Okay. Ms. Jamison, you did very well. Okay.

5 So thank you, Ms. Schweitzer. The next person I have is
6 David Eisenberg.

7 MR. EISENBERG: Hi. My name is David Eisenberg and I'm the
8 Director of the Development Center for Appropriate
9 Technology in Tucson, Arizona, at (inaudible). And since
10 1995, I've been working on the issue of sustainability and
11 building better to essentially trying to create a
12 sustainable context within regulation and building
13 environment. I think the Commissioners were given a DVD
14 that we developed I think in 2004 that we -- that sort of
15 gives an overview of the substantive issues from our point
16 of view more or less older.

17 I also serve on the International Green Construction Code
18 entity, and Dave almost probably remembers my opening
19 comment in Chicago at the first meeting where I basically
20 said that, you know, if I were kind, we wouldn't be
21 developing a voluntary or standard stand-alone green code
22 that jurisdictions couldn't choose to adopt, but they would
23 actually be incorporating these things into the building
24 code, things (inaudible) the existing building codes
25 themselves. I totally laud the leadership of the State of

1 California and all the work that's gone into doing what
2 you're doing here because I think it's extremely important,
3 and it is actually the right path and so, to me, that's a
4 huge step forward.

5 I know there are these issues. I'm also the chair of the
6 USGBC Code Committee, which I've doing for many years.

7 We've been involved in a lot of things. And I want to say
8 one thing about the issue of tiers and these things that
9 have come up, which I think hasn't really been expressed
10 clearly, and I don't know enough about a lot of the
11 specifics to make a recommendation about what to do about
12 it.

13 My basic concern is that there are a lot of organizations
14 that have spent decades actually in the marketplace
15 developing these, you know, Build It Green, or LEED, or
16 these other systems that are in use and have been adopted
17 and used by some jurisdictions, as well as lots of people
18 in the building industry. And so my only concern is that
19 whether these tiers will actually undermine the things that
20 are in existence. And I understand and I'm happy to know
21 that the way it's set up it looks it's open for
22 jurisdictions to choose what they use, and I think that's
23 fine. And I just wanted to express a concern about
24 essentially things that have been developed in the
25 marketplace that are working and have been used by a lot of

1 people that they're familiar with and they like.

2 And I think when Home Builders Association in Northern
3 California, and I don't know if that's exactly their name,
4 but, you know, a year or two when they came out and asked
5 102 or 3 jurisdictions in the Bay Area basically to Build
6 It Green for residential and LEED for commercial and make
7 those mandatory and uniform throughout the region that that
8 was a statement that, you know, these were programs that
9 were in place and working and that they, you know, they
10 found that would be useful, and they were looking for
11 uniformity. And I'm not going to say either way because I
12 don't know whether, in fact, that won't be the ultimate
13 outcome of including the tiers, but I just wanted to
14 express that --

15 CHAIR SHEEHY: Okay.

16 MR. EISENBERG: -- that point of view. And as the last thing I
17 want to say is that this is the building code, and when you
18 do build projects and especially deeply greening, deep
19 integrated design projects, what you discover is that it
20 isn't only the building code and it's not just the building
21 code and land use codes, it's utility regulations and on
22 and on and on. This whole set of regulatory issues that
23 constrain what you're doing and in particular when you're
24 doing things that are beyond the sort of mainstream or even
25 the things that have been accepted widely or in wide use in

1 the green realm or what I call mainstream green. And so we
2 actually -- The next step is actually would be --

3 CHAIR SHEEHY: Okay. Mr. Eisenberg, we're not going to start
4 talking about the next step.

5 MR. EISENBERG: Okay.

6 CHAIR SHEEHY: You're making very good points, but we do have
7 time constraints. And you elaborated concerns that
8 identified is with the tier structure, right?

9 MR. EISENBERG: And I want to say whatever happens with that,
10 that I absolutely don't think that's important enough to
11 derail the adoption of this code now.

12 CHAIR SHEEHY: Well, you're -- First of all, thank you for
13 coming all the way up from Arizona to share this with us,
14 and you were very eloquent and articulate in your point of
15 view, and we appreciate that. And we're going to move on
16 and we're not going get into the next steps today. We
17 don't have enough time.

18 MR. EISENBERG: Okay.

19 CHAIR SHEEHY: Is that okay? All right, very good.

20 MR. EISENBERG: Thank you.

21 CHAIR SHEEHY: So now next we have a Grant, is it French?

22 Grant I think it's French. Is Grant here? Okay. I'm
23 going to set Grant --

24 MS. DAVIS: He might have gone.

25 CHAIR SHEEHY: I'm going to set Grant aside in case he --

1 MS. DAVIS: I think he's on the phone.

2 MALE: He's on the phone.

3 MS. DAVIS: I think he's on the phone.

4 CHAIR SHEEHY: On the phone. Could we check him on the -- Did
5 we check the phone?

6 MR. WALLS: Could we check the phone?

7 MALE: Yes.

8 CHAIR SHEEHY: All right. Whatever we need to do, open that
9 phone line back up. All right. I'm going to keep Mr.
10 French, keep it up in case we get him back. And what about
11 Mr. Marty Keller?

12 MS. DAVIS: He's also on the phone.

13 CHAIR SHEEHY: I'm sorry? He's also --

14 MS. DAVIS: He's also on the phone.

15 CHAIR SHEEHY: If any can contact them and let them know if
16 they want to try calling back in, we'll take them. I'll
17 put this on the bottom of queue. And then do have a
18 Michael --

19 MR. WALLS: Kuros.

20 CHAIR SHEEHY: -- Kuros (phonetic)? Is Michael Kuros here?
21 Please come forward. This doesn't say whether you're in
22 support or opposition. Are you just having a hard time
23 making up your mind or did you forget to check off the box?

24 MR. KUROKAWA: That was my second cup of coffee. By the time I
25 got to the third, it's in support, and thank you for not

1 butchering my name too bad. Good afternoon, Mr. Chair,
2 Commissioners, and staff. Everybody always forgets the
3 staff sometimes, so I'll get my two words in for them. I
4 want to read into record --

5 CHAIR SHEEHY: And you are?

6 MR. KUROS: I'm Michael Kuros representing (inaudible)
7 Consulting on behalf of the Pacific Southwest Regional
8 Council of Laborers. And first this letter -- I better put
9 on my glasses so I can read it. On behalf of the Pacific
10 Southwest Regional Council of Laborers, we would like
11 express our appreciation to you, Mr. Dave Walls, and your
12 staff, and the California Building Standards Commission,
13 and many other industry experts who have (inaudible)
14 tireless efforts towards the creation of CALGreen. We
15 acknowledge the CBSC code development process as a
16 testament behind standard public safety that everyone
17 benefits from while we live and work within the structures
18 that are constructed in California Building Standards Code
19 Title 24. The California Building Standards -- The
20 California Green Building Standards Code developed during
21 the same rigorous processes and (inaudible) and I will
22 point emphasis on we fully support its immediate adoption
23 and full implementation within the CBSC state agency and
24 all state agencies. We've (inaudible) all building
25 department jurisdictions statewide and we look for full

1 adoption in at least over the next year. This broad
2 approach, and again I'll put the emphasis, this board
3 approach to adoption and implementation clearly will
4 provide our construction industry with a much needed,
5 consistent, and integrated green construction standard for
6 all structures and occupancies within the State of
7 California. Our alignment at Laborers International Union
8 and North American numbers and our contract partners, and
9 again sometimes folks forget that labor does include
10 contracting partners, many of whom do work up and down the
11 state and, of course, across state lines, and our
12 contractor partners look forward to supporting and working
13 closely with all California public safety officials for a
14 smooth and (inaudible) implementation and transition to
15 CALGreen in every structure that we work on. And that was
16 signed sincerely, Rocco Davis, Special Assistant for
17 General President and Vice President (inaudible) for the
18 Pacific Southwest Regional Council of Laborers.
19 And finally, in addition to the these comments, you know,
20 many of these items that I've read through and heard quite
21 a few times today, and I guess in summary and in some part
22 to recognize that good public policy is a policy that
23 reaches into all levels of government. I think that
24 probably one of the things that we look is in the
25 standardization and the ability to reach into every

1 jurisdiction that takes the time to acknowledge CALGreen as
2 a significant move towards a green California and to reach
3 its full implementation. That ultimately I think and it's
4 our hope and expectation that on the national basis that
5 someday we will have a nationally recognized code body, and
6 I just wanted reference today that we'll have a green code
7 that we can finally turn towards on a national basis that
8 will take the same type of program that we're (inaudible)
9 for California across state lines. That's my comments.

10 CHAIR SHEEHY: Thank you very much, Mr. -- Sorry. Thank you
11 very much, Mr. Kuros. We're going to move to the next
12 speaker. Do we have a Mr. Phil Williams here? Phil
13 Williams? Okay. Maybe he stepped out for a moment. Do we
14 have Mr. --

15 MALE: He's on the phone.

16 MS. DAVIS: He's on the phone.

17 MS. WALLS: Is he on there?

18 CHAIR SHEEHY: Is he on the phone. Is he one of our phone-ins?

19 MS. DAVIS: Yeah.

20 CHAIR SHEEHY: I'm happy to try again.

21 MALE: We'll try again (inaudible).

22 CHAIR SHEEHY: Okay. If anybody can contact Mr. Williams or
23 the other two individuals and I believe that we Ms. Keller
24 and Mr. French and ask them to call back in, and we'll be
25 happy to take those calls. All right. So I'm going to

1 move on. I have a Mark Peshier (phonetic), and Mark is not
2 here at the moment. I have a Steve Aconda (phonetic)?

3 MALE: Aconda.

4 CHAIR SHEEHY: Welcome.

5 MR. ACONDA: Hi. My name is Steven Aconda. Let's see, today I
6 am representing the Chair of the Code Committee for the
7 Orange Empire Chapter, although I currently work for the
8 County of Los Angeles on contract with J. S. Pacific. I'd
9 like to just bring up two points, and (inaudible), of
10 course. We are like really in support for the adoption of
11 the green building standards, and thank you very much, Dave
12 and Doug, for developing the standards.

13 The second point I'm going to bring up was the point that
14 we want real are in support of CALBO and the point that was
15 brought up regarding the commissioning. The 10,000 square
16 feet requirement, as you all know, there are five types of
17 construction in the building code; Type 1, 2, 3, 4, 5, and
18 there's varying limitations on all five. And if you look
19 at the area limitations and in the 10,000 threshold, it
20 only exempts Type 5 ungraded or Type 5(b) construction.
21 All the other types of construction are beyond that
22 threshold. So in essence if that limitation is to not
23 require all buildings to comply with these commissioning
24 requirements, it's just not, you know, just the one
25 defined, and so it's not really a threshold. They're

1 really saying all buildings would have to comply. And so
2 if you want to have an effective threshold, it should be
3 something a little bit higher, something like 50,000. And
4 our recommendation is to if you could put into the appendix
5 and let local jurisdictions deal with that requirement and
6 that would be a solution now until we can deal with these
7 threshold issues. Thank you.

8 CHAIR SHEEHY: Mr. Aconda, thank you very much. Did you have
9 anything else?

10 MR. ACONDA: No, that's it.

11 CHAIR SHEEHY: Great. Thank you so much. Next we have Mr. Tim
12 Owen-Kennedy.

13 MR. OWEN-KENNEDY: Good afternoon. My name is Tim Owen-
14 Kennedy. I own and manage Vital System Natural Building
15 and Design Company. We do natural building, which is
16 beyond green building, for the last 12 years and I'm also
17 here representing the Natural Building Network as a board
18 member, and we are (inaudible) and planners for social
19 responsibility, which spawned Build It Green through the
20 Green Research Center. And I do want to offer my support
21 for this legislation. I think it's a great first step, and
22 I think that's really what we really need to make sure, and
23 I've heard you guys repeat over and over and I'm really
24 glad to hear that because there is so much more work to be
25 done immediately, you know.

1 And when we talk about natural building, we're talking
2 about wood, straw, clay, sand, and stone as building
3 materials that have been around for millennia that don't
4 have easy adoptability in the current California code,
5 which could go a lot further with green, so I look forward
6 with working in the future on helping to generate those
7 codes. I know that that the straw bale code actually did
8 drop off of this round, which was sad since we've had been
9 working on it for nine years.

10 But with regard to the tier structure, I do think that
11 there is a significant point to be made for a Government
12 organization stepping in on an existing market and a market
13 approach to certifying and establishing green businesses
14 and working with developers and potential developers.
15 They're looking into what is the lowest common denominator
16 that I can use to market my development as green. And I'm
17 really concerned that this CALGreen Tier 1 and Tier 2 can
18 really offer builders and developers and clients who want
19 to have green buildings and want to show that their
20 buildings are green a lower target than they had before
21 this (inaudible).

22 CHAIR SHEEHY: And so you're concerned that CALGreen would be
23 competition and it's not that it would confuse the
24 marketplace?

25 MR. OWEN-KENNEDY: Absolutely.

1 CHAIR SHEEHY: And so it's a competitive issue?

2 MR. OWEN-KENNEDY: I believe so.

3 CHAIR SHEEHY: I see.

4 MR. OWEN-KENNEDY: And I believe that that's not the correct
5 approach. I think that there are things that can be done
6 that can mitigate and I don't know if it's appropriate to
7 do at this time. But for instance, the use of CALGreen in
8 marketing is I think the only place where it comes up as an
9 issue, and I think that no one uses their Title 24, for
10 instance, in their marketing of their development. And I
11 think that CALGreen is a great instance for establishing
12 California and this building standard for the nation and
13 recognizing it as a code approval and not as a marketing
14 tool. And I think you have the opportunity to make that
15 distinction and not legislate marketing ability.

16 CHAIR SHEEHY: Okay. Mr. Owen-Kennedy, thank you.

17 COMMISSIONER HASENIN: A quick question?

18 MR. OWEN-KENNEDY: Sure.

19 COMMISSIONER HASENIN: What is the, and I don't know if you
20 know the answer, what would they say the CALGreen Tier I --
21 what is it and what would it be equivalent to it in terms
22 of the existing regs?

23 MR. OWEN-KENNEDY: Life was a quiz for that before. We are
24 talking apples and loquats, and various things, and
25 performance-based. I personally feel that a performance-

1 based standard is by far the best, and I appreciate a very
2 large part of the CALGreen. For me, it becomes the lowest
3 common denominator of all the building standards as far as
4 the baseline. It's better than some in some ways. It
5 gives a lot room for opportunities that kind of create a
6 basic level, but I do still support it. I do want to say
7 that, and I wouldn't hold it up for this issue. I wouldn't
8 recommend that. But if you have the opportunity to make
9 this a consideration, I would take it.

10 CHAIR SHEEHY: All right. Thank you very much, Mr. Owen-
11 Kennedy. Next I have Ian Padilla. Do you want to check
12 the phone again?

13 MALE: Yeah, let me (inaudible).

14 CHAIR SHEEHY: Oh, well. Okay. We'll try again later.

15 MR. PADILLA: Mr. Chair and Commissioners, Ian Padilla with the
16 Coalition for Adequate School Housing. We represent school
17 districts and others in the school construction and
18 integration process. My testimony will be very brief. We
19 had a variety of concerns both general and specific. When
20 we worked with the Division of State Architects in their
21 stakeholder process, many of our concerns have been
22 addressed, and while we still have a few more, we're
23 confident going forward that we will be able to address
24 these concerns on behalf of our members. So we would like
25 to thank the Building Standards Commission and certainly

1 the Division of State Architect staff who we worked again
2 very well with. Thank you.

3 CHAIR SHEEHY: I'm sorry, Mr. Padilla. You didn't tell us
4 whether CASH is supporting us today or not.

5 MR. PADILLA: Yes, we are.

6 CHAIR SHEEHY: Great. Thank you.

7 MR. PADILLA: All right.

8 CHAIR SHEEHY: Next I have Mr. Ron Takiguchi.

9 MR. TAKIGUCHI: Mr. Chair and Commissioners, good afternoon and
10 thank very much for the efforts that were put in the by the
11 California Building Standards Commission and all the state
12 agencies.

13 CHAIR SHEEHY: Please identify yourself.

14 MR. TAKIGUCHI: Okay. Ron Takiguchi, Deputy Building Official,
15 County of Los Angeles, and also Chair of the Basin Chapter
16 of Los Angeles County, Chapter of International Code
17 Council and the Green Building Committee.

18 And I appreciate the efforts, as part of the Code Advisory
19 Committee, for the first round of the California green
20 code, and what the position is of LA County and the Basin
21 Chapter is something that was reflected by Mr. Schock
22 earlier, and that is there comment on commissioning that
23 has already been addressed.

24 Might I add that the 10,000 square foot threshold that is
25 in the code proposal is actually taken care of by a local

1 amendment in LA County, which is testimony to the code
2 itself and that it is a minimum building standard. And
3 should a local jurisdiction choose to have local amendments
4 that are more stringent, it might take care of items that
5 are within the code and will address items at a higher
6 standard. So for both agencies, we are in support of the
7 green building standard to move forward.

8 CHAIR SHEEHY: Okay. Seeing no questions from our board
9 members, did that conclude your testimony, Mr. Takiguchi?

10 MR. TAKIGUCHI: I just like to add from a perspective from
11 building officials, for a very new regulation it is about
12 fourth to the local jurisdiction. It is incorporated with
13 existing practices. Although it is new, we rely on
14 (inaudible) experts to educate staff and also provide
15 training to staff members and provide information to the
16 public. So although the green building standards will be
17 a learning curve, it's no different from the energy code
18 back in 1978. And the energy code, as we know, is now a
19 part of standard building practices as we proceed to green
20 building standards and advancing towards the same, and
21 that would be my conclusion.

22 CHAIR SHEEHY: Great. Thank you so much.

23 MR. TAKIGUCHI: Thank you so much.

24 CHAIR SHEEHY: Eric Emblem.

25 MR. EMBLEM: Good afternoon. My name is Erik Emblem. I'm here

1 as a private consult and working for the California
2 Joint Committee on Energy and Environmental Policy. I'd
3 like to thank you, Mr. Chairman, and fellow Commissioners
4 and staff. Number one, we'd like to come here and
5 testify in favor of it and compliment the staff and the
6 Commission and the hard work that's gone in favor of this
7 green code.

8 But in particular, I'm here to talk about the
9 commissioning and the threshold. Personally, I've been
10 involved in the construction industry for over 40 years.
11 I started working on this concept of commissioning 20
12 years ago. My position in Washington D.C. at that time
13 was commission studies on the effects and viability of
14 commissioning in buildings, and I approached it from a
15 perspective of indoor environmental quality and life
16 safety to people inside those buildings. What we found
17 consistently in buildings, whether you went back and you
18 looked at the Legionnaires Disease in Philadelphia and
19 came forward with (inaudible) Syndrome, is two things were
20 happening in buildings. One, that the systems that were
21 installed were not commissioned. They were not operating
22 properly most of time and in time for occupancy, and two,
23 that they weren't maintained properly as the buildings are
24 maintained and operated.

25 So I've been an advocate of commissioning for many, many

1 years. We've done cost-effective studies on the
2 commissioning and it doesn't matter the building size. It
3 doesn't matter if it's a 10,000 square foot building or
4 100,000 square foot building. The systems within those
5 buildings determine the cost-effectiveness of the process
6 of commissioning. 10,000 square feet in an office might
7 sound like it's an open office with just a few systems and
8 some lighting, but it could be a restaurant and a bar,
9 which has restrooms and public restrooms and it has a
10 kitchen and kitchen exhaust and kitchen fans and many
11 systems that interoperable with each other. So it's very
12 deceiving just to say, well, it's a strip center and
13 (inaudible) around the corner. Within that strip center,
14 there could be a restaurant, there could be a bar, there
15 could be an office, and there could be retail.
16 Commissioning cost effectiveness has been determined many,
17 many times. The Energy Commission has looked at this.
18 I work closely with the California Commissioning
19 Collaborative, and most recently I've worked with the
20 (inaudible) committees with IAPMO on a development of
21 their green code for uniform mechanical and uniform
22 plumbing codes.
23 I think that what the Commission has done and the way we
24 need to advance this at 10,00 square foot is going play
25 out. I think there's just a lot of fear out there with

1 people that aren't familiar with commissioning and the
2 process. I think once this is implemented, once it's time
3 tested, you're going to see it work itself out, and
4 everybody in the State of California is going to be better
5 off for it including the environment. Thanks for letting
6 me testify.

7 CHAIR SHEEHY: Thank you, Ms. Emblem. Do you want to ask a
8 couple questions?

9 COMMISSIONER HASENIN: It sounds like since you are expert in
10 the commissioning area and it has been I would say the
11 primary issue that we're talking about now is that
12 threshold of 10,000 versus 20 or 50. From your experience,
13 who would be the type of people that would that would do
14 commissioning and say the trade personnel is number one?
15 And two is would it make a huge difference in whether the
16 threshold is 10 or 20,000? And I mean it in terms of an
17 onerous requirement on the owner or the developer or the
18 building official, etcetera?

19 MR. EMBLEM: On the question of onerous requirement, you're
20 going to talk to somebody that I say commissioning is
21 viable in all buildings at all levels and not onerous on
22 anybody. I think that when it looks at who is -- who are
23 the people performing the commissioning, there are several
24 industries that have evolved in commissioning and
25 commissioning agents. One could say that a HERS rater is a

1 quasi commissioner. For sure, a HERS provider or a HERS
2 rater II as to (inaudible) in homes is a commissioning
3 agent, so I think you can take it to the residential to
4 that level.

5 When you get into commercial, there's lot more potential
6 firms, (inaudible) firms, mechanical firms, and electrical
7 firms that are involved with commissioning systems in
8 buildings that's involved in the industry. I come from the
9 HVAC industry. My background is in HVAC. We started
10 teaching commissioning to contractors and to technicians 20
11 years ago, so it's not evolving as far as we're concerned.
12 Our (inaudible) industry kind of has morphed into a
13 commissioning industry for HVAC.

14 Again, I'm an advocate for commissioning because I've seen
15 there is just too much benefit to say we're going to
16 exclude anybody.

17 COMMISSIONER HASENIN: So I guess a local building official may
18 determine or decide that he or she wants to use the, you
19 know, NBNE or the mechanical engineer or designer on that
20 job to be their commissioning agent for that job. There is
21 nothing in the proposed language to prohibit that, so if
22 you're talking about 12,000 square foot commercial
23 (inaudible) building, most likely there's going to be a
24 mechanical engineer who designed that job.

25 MR. EMBLEM: Correct.

1 COMMISSIONER HASENIN: So I'm just trying to get to the point
2 of where the issue is whether it's real onerous requirement
3 on everybody out there to say we need commissioning on a
4 12,000 square foot commercial building and whether it can
5 be done by just a design team on the job itself. I'm just
6 trying to get to that conclusion hopefully by the end of
7 the day before we vote on this.

8 MR. EMBLEM: Well, Commissioner, I might want to comment on
9 that. I think you brought up a very valid point.
10 Different buildings require different levels of engineering
11 and architectural design. When you file through plan
12 check, you're going to file a commissioning report. That
13 commissioning report and the detail of the commissioning is
14 going to be commensurate to the systems that are designed
15 within the building. That's how I'd come up with the
16 statement it is cost effective because it's all determined
17 on what the owner's desire was from the very beginning.

18 CHAIR SHEEHY: All right. Thank you very much, Mr. Emblem, and
19 thank you for coming today. Okay. Now, I'm informed that
20 we have our phone callers, and I think we had two people on
21 the line, Mr. Grant French and Mr. Phil Williams. Can we
22 see who the first caller is, please?

23 MALE: Well, we gave the number out and then they were supposed
24 to call the right number, and there's a pass code and then
25 they're supposed to call into that and then it will come

1 up.

2 CHAIR SHEEHY: Okay. Why don't we for the general public now
3 repeat what the phone number is and the pass code, so that
4 everybody has that? I don't want --

5 MALE: Who did you give the paperwork to?

6 COMMISSIONER SHEEHY: I don't want somebody who is trying to
7 call in and had been trying all day to not get through.
8 That would be unfortunate.

9 MS. DAVIS: Can we press her to listen (inaudible)?

10 CHAIR SHEEHY: I suppose we could.

11 MALE: Not as our self. Maybe Stephanie from this side.

12 CHAIR SHEEHY: Okay. Well, we still have a lot of testimony to
13 go through.

14 MS. DAVIS: Would you like me to read the number?

15 CHAIR SHEEHY: Yeah, why don't you read the number and the pass
16 code?

17 MS. DAVIS: The call-in number is 1-877-807-5706 and then you
18 have to enter a participant code and that is 281420.

19 CHAIR SHEEHY: Thank you, Stephanie. Okay. Well, then we'll
20 go ahead, and we'll put these aside and we'll wait again.

21 MALE: Excuse me. One quick additional bit of information for
22 the person who calls in, this is to alert the speaker that
23 if you have a question, please press one and then zero.
24 Each question will be asked in the order that it's
25 received. So the call-in person not only has to put the

1 number in and the pass code --

2 CHAIR SHEEHY: Has to press a one --

3 MALE: -- he has to put one and zero.

4 CHAIR SHEEHY: -- and then a zero.

5 MALE: Right. And then enter the code.

6 CHAIR SHEEHY: And let us know if they want to speak.

7 MALE: Thank you.

8 CHAIR SHEEHY: Okay. James Bowman? Are you here Mr. Bowman?

9 MR. BOWMAN: Yes. Mr. Chairman and members of the Commission,

10 I'm James Bowman. I'm representing the American Forest and

11 Paper Association. We are the -- We are the large industry

12 association that represents wood building products and

13 manufacturers throughout the United States, Canada, and

14 California. I'm here today to support your adoption of

15 this green standard code. We like what you're doing here.

16 We applaud the State of California for making this a

17 statewide code.

18 Many of the points that I would make or have been

19 (inaudible) that one point that I would like to make is

20 that any time you have uniformity, it really aides industry

21 and not just my industry but all industries because you're

22 only dealing off one set of criteria and you provide a

23 roadmap for all of the local jurisdictions throughout the

24 State of California, and so that again I applaud you.

25 CHAIR SHEEHY: Great. Is that it, Mr. Bowman?

1 MR. BOWMAN: That's it. Thank you.

2 CHAIR SHEEHY: Thank you very much. The city says Kirkland.

3 MR. BOWMAN: That's correct.

4 CHAIR SHEEHY: What city is that?

5 MR. BOWMAN: Washington.

6 CHAIR SHEEHY: You came down from Washington today?

7 MR. BOWMAN: It's a suburb of Seattle.

8 CHAIR SHEEHY: Okay, great. Well, thank you for coming on
9 down. We've had folks from all over the country today.

10 MR. BOWMAN: Thank you.

11 CHAIR SHEEHY: Do we have any questions from the board members?
12 Seeing none, we're going to move on. Okay. Do we have
13 Jim, is it Baker --

14 FEMALE: He's here.

15 CHAIR SHEEHY: -- from the Asphalt and Roofing Manufacturers
16 Association?

17 FEMALE: He might be out in the hallway.

18 CHAIR SHEEHY: No? Okay. We'll try him again. Okay, that's
19 fine. We'll come back to him. I'm going to try again for
20 a Mark Keller. He just walked in? Did Jim Baker just
21 walk in?

22 MR. BAKER: Yes.

23 CHAIR SHEEHY: Okay, great.

24 MR. BAKER: Hi. My name is --

25 CHAIR SHEEHY: That's fine.

1 MR. BAKER: My name is James Baker. I'm the Director of
2 Industry Affairs for Asphalt and Roofing Manufacturers
3 Association. ARMA represents the nation's manufacturers
4 of steep slope and low slope asphalt roofing. Asphalt
5 shingles cover 80 percent of homes in the United States
6 with over 50 million square feet of shingles being applied
7 in the State of California. Low slope roofing materials
8 of modified (inaudible) and (inaudible) roofs of about
9 50 -- 45 to 50 percent of all roofing and reroofing jobs
10 in 2007.

11 I'd like to take the opportunity to thank the Commission
12 for allowing us to comment on this today and appreciates
13 the efforts the Department of Housing and Community
14 Development, HCD, in a collaborative process to address
15 ARMA's concerns expressed in our comment letter of
16 December 16th. Since the submission of this letter,
17 ARMA has worked with HCD and Doug Hensel and has come to
18 an understanding of the issues that each side has faced in
19 the collaborative process. ARMA believes that the
20 proposed language that HCD has submitted as amended
21 today is a significant improvement over the current
22 language, and we urge the Commission to amend the
23 regulation as currently directed and to incorporate HCD's
24 proposal.

25 Based on the discussions with HCD staff, it is ARMA's

1 understanding that if the proposed language is adopted
2 today, HCD will continue to work with ARMA in the future
3 rulemaking cycles to address the remaining concerns we
4 have. It is also ARMA's further understanding that the
5 compromise proposed by HCD does not put into jeopardy
6 other stakeholders comments that have remained, as they've
7 been valuable to other state agencies like California Air
8 Resources Board and the California Energy Commission.
9 Finally, despite our collaborative process with HCD, which
10 ARMA greatly appreciates, ARMA is still concerned about
11 the lack of full notice during the period for the
12 regulation at issue. The 45-day language for the
13 regulation did not contain numerical standards on the Tier
14 2 table, and numerical values were submitted during the
15 subsequent 15-day comment period, which gave ARMA members
16 limited time to consider the regulation at issue. ARMA
17 has submitted comments to the Commission that were
18 forwarded to each of you expressing these concerns under a
19 separate letter.

20 Again, ARMA thanks the BSC for its time today and the
21 ability to work with the HCD, to work towards a
22 compromise, the ability to present our concerns about the
23 administrative and procedural issues related to this
24 development process, and looks forward to working closely
25 with you all in the future and supporting the agency in

1 future rulemakings to achieve fair, economical, and
2 rational regulations to achieve the desired outcomes of
3 this Commission. Thank you.

4 CHAIR SHEEHY: Okay, great. Mr. Baker, thank you very much for
5 your testimony today and for coming all the way out from
6 the East Coast. Patricia Mieszala, Burbank, California.
7 Patricia, are you here?

8 FEMALE: And it's not on this issue, though.

9 CHAIR SHEEHY: I'm sorry? It's not on this issue. I'm sorry.
10 I'll set you aside. I apologize. It does, it says right
11 on here 7 c). It's my mistake. Which guy is on this
12 phone in terms of (inaudible)? Okay, all right. All
13 right, this one looks like it's a hit. Now, Mr. Raymer,
14 you've already testified. I have a second one here that
15 says Bob Raymer and Matthew Hargrove.

16 MR. RAYMER: It's Matthew Hargrove.

17 CHAIR SHEEHY: Matt, did you want to come up and testify? Now
18 would be your chance.

19 MR. HARGROVE: Thank you, Mr. Chairman and Commissioners.
20 Matthew Hargrove with the California Business Properties
21 Association. We represent about 12,000 companies in the
22 commercial, industrial, and regional real estate industry
23 in California. I was not going to come up. I was going
24 to let Bob's comments stand for our organization also and
25 all the other organizations on the letter, but I wanted to

1 come up and briefly on the threshold issue to make sure
2 the Commissioners knew that our organization would be
3 happy if that paragraph is moved to the voluntary section.
4 It sounds like that's a good thing to allow this green
5 building code to move forward, which we're strongly in
6 support of. And we think that it's very important that
7 CALBO be with us in the support. It's very important that
8 our local building officials are with us.

9 And then if I could say a word about the green building
10 code, and there's been a lot of talk today about confusion
11 and marketplace verification, and folks have been saying
12 that builders are confused. I want to make sure you know
13 that this code clears up lots of confusion with the
14 builders. This does not create any confusion for my
15 12,000 members.

16 What is confusing right now is different localities
17 implementing different versions of these private, third-
18 party certified programs. And depending on where you're
19 building, there's different levels to which they have the
20 checkbox system, as you know. And currently with these
21 systems locally, there's no verification that we're check
22 boxing any areas. I've been working with West Sacramento
23 on their local building code. The initial suggestion
24 there was to just basically lean off the LEED program, and
25 we'll checkbox system where the local building official

1 verified in the checkbox system. We don't think that
2 that's a (inaudible) that is really going to deliver a
3 board-based green building program.

4 So we're strongly in support of the green building code as
5 presented to you. We think the tiers are a really good
6 idea. It would provide some consistency throughout the
7 state, and we hope you adopt as is, so thank you very
8 much.

9 CHAIR SHEEHY: Thank you, Mr. Hargrove. Okay. I have one I
10 set aside, but I think this individual would like to speak
11 on this one. Is Jennifer Thornburg (inaudible). I'm
12 sorry. Well, one of these days I'll get it straight. I
13 apologize. Okay. We have just a handful left. Let's see
14 if any of these folks are here. I know a couple of them in
15 front you that are on the phone. Mark Peshier? Okay.
16 Marty Keller?

17 And did we want -- Can we check the phones again for either
18 Mr. Phil Williams or Grant French. And since Mr. Williams
19 and Mr. French have had a hard time getting through and
20 since we had California Business Property Association go
21 twice, I would be willing to have Ms. Echols if you wanted
22 to have a few more comments in fairness I'd be happy to do
23 that if you're so inclined.

24 MS. DAVIS: Can you try the phones again because they
25 (inaudible).

1 CHAIR SHEEHY: We will try.

2 MALE: Wait a minute now and give them a chance to --

3 CHAIR SHEEHY: Okay. Great.

4 MALE: Yes.

5 MR. WILLIAMS: This is Phil Williams with Webcor Builders.

6 MALE: Okay. Phil, hold on one moment. Let me turn on the
7 microphone so that we can hear you.

8 CHAIR SHEEHY: Okay. So for the folks in the audience that
9 didn't hear introduction, we have Mr. Phil Williams from,
10 is it West Far?

11 FEMALE: Webcor.

12 MR. WILLIAMS: Yeah, Webcor Builders.

13 CHAIR SHEEHY: Okay. Please go ahead, Mr. Williams. You're
14 with the State Building Standards Commission.

15 MR. WILLIAMS: Thank you very much. We appreciate the
16 opportunity to let technology work (inaudible).
17 (Inaudible) I represent Webcor Builders in our technical
18 systems group and (inaudible) building department. We had
19 the opportunity to watch all the good work that's been
20 going around in the state as well as actively participating
21 in local green building program in the City of San
22 Francisco, Oakland, Los Angeles, and San Jose, so we
23 appreciate for what it does (inaudible) and the amount of
24 effort that it's taken go forward.
25 Briefly, I'd just like to be able to comment that in our

1 (inaudible) buildings that ban the green building code, and
2 the majority of the work that has been done by the
3 Commission is (inaudible), and (inaudible) we want to be
4 able to come a mandatory (inaudible) should be the
5 voluntary options and not mandatory. We believe that the
6 building environment and the products that we produce are
7 here for extremely long period of time. And as the largest
8 commercial builder in the State of California over the last
9 few years, we have an infinite amount of knowledge not only
10 from a technical nature of the building codes (inaudible)
11 working with various local building jurisdictions.

12 (Inaudible) areas concern is that this has not created a
13 ceiling level of legislation, but ideally this would be a
14 floor where it creates minimum standards that any local
15 legislation that would be more stringent or have
16 (inaudible) and for other state building requirements not
17 be humiliated by what we have here on the state level, and
18 it's extremely important to be able to leverage the growth
19 that (inaudible). From our perspective, we also need to
20 support and recognize the many local city facilities,
21 organizations, planning departments, department of building
22 inspections and you will need to have them rely on some of
23 these independent third-party standards without having to
24 increase their staffing requirements, some of them are
25 (inaudible) based upon the federal version of the

1 requirements that (inaudible) need to have (inaudible)
2 resources could be a key component. So it's (inaudible)
3 being able to have an independent party verify much as the
4 (inaudible) working within the (inaudible) to determine
5 where they have to be (inaudible) and for us to be able to
6 acknowledge that buildings (inaudible) standards that are
7 in the thousands of buildings and can be in thousands of
8 individuals not be creating confusion in terms (inaudible)
9 requirements. So for us to be building in a smaller
10 municipality and understand or seem to understand the
11 (inaudible) but to also have for us (inaudible) Build it
12 Green and not be competing standards but be acknowledged as
13 comparable standards (inaudible).

14 CHAIR SHEEHY: Thank you. Thank you very much, Mr. Williams
15 for your input. Does any member here on the dais have any
16 questions for Mr. Williams. Yes. We have Mr. Winkel.

17 COMMISSIONER WINKEL: Basically, just in response to Mr.
18 Williams, I think the power of the testimony we've heard
19 today is with the materials being in the appendix or the
20 concerns with tiers. I think that we're doing what we can
21 to preserve and actually enhance the ability for local
22 jurisdictions to make their own modifications, so I think
23 we've come a long way toward addressing the concerns you
24 raised.

25 CHAIR SHEEHY: Great.

1 MR. WILLIAMS: And --

2 CHAIR SHEEHY: I'm sorry, Mr. Williams. Go ahead.

3 MR. WILLIAMS: In terms of a response, the question of tiers in
4 some respects I understand that it can be (inaudible) off
5 and on before. I don't need to spend a significant amount
6 conversation on the tier (inaudible). We like the
7 Commission's report. If it were up to us, for us, I
8 believe the tier (inaudible) a level of doubt that, you
9 know, some might use to their advantage outside of the
10 intent of the Commission (inaudible) and being that it's
11 not in language. I think the intent is good. My fear is
12 that some may view this as a means to create confusion, but
13 I appreciate the effort.

14 CHAIR SHEEHY: Thank you, Mr. Williams. All right. Can you
15 find out and go to the next caller who I believe is Mr.
16 Grant French?

17 MR. FRENCH: Good afternoon. This is Grant French with
18 Swinerton Builders. First, I'm going to thank the
19 Commission for your duty to (inaudible) today, and also
20 really reiterate what my friend Phil at Webcor had to say.
21 Thanks for your hard work on this very important
22 legislation.
23 Swinerton Builders is also a builder in California and is
24 worried that this code is worth approximately one billion
25 dollars or whatever the (inaudible) said (inaudible) over a

1 year, and (inaudible) a strong advocate for rebuilding and
2 we are (inaudible) building the (inaudible) working with
3 local building partners, with contractors, architects,
4 engineers, and others. And while I am strongly in favor of
5 (inaudible) of the building code and (inaudible), I do want
6 to (inaudible) one point (inaudible) that is that what if
7 (inaudible) out there in terms green building is the
8 (inaudible) market driven (inaudible). And what I mean by
9 that is that project owners as well as tenants feel that it
10 be (inaudible) or that it is (inaudible) or creating
11 (inaudible) or how can we really (inaudible). And to be
12 able to (inaudible) and will (inaudible) and will form
13 (inaudible). And we feel (inaudible) way of saying,
14 they're already (inaudible) and are very (inaudible) for
15 third-party verification of what is (inaudible). And so if
16 I talked to an owner (inaudible) for a building, for
17 example, (inaudible) and the market is able to assess a
18 fine (inaudible) according. I have a concern that with the
19 introduction of a tier, I think it would be CALGreen label
20 that (inaudible) in terms of what's really qualified that
21 it's a green building, and so it's difficult to gain a that
22 kind value, and I think you undermine market forces that
23 are already at play that are encouraging our industry
24 towards being (inaudible). So again, the bottom line is am
25 for and applaud green building codes, but I have pretty

1 significant reservations regarding the tiers so far as a
2 (inaudible) broadly imperative.

3 CHAIR SHEEHY: Okay. Mr. French, thank you very much for your
4 testimony. We appreciate it. Now I have Marty Keller. Is
5 Marty Keller here? And do we have Mark Peshier from
6 Berkeley? Is it Berkeley? Stockton. Okay. I've called
7 those names several times now. I'm just going to have to
8 assume that they have left. That is it as far as the
9 written requests. Is there somebody else who made a
10 request that hasn't been heard from? Okay. So we're
11 approaching a time that we actually take a vote. I'm
12 sorry. I'm being directed now by Mr. Walls.

13 MR. WALLS: Well, it's not a direction. I think I'd like to
14 let the state agencies respond to any of the comments that
15 were made today.

16 CHAIR SHEEHY: Okay. And (inaudible) --

17 MR. WALLS: And the agencies --

18 CHAIR SHEEHY: -- and I thought state agencies were --

19 MR. WALLS: -- are A, B, and C and, well, it's a) I, II, III,
20 IV. That's all four state agencies.

21 CHAIR SHEEHY: I'm sorry. Okay. So if we have representatives
22 here, of course, from State Fire Marshal, HCD, OSHPD, and
23 DSA. Did I say Fire Marshal as one of them? No.

24 MR. WALLS: No.

25 CHAIR SHEEHY: DSA --

1 MR. WALLS: HCD.

2 CHAIR SHEEHY: -- HCD and OSHPD.

3 MR. WALLS: Yes.

4 CHAIR SHEEHY: Right?

5 MR. WALLS: Yeah.

6 CHAIR SHEEHY: Are there any representatives here from any one
7 of those state agencies that want to come forward and make
8 comments for the record.

9 MR. WALLS: I think we (inaudible).

10 CHAIR SHEEHY: It must be a furlough day and today is Tuesday.
11 That was a cheap shot I know.

12 MR. HENSEL: Mr. Chairman and Commission, Doug Hensel with the
13 Department of Housing and Community Development. Just a
14 couple of things I think. We heard a little bit about
15 education or that we heard what the Commission was doing
16 towards education and outreach if I could share what we're
17 doing and have been doing. We're currently recruiting --
18 in the recruitment process to develop several positions to
19 address this, the green code. We've made a verbal
20 commitment to industry to have our initial educational
21 piece completed by June and be able to roll that out by the
22 month of June and will continue to work with industry and
23 other stakeholders as far as enforcement of the code. We
24 believe that that will be completed prior to the effective
25 date. (Inaudible) that's the commitment that we made and

1 just snapshot of where we are and where we're going.
2 I don't think I have anything really else to say. I think
3 the conversations were pretty good. We have worked
4 extensively with the stakeholders. The only other thing
5 I'd like to draw your attention to is I handed out a one-
6 page document this morning that says the proposed revision
7 of HCD at the top. We worked with the, excuse me, the
8 Asphalt Roofing Association pretty extensively in the last
9 several weeks. They came into the process a little bit
10 later for one reason or another and pointed some things
11 that they were concerned about. We tried for a comment
12 periods to address them and since continued to work with
13 them.

14 Primarily, what you have before you is a clarification and
15 an incorporation of some of the provisions that are
16 contained in the Part 6 and that's the California Energy
17 Code. This portion of HCD's proposal is for cool roofing
18 works in conjunction with that. It uses some of the same
19 forms and some of the same terminologies, so we have
20 consensus with the Roofing Association (inaudible) and we
21 feel it's an improvement to our proposal, and we'd like you
22 to consider including that. I'd be happy to answer any
23 questions if have them.

24 CHAIR SHEEHY: Okay.

25 COMMISSIONER JAMISON: Some.

1 CHAIR SHEEHY: Yes, please.

2 COMMISSIONER JAMISON: So the changes aren't substantial to the
3 original language if we made those amendments today?

4 MR. HENSEL: We believe they're sufficiently related to what
5 we've initially proposed. And like I said, they are
6 clarifying in how you arrive at the values using a
7 calculator the (inaudible) Commission has developed and
8 published. And again, we have been through a couple of 15-
9 day comment periods to address this very issue. We tried a
10 couple of different iterations and didn't quite make it to
11 where our roofing industry was happy, and then they've
12 agreed that at this point they want to continue to work
13 with us in future. We've agreed to that, and they've
14 agreed that this is good compromise for today.

15 MALE COMMISSIONER: And so this is sufficiently related,
16 meaning it's not substantive changes. It's something we
17 could do today; is that right?

18 MR. WALLS: Yeah, by law 18935(c) I believe, if the Commission
19 accepts an amendment and it's agreed with the state agency
20 and says it's considered either non-substantive and
21 (inaudible) or sufficiently related, no subsequent hearings
22 are required, so it could be done today.

23 MALE COMMISSIONER: Okay.

24 COMMISSIONER JAMISON: Thank you.

25 CHAIR SHEEHY: Does that conclude your comments, Mr. Hensel?

1 MR. HENSEL: It does unless the --

2 CHAIR SHEEHY: Great.

3 MR. HENSEL: -- Commission would have any questions.

4 COMMISSIONER HASENIN: I have, I'm sorry, just a question,
5 Doug, in terms of the impact of the threshold portion of
6 impact. The occupancy you have in the (inaudible). The
7 question of training people doing the commissioning, do
8 believe possibly this (inaudible) issue come up. Do you
9 have ideas of how that works in terms of guidelines for who
10 can do that?

11 MR. HENSEL: In our proposal, we don't have a commissioning
12 piece on building standards, the Commission does if
13 (inaudible) the buildings. But we did have some guidance
14 on what types of people may be able to provide inspection
15 or verification in our proposals. We included that in
16 Chapter 7 and again very similar to the one that the
17 building departments do now. They evaluate their staffing
18 levels. If they were to choose to use someone that is
19 Build It Green certified, and then if they were so
20 inclined, they certainly could use that individual to
21 verify our proposals.

22 COMMISSIONER HASENIN: So for (inaudible) the only (inaudible)
23 ones they choose you would rely on the provisions of the
24 commercial --

25 MR. HENSEL: In the way that the code --

1 COMMISSIONER HASENIN: -- Commission.

2 MR. HENSEL: The way that the code is set up is the provisions
3 for each occupancy would apply to that occupancy. So in a
4 mixed occupancy building, just as the building code does
5 now, say the A occupancy provision sort of apply to the A,
6 they are occupancy provisions that apply to (inaudible).

7 MS. TAYLOR: Hi. My name is Jane Taylor, and I work for the
8 Building Standards Commission. And I worked a little bit
9 on these commissioning issues that have coming up. We did
10 attempt to make this somewhat less of (inaudible) even
11 though it is put into mandatory portion of the code in two
12 ways I think. One, which is what we're disagreeing here
13 about whether or not to include the owner's project
14 requirements, and I think that's kind of important because
15 it has all projects saying that just over 10,000 feet, for
16 example, the owner's project requirements were made quite
17 modest, so you don't have the complete rigor that you might
18 have for a much larger building where the owner is perhaps
19 more sophisticated and has more sophisticated project
20 requirements.

21 The other thing is that within Advisory Committee and the
22 recommendations to further study this, we added a test
23 (inaudible), Section 4, buildings under 10,000 square feet,
24 which has been a much more modest form of commissioning
25 (inaudible) building. We just test the systems and adjust

1 them and we balance the HVAC, which is what they do for
2 most small projects. So I just wanted to make those points
3 that we did make some flexibility in those provisions.

4 CHAIR SHEEHY: Thank you.

5 COMMISSIONER HASENIN: So, I'm sorry.

6 CHAIR SHEEHY: Go ahead.

7 COMMISSIONER HASENIN: So if you were to remove the
8 commissioning -- the threshold on some commissioning and
9 really amend this, then that would become a voluntary
10 provision, and therefore, then there would be no
11 commissioning required really for any type of building.

12 MS. TAYLOR: Correct. But it wasn't quite moving it to the
13 appendix, which is something that you certainly can make
14 that recommendation and move forward with that. I was just
15 saying that either to say they're mandatory or there's lots
16 of room for different levels of commissioning.

17 COMMISSIONER HASENIN: No, I understand what you're saying.
18 But from our perspective if we were to do it, that would be
19 a consequence of putting it in the appendix is there will
20 be no commissioning required for any size building.

21 MS. TAYLOR: Correct.

22 MR. WALLS: Correct.

23 MR. FENZ: Good afternoon, Mr. Chairman and the Commissioners.

24 My name is Moe Fenz and I wish to comment. (Inaudible)
25 Division of the State Architect, and I agree with both

1 provisions for K-12 and two-year colleges. We worked
2 closely with our major stakeholder group, the Coalition of
3 Adequate School Housing, who commented today that they
4 support what we've done. We did respond to the 15-day
5 language and made some modifications to make them less
6 concerned I guess, so our process here is not encumbered by
7 all buildings, as the Building Standards Commission is, and
8 they were just schools and mini colleges, so I believe that
9 our process went quite well and we're ready to go.

10 CHAIR SHEEHY: All right. Thank you. So we've heard from all
11 the state agencies.

12 MR. WALLS: Just one last thing is that if you decide to accept
13 HCD's proposed change, we have a very similar roofing
14 (inaudible) requirement that we request that we assess to
15 include the same.

16 CHAIR SHEEHY: Is that a performing action?

17 COMMISSIONER HASENIN: Yes.

18 CHAIR SHEEHY: Okay. So we'll get to that in just a moment,
19 Mr. Walls. I just want to say that we have the opportunity
20 today after a lot of hard work, as I said at the beginning,
21 to adopt a green code for California, which would be the
22 first of its kind in the nation. And as such, this would
23 help to usher in a new era of greener communities and more
24 sustainable buildings and more sustainable building
25 practices. But I want to acknowledge the fact that there's

1 been a lot of opposition expressed throughout this process
2 and even as of today, and we've taken quite a bit testimony
3 today as well from those that continue to be concerned with
4 some of the elements that are before us.

5 And I want to say that I really do believe that the
6 Building Standards Commission and those other stakeholders
7 that sort of support the process, as well as those who have
8 voiced their concerns of opposition, I think we all share
9 the same goal; to make our buildings more energy efficient,
10 more water efficient, to make buildings that will help us
11 to get as much mileage as we possibly can out of the
12 natural resources that we have in a way that is less
13 harmful and less heavy to the environment as possible and
14 reduce our carbon imprint.

15 I know that this process that we have I think is a really
16 good process. It's not a perfect process. I'm not sure
17 one can be designed, but I think that it's important to
18 point out again here, as we conclude our testimony, that
19 I'm quite confident that this body will, in fact, be happy
20 to work with all parties in the future to make this code
21 even better regardless of whether those parties were in
22 support or opposition. We want to continue to work with
23 all of our friends and colleagues in the building industry,
24 and we want to continue to work with all of our friends and
25 colleagues in the environmental industry and those that

1 share the same environmental goals as we do. And so we're
2 committed to work with you and work on those issues that
3 have been identified in order to make this code even
4 better.

5 And so with that, I don't know if any of the other
6 Commissioners that wanted to make any comments before we go
7 to vote, but I felt compelled to make that statement
8 because I do think that it's true. Christina?

9 COMMISSIONER JAMISON: Just real quick. One of the common
10 themes heard today was just the work of the state agencies
11 and the staff. I just wanted to personally thank you so
12 much for (inaudible) tremendous amount of work.

13 CHAIR SHEEHY: Mr. Sawhill?

14 COMMISSIONER SAWHILL: Yes. Earlier, I had mentioned that I'd
15 like to see the reference of CALGreen go back into the code
16 and that the building comply with that code, and I think
17 that's part of the motion. (Inaudible) to make that
18 motion.

19 CHAIR SHEEHY: Mr. Walls, can you comment on what our options
20 are with respect to Ms. Sawhill's request?

21 MR. WALLS: I think that if the request is sufficiently related
22 or if it's non-substantive such an intent language, if we
23 were to say something like this code -- it is the intent
24 that this code shall be referred to as the CALGreen code, I
25 think you could do that. I'm not sure if saying that the

1 building could be labeled at this point. That might be
2 substantive, right?

3 MS. BORON-IRWIN: Yes.

4 MR. WALLS: But am I right on the first part about the intent
5 language? If you can say it's the intent?

6 MS. BORON-IRWIN: The intent you could, yes.

7 CHAIR SHEEHY: So Mr. Sawhill, we can incorporate the intent
8 language saying that it is in the intent of this body.

9 MR. WALLS: The intent of this code.

10 CHAIR SHEEHY: It's the intent of this code to be referred to
11 as CALGreen, the CALGreen Building Code.

12 MALE COMMISSIONER: You can do that today without making a
13 substantive --

14 COMMISSIONER SAWHILL: And that would enable a building that
15 was built and complied with code to be referred to as a
16 CALGreen building?

17 MR. WALLS: That specifically would not do that.

18 MS. BORON-IRWIN: That would go to the tiers.

19 MR. WALLS: Right.

20 COMMISSIONER SAWHILL: We're not changing the codes.

21 MR. WALLS: Right. I'm not sure if that would be considered --

22 MS. BORON-IRWIN: No, I don't think so. And I think that's --

23 MR. WALLS: That would be substantive is what you're saying?

24 MS. BORON-IRWIN: I think but the tiers you've talking about --

25 CHAIR SHEEHY: Teresa, we had a hard time hearing. Can you use

1 -- Make sure your microphone is on.

2 MS. BORON-IRWIN: Thank you, yes.

3 CHAIR SHEEHY: Can you identify yourself, too, for the
4 audience?

5 MS. BORON-IRWIN: Yes. Teresa Boron-Irwin, Counsel for
6 Building Standards Commission. As far as the tiers go,
7 that is the designation for CALGreen Tier 1 and Tier 2. I
8 think you can talk in generality about the intent of the
9 Building Standards Commission is that this is the
10 California Green Building Code without that being
11 substantive. If you want to name it and title it, then I
12 think that is substantive change.

13 CHAIR SHEEHY: So we can adopt the intent language today
14 without slowing the process down.

15 COMMISSIONER SAWHILL: And then have this come back or have
16 this considered in a future time being incorporated?

17 CHAIR SHEEHY: I'm sure there will be a list this long of
18 things. That (inaudible) in the future, but that can
19 certainly be on the list.

20 COMMISSIONER SAWHILL: Well, we could make sure that's
21 incorporated into the minutes so it doesn't fall out.

22 CHAIR SHEEHY: Okay. It's in the minutes. Let the minutes
23 show that Mr. Sawhill did, in fact, ask for the CALGreen
24 description for the buildings be included as a precedent
25 amendment for the next round, which will be in the future.

1 But you would like to have that -- Would you like to be the
2 maker of this motion when we get to that? Then you can
3 incorporate it in your intent language?

4 COMMISSIONER SAWHILL: So moved.

5 CHAIR SHEEHY: We're going to have Mr. Walls clarify what our
6 options are on the motions. Are there other comments from
7 Commissioners?

8 COMMISSIONER WINKEL: I think he may be doing what I'm asking
9 is what the proper time to move? There's certainly two
10 amendments that we want to make, which are the cool roof
11 amendments for HCD and for the Building Standards
12 Commission. There is also and I'm still mulling over an
13 amendment to the commissioning. What's the proper time to
14 make those motions?

15 MR. WALLS: I believe that it would be a time to make -- you
16 make a motion to approve as amended. Approve package as
17 amended and then you make the two amendments that you would
18 be requesting at that time.

19 COMMISSIONER WINKEL: Okay. And when do we get there?

20 MR. WALLS: Whenever you're --

21 MALE: Well, that's up to the Chair.

22 CHAIR SHEEHY: Mr. Winkel, I -- Mr. Winkel, I think we're
23 there. I mean we have taken all of the public testimony
24 that was requested on both sides, and we took -- we cleared
25 the phone lines, and all the Commissioners have had a

1 chance to weigh in, and we've heard from the state
2 agencies, DSA, HCD, and BSC, so now would be an appropriate
3 time.

4 COMMISSIONER WINKEL: Okay. Then I'd like to move approval as
5 submitted with the following amendments: That the proposed
6 revisions to the cool roof provisions by HCD and Building
7 Standards Commission for Section I believe A4.1.6.5 be
8 included in the proposal.

9 CHAIR SHEEHY: Is that right? Did we get that citation right,
10 Teresa?

11 MS. BORON-IRWIN: Yes. And -- Yes.

12 COMMISSIONER WINKEL: Is that the same for Building Standards
13 Commission?

14 MS. BORON-IRWIN: It's the same section --

15 COMMISSIONER WINKEL: Same section number?

16 MS. BORON-IRWIN: -- number.

17 COMMISSIONER WINKEL: Okay.

18 CHAIR SHEEHY: And then was there a second part to that?

19 MS. BORON-IRWIN: There was a number two item on the table.

20 CHAIR SHEEHY: Mr. Sawhill's intent language.

21 COMMISSIONER WINKEL: Actually, my intent was that everything
22 on the page that was handed out by HCD, which includes the
23 table, would be part of my motion.

24 MS. BORON-IRWIN: Okay.

25 CHAIR SHEEHY: And this is -- We could do that, Teresa?

1 MS. BORON-IRWIN: Yes.

2 COMMISSIONER WINKEL: Because that was deemed to be non-
3 substantive in the discussion earlier.

4 MS. BORON-IRWIN: And it's sufficiently related.

5 CHAIR SHEEHY: And sufficiently related. Okay. And then Mr.
6 Sawhill had a request. Can we incorporate that into your
7 motion?

8 COMMISSIONER WINKEL: Yeah. Do you want to make the motion --
9 amend the motion?

10 COMMISSIONER SAWHILL: You're in the middle of a motion. You
11 can incorporate it, and I'll second it.

12 COMMISSIONER WINKEL: That the intent language in the front of
13 the code be that the document be referred to as the
14 California Green Building Code; is that correct?

15 MALE: It's CALGreen Code.

16 COMMISSIONER SAWHILL: CALGreen Code.

17 COMMISSIONER WINKEL: California Green Code.

18 COMMISSIONER HASENIN: CALGreen.

19 COMMISSIONER JAMISON: CALGreen.

20 COMMISSIONER SAWHILL: CALGreen Code.

21 COMMISSIONER WINKEL: CALGreen Code. Okay. I'll get it right.

22 CHAIR SHEEHY: Okay. So we have a motion.

23 COMMISSIONER SAWHILL: And I'll second.

24 CHAIR SHEEHY: And we have a second by Mr. Sawhill. Okay.
25 Then it is appropriately before us. All in favor say aye?

1 COMMISSION MEMBERS: Aye.

2 CHAIR SHEEHY: Any opposed? Are there any abstentions? That
3 matter passes.

4 And I told my colleagues ahead of time that we would break
5 after two hours. It's been an hour and 50 minutes. I
6 think now would be an appropriate time to take a 15-minute
7 break.

8 [Off the record.]

9 CHAIR SHEEHY: Next, we are moving to 7 b).

10 MR. WALLS: And this is only part I. What I was talking about
11 yesterday, only regulators.

12 CHAIR SHEEHY: We're going to 7 b)(I) and 7 b)(II). And I want
13 to announce that anybody that is here for 7 b)(III) that
14 item has been withdrawn. 7 b)(III) has been withdrawn, so
15 if you're here for that item, that item is no longer on the
16 agenda. Is that right -- the right way to put it?

17 MR. WALLS: Correct?

18 MS. BORON-IRWIN: Yes.

19 CHAIR SHEEHY: Okay. Okay. So 7 b)(I), Dave?

20 MR. WALLS: Okay, 7 b)(I) is the California Building Standards
21 Commission's proposed option of the 2009 International
22 Building Code with amendments for incorporation in the 2010
23 California Building Code, and we have somebody that wants
24 to speak on that item I do believe. Jennifer?

25 CHAIR SHEEHY: On 7 b)(I), let me see, I've got -- we got some

1 new requests, so I've got 7 b)(III) and I've got 7 b)(III).

2 This is 7. We don't have 7 f) do we? Is that type?

3 MALE COMMISSIONER: Yeah. No, that's later down.

4 CHAIR SHEEHY: That's later. 7 c), 7 c). Is that 7 b)?

5 MALE COMMISSIONER: That's 7 b).

6 CHAIR SHEEHY: All right. So we have Jennifer Thornburg. Do

7 you want to come talk to us about 7 b)(I)?

8 MR. WALLS: And while Jennifer is coming up, there was one

9 piece in Chapter 1, Part 2, of the building code, dealing

10 with building officials, and Chuck actually now he's two,

11 and that we just request -- We have sent approval to the

12 Department of Finance, and we just requested that you

13 approve that section based on DF's approval, so as long as

14 we get -- once we get the approval, then it's a go, and

15 that would be our request because we don't have their

16 final, similar to what we did with the Division of the

17 Architect's standards we talked about some.

18 CHAIR SHEEHY: And they asked to sign off on the 399?

19 MR. WALLS: Yes.

20 CHAIR SHEEHY: That's a -- Yeah.

21 MR. WALLS: And who knows, I mean they're buried with a hundred

22 other issues, so it's taking a while to get (inaudible).

23 CHAIR SHEEHY: Well, I'll make a commitment to follow up with

24 my former colleagues at the Department of Finance if

25 necessary to push that through. So, Ms. Thornburg, is that

1 right?

2 MS. THORNBURG: Thank you. My name is Jennifer Thornburg.

3 MR. WALLS: Make sure your light is on.

4 MS. THORNBURG: Thank you. My name is Jennifer Thornburg with
5 the California Geological Survey, and I believe it's been
6 resolved. I believe it's just a small loop that needs to
7 be tied up. It's on Section 1613.1.2 that refers to
8 another Section 3415.4, which has been withdrawn, so we
9 would recommend that this section 1613.1.2 be tabled or set
10 aside for future study.

11 CHAIR SHEEHY: And Ms. --

12 MR. STEELE: If I could make some further comments on that.

13 I'm Charles Steele, who is the -- I'm the Chair of the
14 Building, and what do we call ourselves, the Building Code
15 Group, the Code Development for State Buildings Group.

16 CHAIR SHEEHY: I'm sorry.

17 MR. STEELE: Okay.

18 CHAIR SHEEHY: I had a hard time hearing that part, Ms. Steele.

19 MR. STEELE: I have a hard time saying it.

20 CHAIR SHEEHY: No problem. Would you just (inaudible).

21 MR. STEELE: Sure. I'm the Chair -- I'm the Chairman of the
22 Code Development of State Buildings Group in association
23 with a couple of constitutional agencies that do judicial
24 consult for the University of California, a number of
25 departments and agencies of government including CSU,

1 California State Universities, the California Community
2 College, Departments of Transportation, Corrections and
3 Rehabilitations, and Water Resources. We're also
4 representatives from Structural Engineers Association of
5 California.

6 We have put forward three -- four items, three of which
7 received no comment and one in which in Dave just remarked
8 on. We were informed recently that the second of these,
9 which had to do with a number of requirements for attention
10 to the geological and geotechnical hazards (inaudible)
11 reductions on those items. We were notified that that was
12 withdrawn. When that withdrawal took place, there was an
13 editorial misstep in that a lot of the sections that was
14 part of that group, 1613.1.2, that should have been removed
15 was not removed as part of that. And our committee
16 supports that if you remove the other parts, you've got
17 remove that one because then it refers to the (inaudible),
18 which are contained. And in the discussions with Dave
19 Walls, I understand that this was an editorial oversight
20 and really isn't a substantive issue. I just want to make
21 sure that, as to origin committee for that group of
22 recommendations, that we don't take exception to them.

23 CHAIR SHEEHY: Okay.

24 FEMALE: A mistake, Commissioner?

25 COMMISSIONER HASENIN: (Inaudible) agrees (inaudible). I just

1 (inaudible) because I want express concerns regarding the
2 exception. We have (inaudible) from --
3 MR. WALLS: Yes. This would be the actual --
4 COMMISSIONER HASENIN: -- that section?
5 MR. WALLS: -- language.
6 MR. STEELE: That's correct. There should have been the one
7 other section that was referenced in there --
8 COMMISSIONER HASENIN: All right.
9 MR. STEELE: -- 1613.1.2, which is not on that list.
10 COMMISSIONER HASENIN: I'm sorry. This is something that was
11 just issued out?
12 MR. STEELE: If it's a -- You mean if it was just issued a few
13 minutes ago?
14 COMMISSIONER HASENIN: Yes.
15 MR. STEELE: I'm sorry.
16 COMMISSIONER HASENIN: And we have withdrawn it and
17 acknowledged that it should have been withdrawn.
18 MR. STEELE: I discussed that with Mr. Walls earlier and he's
19 on was it quick.
20 CHAIR SHEEHY: I have to ask the person about this. By the
21 way, that's a very cool tie that you have.
22 MS. BORON-IRWIN: Yeah.
23 CHAIR SHEEHY: And it's very appropriate to wear for today's
24 hearing, so my only complaint is that instead of yellow, it
25 should have been green.

1 MR. STEELE: Unfortunately, as my wife says, this is Golden
2 California and (inaudible) closer to (inaudible).
3 CHAIR SHEEHY: Okay. All right. No problem. So, Mr. Walls,
4 what are our options? Is it appropriate for us to
5 (inaudible) the -- You're both asking it to be removed.
6 MR. WALLS: Yes.
7 MR. STEELE: And as far as --
8 MS. BORON-IRWIN: But it's the same section.
9 MR. STEELE: Yeah.
10 MS. BORON-IRWIN: He stated it more eloquently --
11 CHAIR SHEEHY: Okay.
12 MS. BORON-IRWIN: -- that I have.
13 MR. WALLS: So I think we can agree to withdraw that section.
14 CHAIR SHEEHY: Is there objection? Okay, seeing none, then
15 we're going to withdraw that, so thank you very much.
16 We're going to go to 7 b)(II). And I think we might have
17 some requests for public testimony here also.
18 MR. WALLS: You probably want to make a motion on b)(I).
19 MALE: Yes.
20 CHAIR SHEEHY: Do we need to make motion if it's withdrawn?
21 MR. WALLS: We didn't withdraw the whole thing, just one
22 section, and not the entire b)(I). Sorry.
23 MALE COMMISSIONER: Yeah.
24 CHAIR SHEEHY: No, that's okay. I'm just --
25 MR. WALLS: Yeah. They requested a specific section out of

1 that.

2 CHAIR SHEEHY: Okay. So we have a motion to withdraw the
3 specific section that they requested.

4 MALE COMMISSIONER: So moved.

5 COMMISSIONER WINKEL: Yeah. Second.

6 CHAIR SHEEHY: Okay. And so what we really need is a motion to
7 approve it.

8 MR. WALLS: And to adopt the rest of it.

9 CHAIR SHEEHY: And now we want an adoption to approve the rest
10 of it that wasn't removed.

11 COMMISSIONER JAMISON: I'll make a motion. Make a motion to
12 approve and adopt.

13 CHAIR SHEEHY: We have a motion by Ms. Jamison.

14 COMMISSIONER PARAVAGNA: And we have second, by Mr. Paravagna.

15 CHAIR SHEEHY: All in favor?

16 COMMISSION MEMBERS: Aye.

17 CHAIR SHEEHY: Any opposed? Any abstentions? Okay. That item
18 has been approved. 7 b)(II).

19 MR. WALLS: This is the proposed adoption of the 2009 addition
20 of the International Existing Building Code, and we adopt
21 just the one chapter per statute (a)(1), and so we would
22 just ask that you adopt it as amended, and we've got no
23 changes to what we've proposed.

24 CHAIR SHEEHY: Okay. So let's see here if we had any requests.
25 I think there would be on this one. No requests on this

1 one, so anybody in the public that wanted to comment on
2 this one? Okay. A motion to approve would be in order,
3 would it not?

4 MALE COMMISSIONER: I move approval.

5 CHAIR SHEEHY: We have a motion.

6 COMMISSIONER JAMISON: Second.

7 CHAIR SHEEHY: We have a second. All in favor?

8 COMMISSION MEMBERS: Aye.

9 CHAIR SHEEHY: Any opposed? Any abstentions? Hearing none,
10 that item is approved. Well, you know what, it's been
11 withdrawn so we'll to get that at the end.

12 MR. WALLS: Okay.

13 CHAIR SHEEHY: Let's finish businesses on the agenda. For
14 those of you that want to stay and comment on 7 b)(III), we
15 will accommodate your request. We want to get through our
16 business items first.

17 Okay. So what is next, 7 c)?

18 MR. WALLS: c) I).

19 CHAIR SHEEHY: 7 c)(I).

20 MR. WALLS: And the Office of State Fire Marshal.

21 CHAIR SHEEHY: And I want to acknowledge the fact that our
22 State Fire Marshal has been waiting here all day very
23 patiently, and we know that you have a lot of
24 responsibilities and we appreciate your ability to stay
25 with us today and compromise your testimony.

1 MS. HOOVER: It's my pleasure.

2 CHAIR SHEEHY: Please identify yourself and proceed.

3 MS. HOOVER: Good afternoon. My name is Tonya Hoover. I'm the
4 Acting State Fire Marshal. Mr. Secretary and Members of
5 the Commission and Executive Director Walls, it's my
6 pleasure to bring before you the adoption package for the
7 State Fire Marshal's Office. It's a package that I am and
8 the CAL FIRE Office of the State Fire Marshal is very proud
9 to present. I'd like to take a few moments to introduce
10 our (inaudible) and fire safety package and then turn the
11 details over to Chief Reinertson.

12 Before I do that, I'd like to -- Well, I was going to
13 introduce the director, but unfortunately he had to leave
14 at three o'clock for a meeting, so he missed out on our
15 packet, but he did have the opportunity to sit with us for
16 a couple hours -- for two hours and it was his first
17 Building Standards Commission meeting, and I think he found
18 it very educational.

19 CHAIR SHEEHY: And not --

20 MS. HOOVER: We also --

21 CHAIR SHEEHY: Not only are you the State Fire Marshal, but you
22 also have a little bit of a diplomat in you, too, indeed.

23 MS. HOOVER: Thank you, Sir. The Office of the State Fire
24 Marshal has continued its work to enhance fire (inaudible)
25 safety through several code modifications. Each section

1 where a modification was made was examined thoroughly not
2 only by the Office of the State Fire Marshal but by
3 dedicated users of the code that included not only the
4 regulators but other state agencies and industries that
5 might or would have been affected by the proposed
6 provisions. Modifications and code cleanup were done to
7 address fire safety within dry cleaning businesses, tire
8 storages, the biotech industry, and the coordination of
9 NFPA fire sprinkler standards and building code provisions,
10 the important incorporation of Title 19 provisions into the
11 California Fire Code as referenced, as well as some
12 modifications on our building and wildland urban interface
13 that provide a balance of ongoing research, loss history,
14 and structure survivability.

15 Other areas of importance in our proposed adoption package
16 include modifications to the International Residential
17 Code. The Office of the State Fire Marshal is proud of the
18 work done to coordinate fire safety requirements within the
19 residential code for California statutes and our fire panic
20 regulations found in the California Building Code. These
21 requirements include fire alarm, wildland urban interface
22 construction, residential care provisions, and the most
23 important provision that will provide the highest level of
24 fire safety for the citizens of California is the inclusion
25 of residential fire sprinklers for all new one and two-

1 family homes and townhouse construction. This proposed
2 requirement came about in cooperation with several key
3 stakeholders that included the fire service, water
4 purveyors, the building industry, building officials, labor
5 organizations, and our other state agencies. For over a
6 year, the Office of the State Fire Marshal has brought
7 together those interested parties as task force groups to
8 address challenges, questions, and concerns.

9 The residential sprinkler portion of our code adoption
10 entailed three task force groups alone. The first task
11 force group addressed items associated with water supply
12 for residential sprinklers. The second task force group
13 addressed the installation of those systems. And the third
14 group addressed items associated with education and
15 training to assist in installation, system inspections, and
16 how to better inform the public on the topic of residential
17 sprinklers. The committed work of these three task force
18 groups as well as all the task force groups are a
19 reflection of unlimited public comments and thoroughness of
20 our submitted package.

21 The committed work of all the task force groups needs to
22 be recognized as they all were instrumental in providing
23 the Office of the State Fire Marshal a comprehensive
24 adoption package and (inaudible) to bring forward today.
25 So if you would indulge me for a moment, I have those task

1 force co-chairs here, and I'd like to have them stand as
2 they're introduced. Coordination of Title 19 into the
3 Fire Code; Diane Arend, Office of the State Fire Marshal,
4 and Andrea Anderson, Consumes Fire District representing
5 CAL Chiefs. Wildland Urban Interface Building Standards;
6 Ethan Foote, Office of the State Fire Marshal, Stuart Tom,
7 Building Official, City of Glendale. Residential fire
8 sprinkler water supply task force group one; Ernie Paez,
9 Office of the State Fire Marshal, Dennis Mathisen, City of
10 Roseville Fire Marshal. Residential fire sprinkler task
11 force group two; Chief Paez, Ernie Paez again, Office of
12 the State Fire Marshal, Darren Drake, Fire Marshal, City
13 of Napa Fire Department. Residential fire training and
14 education task force three; Mike Richwine, Office of the
15 State Fire Marshal, and Gene Blingy (phonetic), City of
16 Roseville Building Official. NFPA 13 building code
17 correlation, L occupancy, and fire alarm, and automatic
18 extinguishing system task force groups; Steve Guarino,
19 Office of the State Fire Marshal, John Gould, Office of
20 the State Fire Marshal, and James Parsegian, Office of the
21 State Marshal. Each one of these individuals had the task
22 of, and I'll kindly put it, herding cats and bringing
23 forward a complete packet.
24 Last but not least, I would be remiss if I did not
25 recognize the Chief of our Codes and Regulations Division

1 who makes sure that all of our timelines are met, makes
2 sure our code adoption is complete, concise, and in the
3 best interest of the State of California and its citizens,
4 Chief Kevin Reinertson. And at this time, I'd like to turn
5 the mic over to Chief Reinertson to carry our packet
6 forward.

7 CHAIR SHEEHY: Thank you.

8 MR. REINERTSON: Thank you. Good afternoon, Secretary and
9 Commissioners. This package here is 18 months worth of
10 work before you. It's very large with a lot of hard work
11 by a lot of different individuals went into this. A lot of
12 changes have been made to incorporate the new 2009 model.
13 It was from that what we had of '06 codes, which is
14 probably almost two-thirds of what this rulemaking package
15 is. I don't want to go into a lot of details about
16 specifics other than what Chief Hoover has identified, but
17 (Inaudible) open to questions with the chairs here, and we
18 could answer any question that you have us (inaudible).

19 CHAIR SHEEHY: Thank you very much. Questions or comments from
20 the Commissioners?

21 MS. DAVIS: No public comments on this one.

22 CHAIR SHEEHY: And I don't have anybody that's requested at 7
23 b).

24 MALE: Isn't it c)(I)?

25 CHAIR SHEEHY: 7 c)(I). I've got requests for c)(II) and

1 c)(III), but I don't have c)(I), so is there somebody that
2 I missed? Okay. Seeing none then, Mr. Walls, would a
3 motion be in order at this time to adopt this?

4 MALE COMMISSIONER: I move.

5 CHAIR SHEEHY: Okay. We have motion.

6 MALE COMMISSIONER: Second.

7 CHAIR SHEEHY: And we have second. All in favor?

8 COMMISSION MEMBERS: Aye.

9 CHAIR SHEEHY: Any opposed? Any abstentions? Okay. That item
10 has been approved. Thank you very much for all of your
11 hard work and the comments that you made earlier. I don't
12 know, it doesn't matter, but just thank you for all your
13 work and letting your voice have been subject to the
14 furlough (inaudible) that much more because I know how
15 difficult it's been to manage the state workforce and work
16 under furlough practices, so thank you for all your
17 service.

18 Okay. So we're going to move on to 7 c)(II), right?

19 MR. WALLS: Yes.

20 CHAIR SHEEHY: If I sound a little hesitant, it's just because
21 my eyes have gotten tired after all we've been through
22 today. Okay. So 7 c)(II) is also a State Fire Marshal
23 item, and (inaudible) that would great.

24 MS. HOOVER: I'll stand on my previous comments.

25 CHAIR SHEEHY: Okay. All right. Now we do have some requests

1 for public comment on 7 c)(II). Is Patricia Mieszala here?
2 Bring that down and then you can sit right there, Ms.
3 Mieszala. That would be great.

4 MR. MIESZALA: Good afternoon, and thank you, Mr. Chairman and
5 Commissioners. My name is Patricia Mieszala, the Public
6 Education, and Field Advisor for the National Fire
7 Protection Association, Southwestern Region. I'm also
8 speaking on behalf of Ray Bizal, Southwestern Regional
9 Manager, and NFPA, who have long championed requirements
10 for automatic fire sprinkler systems in residential
11 occupancies.

12 A copy of this testimony was provided to you on January
13 11th. NFPA strongly supports the California State Fire
14 Marshal's adoption of sprinkler requirements for new one
15 and two family dwellings and townhouses. We applaud the
16 efforts of the California State Fire Marshal for bringing
17 stakeholders together over this past year to discuss the
18 implementation of this important fire and life safety
19 measure. Thank you for the opportunity to speak to the
20 Commissioner.

21 CHAIR SHEEHY: Thank you for your patience today and for
22 sticking around for your testimony. We really appreciate
23 it. I have a Kate Dargan. Please move forward if you can,
24 and welcome back to a location that is probably most
25 familiar to you, Ms. Dargan, and thank you for your --

1 Dargan? Did I get the pronunciation wrong?

2 MALE: Dargan.

3 CHAIR SHEEHY: Dargan. And thank you for your past service in
4 the Office of the State Fire Marshal.

5 MS. DARGAN: Thank you, Secretary, very much. Nice to make
6 your acquaintance, and I do believe the last time I was
7 sitting at the table in the chair next to me, it was many,
8 many hours of testimony that particular day.

9 Secretary and Commissioners, I chose to come down and speak
10 to you today in support of this package as a way of
11 acknowledging the Commission's work today and Acting State
12 Fire Marshal, Tonya Hoover. And excuse me, I didn't
13 introduce, but I am the most recent State Fire Marshal just
14 past previous to this one, and I speak representing myself
15 today.

16 So the acknowledging the Commission and the Acting State
17 Fire Marshal, Tonya Hoover, the Chief of our Codes and
18 Regulations, Kevin Reinertson, and all of the many people
19 who have gone into putting this package in front of you
20 today. It was I guess it was inferred by Secretary, excuse
21 me, by State Fire Marshal Hoover and by the woman who spoke
22 previously from NFPA that today's vote in support of the
23 IRC and the adoption of the model IRC for California, in
24 one vote is the most significant piece of fire safety
25 regulation that you will have passed in many decades from

1 this Commission. It represents residential and fire
2 fighter safety that is beginning to be adopted by states
3 across the county and I am very, very proud of the work
4 that the State Fire Marshal's Office has done in concert
5 with the other state agencies and the stakeholders to bring
6 this to you in what I believe is going to be another
7 hallmark consensus package.

8 A controversial issue has been worked through. The
9 details have been addressed. The concerns of stakeholders
10 over the past not just this last year but several years
11 have been address. And the State Fire Marshal's Office
12 believes it is putting in front of you a workable package
13 for residential sprinklers, and you will be making
14 California history when you support that today.

15 I want to acknowledge Acting State Fire Marshal Tonya
16 Hoover for an excellent job well done, and all of the task
17 force chairs, to all of the members of the Office of the
18 State Fire Marshal who put heart and soul to this, the
19 California Building Officials Partnership, the California
20 Fire Service, and the industry stakeholders who have
21 collectively put their shoulder to this harness and
22 delivered to you something that you can all support. Thank
23 you.

24 CHAIR SHEEHY: Thank you very much. Next I have Mr. Raymer.

25 MR. RAYMER: Thank you, Mr. Chairman and Commissioners. I'm

1 Bob Raymer, Senior Engineer and Technical Director with the
2 California Building Industry Association. And two
3 technical points here that we are in strongly in support of
4 the State Fire Marshal's packet.

5 As many of you know for some two-plus decades, we strongly
6 opposed mandatory sprinklers at the national level, but
7 ultimately we lost that fight. The previous State Fire
8 Marshal, Kate Dargan, and now Tonya Hoover, both recognized
9 that that was going to cause an increase in the cost of
10 construction. And well in advance of this being passed as
11 a national mandate, they started working hard to find ways
12 to help reduce the cost of the application, and they've
13 done a fantastic job. We join with the Office of the State
14 Fire Marshal in seeking a change in setback requirements
15 from the new five-foot requirement back to the long-
16 standing three-foot requirement. That will not only help
17 basically offset the cost of the sprinklers, it's also a
18 very green measure since many local building communities
19 are moving to high-density, single-family construction, so
20 this is something that works very well with that.

21 And also with regards to the urban wildland interface
22 regulations that the State Fire Marshal has updated, that
23 was a very laborious process, quite frankly. In herding
24 cats, you got a heck of a good consensus here. I've got to
25 say (inaudible) regulation, but this is a very open

1 process, and they went the extra mile to come up with a set
2 regs that we could embrace and they even took care of a
3 very controversial (inaudible) issue that popped up. So
4 with that, I want to support their adoption of (inaudible).
5 Thank you.

6 CHAIR SHEEHY: I'm glad to see that this is being endorsed
7 again (inaudible) building industry.

8 MR. RAYMER: Thank you, either way.

9 CHAIR SHEEHY: (Inaudible). Okay. And I don't have anyone
10 else that would like to comment on items 7 c)(II). Did I
11 miss -- Did I miss -- Oh, yes, Ms. Dargan?

12 MS. DARGAN: I beg forgiveness. I forgot one very important
13 point if I may continue. I also wanted to recognize one
14 more person in the audience that I forgot to previously,
15 and that is the previous State Fire Marshal Rodney Coleman,
16 who as the Fire Chief San Clemente, it was the first
17 community in the country to adopt residential sprinklers 30
18 years ago and started us on a path that were are here
19 today. He's here in the audience to share with us. I'd
20 like to introduce him; past Fire Marshal and Chief Rodney
21 Coleman.

22 CHAIR SHEEHY: Thank you.

23 MS. DARGAN: Thank you very much.

24 CHAIR SHEEHY: Thank you. Okay. Is there any other comment on
25 7 c)(II)? All right.

1 COMMISSIONER JAMISON: I just one or two maybe.

2 CHAIR SHEEHY: Yes, Ms. Jamison?

3 COMMISSIONER JAMISON: I just wanted to say thank you. I mean
4 this really is amazing to have no opposition to these
5 regulations while we're, you know, embarking on adopting
6 residential fire sprinklers for all single-family homes. I
7 think this is another example of California showing
8 leadership and your office showing -- providing such great
9 public value and doing it in a manner and bringing everyone
10 together, and so thank you. And I'd like to make a motion
11 to approve and adopt those regulations.

12 MALE COMMISSIONER: Second.

13 MALE COMMISSIONER: Second.

14 MALE COMMISSIONER: Second.

15 CHAIR SHEEHY: Okay. We have a motion a second and one-fourth.
16 All in favor?

17 COMMISSION MEMBERS: Aye.

18 CHAIR SHEEHY: Any opposed? Any abstentions? Hearing none,
19 that item is approved. Thank you very much. And finally,
20 I think it's finally on the fire -- No, it's not. This
21 says 7 c)(III). Is it the fire code?

22 MS. DAVIS: 7 c)(III).

23 CHAIR SHEEHY: This is a fire code itself.

24 MS. DAVIS: This would be a fire code itself.

25 MR. REINERTSON: This package here is Part -- This package here

1 is Part 9 of the California Fire Code. The vast majority
2 of the revisions that have been to this were done working
3 with other state agencies, Division of State Architect,
4 OSHPD, the Office Statewide Planning, our Corrections
5 Office, and HCD, as well as the industry's other
6 stakeholders.

7 Chapter 9 has had huge modifications made to it to
8 (inaudible) in a sense correct as well as clarify many
9 of the provisions where there were overlapping fire alarm
10 and sprinkler provisions within the same section and we
11 separated those out. Provisions for our prisons have been
12 made working with CDCR and in order to assist in the
13 construction for new facilities that are coming, as well as
14 existing facilities where the infrastructures are starting
15 to, you know, being outdated daily, per se, and installing
16 new systems is becoming burdensome and quite costly for
17 them, and we've incorporated quite a few amendments into
18 here.

19 Chapter 12 of this fire code deals with dry cleaners. We
20 adopted this standard back during the 2007 code, and at the
21 same time, the California Air Resources Board passed some
22 mandatory measures to phase out perchloroethylene, which is
23 one of predominant solvents used for dry cleaning. Many of
24 these dry cleaners now are shifting over to a different
25 type of solvent, which is the flammable, and the adoption

1 of the '07 code had a mandatory sprinkler trigger in it,
2 and it's quite harmful to quite a few of the smaller dry
3 cleaners. What we added in the rulemaking package here is
4 to incorporate a reference to NFPA 32. That's the National
5 Fire Protection Association's dry cleaner standard, which
6 has some alternatives in it in lieu of sprinkler
7 (inaudible) and construction cost (inaudible) we learned
8 (inaudible) separating the dry cleaners from other
9 facilities who stay in the strip mall, but it is a means
10 for people to do business without adding another \$50 to
11 \$100,000 in some cases for (inaudible).

12 Chapter 25, that package -- The adoption of Chapter 25 is
13 for waste tire storage facilities as well as other outdoor
14 tire storage. We received several comments during the 45-
15 day public comment period and worked through those with
16 some additional 15-day modifications to help bring those to
17 where we have them today, and hopefully the controversy
18 over the adoption of that has been resolved. We continue
19 to work with the tire industry both large and small. We
20 know that this chapter here is new to California and it
21 is -- it is in concert with existing regulations that are
22 Title 14 that are administered by Integrated Waste -- it
23 was the Integrated Waste Management Board, and I don't
24 recall what they call it today. But we'll be continuing to
25 work with both the fire service and the tire dealers and

1 the waste tire storage facilities to further evolve this
2 chapter for California. And with that, I'd like to turn it
3 back over to the Commissioner.

4 CHAIR SHEEHY: Okay. Thank you for the overview of the update
5 to the Fire Code. Do you we have any questions or comments
6 from our Commissioners? We do have some public comment
7 requested. Is Terri -- Terri, is Leveille? Terri, we know
8 who you are. I apologize on the last name, but if you
9 could identify you when you step up.

10 MR. LEVEILLE: Thank you, Secretary and Commissioners. It's
11 Terri Leveille.

12 CHAIR SHEEHY: Leveille.

13 MR. LEVEILLE: TL and Associates. Good afternoon. I represent
14 a number of tire recyclers and tire processors throughout
15 the state including two, which are called major tire --
16 waste tire facilities, and they are both the largest tire
17 recyclers and (inaudible) promoter in California for
18 asphalt rubber roads, and they're the one that makes
19 chips for a variety of civil engineering purposes. I
20 talked with Mr. Reinertson, and he's been very helpful in
21 making us understand the concerns they have particularly
22 about the amendment 2505.4 (inaudible) for lot lines and
23 buildings.

24 Now a number of our clients do store finished products, and
25 those are super stacks of (inaudible) rubber and

1 occasionally bags of mulch that are made out of rubber
2 close to -- closer to the building than 50 feet. And they
3 have received the okay from the local fire authorities
4 because they have -- under their circumstances they've been
5 able to work with the local fire authorities and make them
6 understand that this sufficient for what is considered the
7 50-foot buffer limit.

8 Our concern is that there is a number of exceptions that
9 are listed under 2505.4. One of which is number three,
10 which talks about minor waste tire facilities that are in
11 existence today or prior to next year or January 1st of
12 2011. Initially, the exception included major waste tire
13 facilities and, of course, comments that our major waste
14 tire facilities, and of course, our clients that are major
15 waste tire facilities were somewhat taken aback when it was
16 changed down minor waste tire facilities. And we wanted to
17 register for the record our concerns about this, and we
18 would hope that we will continue to be able work with our
19 local fire authorities in case there's opportunities to
20 make exceptions to the 50-foot buffer as long as they are
21 sufficiently protected from fire and the contents that
22 themselves (inaudible) are not out of order.

23 We would prefer that number III to include major waste tire
24 facilities at this point or waste tire facilities, and that
25 was our concern.

1 CHAIR SHEEHY: Mr. Leveille, thank you for, excuse me, thank
2 you for your testimony today. Do we have questions or
3 comments from the Commissioners? Okay. Does that conclude
4 your testimony?

5 MR. LEVEILLE: That concludes it. I was just going to say I
6 just wanted it to be on the testimony on the record that
7 this was a concern of ours. We would prefer that, but as I
8 say, I talked with Mr. Reinertson, and we are sufficiently
9 supportive of everything else that's in this Chapter 25.

10 CHAIR SHEEHY: Okay, great.

11 MR. LEVEILLE: Thank you.

12 CHAIR SHEEHY: Great. Thank you very much. Next I have
13 Mr. Mike Flanagan. Welcome.

14 MR. FLANAGAN: Mr. Secretary and Commissioners, Mike Flanagan,
15 and staff. I'm Mike Flanagan with the Flanagan Law Firm on
16 behalf of Les Schwab Tire Centers that operates 75 stores
17 and all of our employees that work in California. Mr.
18 Leveille just recently addressed 2505.4, Sections 3 and 4,
19 are a concern. (Inaudible) Sections 1 and 2, and when the
20 initial proposed regulation came out, we felt like a
21 (inaudible) punch. But thanks to the Fire Marshal and
22 their excellent staff, we worked things out, so the
23 controversy is over. Thank you very much especially Chief
24 Kevin over here, and what you have now is a regulation that
25 we believe is both workable and it's reasonable, and most

1 importantly it's affordable. Thank you.

2 CHAIR SHEEHY: All right. Thank you, Mr. Flanagan. Now I

3 don't have anybody else for 7 c)(III), so am I missing

4 anyone? Okay. Therefore, a motion would be in order at

5 this point, Mr. Walls?

6 MALE COMMISSIONER: Move approval.

7 CHAIR SHEEHY: I have a motion.

8 COMMISSIONER JAMISON: Second.

9 CHAIR SHEEHY: I have a second. All in favor?

10 COMMISSIONER MEMBERS: Aye.

11 CHAIR SHEEHY: Any opposed? Any abstentions? Item is

12 approved. Now we're going to go to 7 c)(IV), and is also

13 an Office of the State Fire Marshal item.

14 MR. REINERTSON: Before you is the Part 12 standards for our

15 rulemaking package. There are several standards in here

16 that are a more direct derivative of the Chapter 7 a) task

17 force, the rewrite 7 a), and the rewrite of these standards

18 that are referenced in that chapter for walls, fence,

19 decks, and most of it is (inaudible) so that the

20 laboratories and testing agencies can take our test

21 protocols and test them in it. And I give this back and

22 turn this over to -- Hello?

23 MALE: Is the light on?

24 MR. REINERTSON: No.

25 MALE: Yeah, it's on.

1 MR. REINERTSON: Anyways, I'd like just turn this over to the
2 Commission.

3 MALE COMMISSIONER: Chief, who you're answering questions that
4 may come up on this issue.

5 CHAIR SHEEHY: Okay. Ms. Hoover, did you have any more
6 comments that you wanted to make on this item?

7 MS. HOOVER: Not on this item (inaudible).

8 CHAIR SHEEHY: Okay, great. And we don't have any requests
9 unless I missed anybody. There's no requests from the
10 public on this item. Are there any additional questions or
11 comments from our Commissioners? Seeing none, is there a
12 motion to approve?

13 MALE COMMISSIONER: No. So moved.

14 COMMISSIONER WINKEL: Second.

15 CHAIR SHEEHY: WE have a motion and a second. All in favor?

16 COMMISSION MEMBERS: Aye.

17 CHAIR SHEEHY: Any opposed? Any abstentions? That item is
18 approved. Fire Marshal, thank you for your work and for
19 your testimony and for your patience today. We really
20 appreciate your being here.

21 MS. HOOVER: Mr. Secretary, on behalf of the Office of the
22 State Fire Marshal and CAL FIRE, thank you very much. We
23 are very proud of the work that's done here in California
24 and the work that's done by the Commission, and it was not
25 a problem at all to stay all day. Thank you.

1 CHAIR SHEEHY: Thank you so much. Okay. So we're going to
2 move on now to the Office of Statewide Health Planning and
3 Development, OSHPD, if you could please move forward. The
4 next six items all OSHPD items, and I'd like to extend the
5 same comments that were used by our state agencies. Thank
6 you for all of your work on these items particularly in the
7 furlough environment where you had staffing reduced by, you
8 know, what amounts to 36 days a year, which not an
9 insignificant amount, so thank you. And if you could
10 please -- Are we going to need a separate vote on all six?

11 MR. WALLS: I think you could probably take the first two
12 together.

13 CHAIR SHEEHY: Okay. We're going to try to take the first two
14 together, so if you could walk us through number I and
15 number II, that would be great.

16 MR. BORBA: Okay. Duane Borba, OSHPD. The first item is
17 structural amendments to the California Administrative Code
18 (inaudible) of these amendments they make minor technical
19 amendments for consistency with 2010 Part 2 of CBC. Item
20 number II are the non-structural amendments to the
21 California Administrative Code, Part 1. These changes --
22 The proposed changes are intended to implement statutory
23 requirements and clarify existing regulations, eliminating
24 outdated regulations, and they coordinate with other parts
25 of Title 24. Those are the proposed changes or amendments

1 to structural amendments and non-structural amendments to
2 Part I.

3 CHAIR SHEEHY: Okay. And Part II, Mr. Borba?

4 MR. BORBA: Well, just --

5 MR. WALLS: That was I and II.

6 CHAIR SHEEHY: I'm sorry. I thought that was number -- That
7 was I and II.

8 MR. BORBA: That was I and II.

9 CHAIR SHEEHY: Okay. And we have no requests from the public
10 on either I or II. Are there any questions or comments
11 from board members? Seeing none, is there a motion to
12 approve items I and II?

13 COMMISSIONER PARAVAGNA: So moved.

14 COMMISSIONER BARTHMAN: Move to approve.

15 MALE COMMISSIONER: Second.

16 CHAIR SHEEHY: We have a motion and a second. All in favor?

17 COMMISSION MEMBERS: Aye?

18 CHAIR SHEEHY: Any opposed? Any abstentions? And, Mr. Walls,
19 did I do something wrong?

20 MR. WALLS: No. I just wanted to clear who motioned and who
21 seconded?

22 CHAIR SHEEHY: Who made the motion? The motion was --

23 COMMISSIONER PARAVAGNA: Over here.

24 CHAIR SHEEHY: -- Mr. Paravagna. Okay. And the second was
25 made by --

1 COMMISSIONER BARTHMAN: I jumped in there but I don't know.

2 CHAIR SHEEHY: -- Mr. Barthman. Okay, very good. We're going
3 to move on to -- (Inaudible) now you were the second,
4 weren't you?

5 COMMISSIONER BARTHMAN: I think we both were the primary mover.

6 MR. WALLS: All tied together. That's why it was confusing.

7 MALE: (Inaudible) the honor.

8 CHAIR SHEEHY: All right. So now we're going to move on to
9 Item No. III, d)(III).

10 MR. BORBA: You have before you our adoption of the 2009
11 edition of the IBC with structural amendments appropriated
12 into the 2010 California Building Code. The proposed
13 amendments repeal redundant requirements in Chapter 14
14 regarding exterior walls, Chapter 15 regarding roof
15 systems, and makes technical amendments to the requirements
16 of various sections of Chapters 16 through 35 and appendix
17 J. These are repealed, redundant, and outdated, or
18 conflicting requirements and they provide clarity and
19 consistency within the code.

20 CHAIR SHEEHY: Thank you, Mr. Borba. Now we have a request to
21 speak on this one from Mark Gilligan. Are you here, Mark?
22 Please come forward. Could you press the button?

23 MR. GILLIGAN: Press the button.

24 CHAIR SHEEHY: Okay.

25 MR. GILLIGAN: Okay. Thank you, Commissioners, for the

1 opportunity to speak. I'm commenting on a particular
2 portion of these amendments that deal with references to
3 ICCES documents that have been adopted into the Building
4 Code. And I believe that they create legal difficulties
5 for the state, and hopefully this will prevent some
6 embarrassment later. You know, as many of you know,
7 (inaudible) everybody ICCES is a subsidiary of ICC. It's a
8 separate company, and it also has a sister company IAS, but
9 I'm not commenting on the technical merits. I'm talking
10 about what I understand is the legal issue of it.
11 ICCES has effectively had (inaudible) operator on the
12 preparation (inaudible) evaluation reports. There is now
13 starting to be some credible competition out there, and by
14 the way I am not affiliated with either product.
15 By referencing these documents, the amendments formally
16 creates a monopoly in favor of ICCES and IAS requiring that
17 they be hired to produce evaluation reports or to do other
18 stuff. And as a result, I've had some feedback from at
19 least one major manufacturer. This will inhibit their
20 ability to select an alternate supplier of evaluation
21 report services.
22 There have been claims in the responses, and by the way
23 these issues are identical I believe to the DSA provision.
24 There are claims that these amendments are offering an
25 alternative, but dismisses the point (inaudible). By

1 referencing these ICCES documents, their use is now
2 mandatory, thus limiting options. You know the code
3 default is that thou shall follow this ICCES standard, the
4 document (inaudible). And code provisions that do not list
5 or mention a specific firm would provide options in the
6 meantime. So the -- And the ICCES documents are not
7 intended for reference in this manner, and as a result,
8 there was language in them that gives to ICCES the ability
9 to unilaterally make changes to the reference standard.
10 This, I am suggesting, delegates improperly to a private
11 enterprise the ability to modify a regulation, which they
12 might inevitably do. So I believe that that is not just
13 (inaudible).

14 The ICCES acceptance criteria incorporate added quality
15 assurance requirements, and a part of these requirements
16 they require explicitly the IAS be retained to perform
17 certain services, and this creates a monopoly for IAS,
18 okay? Now also, you see, I don't think that this proposal
19 really is very good for the ICCES (inaudible) because they
20 have taken the position, and you can find this on their
21 website, that according to their copyright document that
22 ICCES acceptance criteria can only be used to prepare
23 evaluation reports to be issued by ICCES. Therefore, to
24 follow the letter of what is written, which is a legal
25 document that you would have to honor, you would have to

1 have ICCES prepare an evaluation report, and not one of
2 their competitors; ICCES, okay?
3 Now there's a couple of other difficulties that come up.
4 Only the latest version of the acceptance criteria are
5 available on the website, and that's the only way I know to
6 get copies of them. Several of those (inaudible)
7 acceptance criteria are expected to be modified within a
8 month; so thus, it appears that you will not be able to
9 attain a copy of the adopted document.

10 MALE: Is that true?

11 MR. GILLIGAN: That creates a difficulty. (Inaudible) the
12 dates of several of the acceptance criteria listed in
13 Chapter 35 are wrong, and it would be impossible to obtain
14 the list of documents. But also, by listing the specific
15 (inaudible) in the code, it will create problems when these
16 documents are updated. As I mentioned, several of them are
17 in the process of being updated.

18 CHAIR SHEEHY: Okay. And are there other specific policy
19 points that you're --

20 MR. GILLIGAN: That's basically my point there.

21 CHAIR SHEEHY: Okay. And I'd like to hear the OSHPD response
22 to this.

23 MR. TOKAS: Thank you, Mr. Secretary. Thank you, Mr.
24 Secretary. Commissioners and Secretary, I'm Chris Tokas
25 with the Office of Statewide Health Planning and

1 Development, specifically (inaudible) of the California
2 Building Code with regards to compliance in hospital
3 facilities.

4 The commenter proposes the revision of all references to
5 the International Code Council Evaluation, otherwise
6 referenced commonly as ICCES, a (inaudible) and all
7 references to ICCES evaluation service reports. It is very
8 important going on at that this point in the game that they
9 commenter did not identify any nonconformance with any of
10 the (inaudible).

11 CHAIR SHEEHY: I'm sorry. Just a minute, please for the -- Mr.
12 Gilligan, please -- The gentleman from OSHPD was kind
13 enough not to interrupt you.

14 MR. GILLIGAN: My apologies.

15 CHAIR SHEEHY: Your apology is accepted, so let's not interrupt
16 him. Please continue.

17 MR. TOKAS: The bottom line, the commenter is commenting on
18 existing code language accepting (inaudible), which we do
19 have a proposal (inaudible). Let's take a look at the two
20 different issues. With regards to the existing amendments,
21 all references with the ICCES currently exist in the 2007
22 CBC. This public commenter does not address and I will
23 bring both agency's, OSHPD and DSA, proposed non-
24 substantial (inaudible) modifications with the existing
25 amendments. The amendment does not modify existing

1 references to the ICCES requirements, evaluation services,
2 acceptance criteria, and so on, which is permitted by both
3 agencies as an acceptable alternative to show conformance
4 with various code requirements. The change does not
5 (inaudible) out of the requirements, their rights, their
6 responsibilities, their conditions, or prescriptions on
7 obtaining the original test. At this time, all agencies
8 cannot propose substantial modifications with the existing
9 amendments as requested, as Government Code Section 11346
10 and 45 requires proposing state agencies to include all
11 (inaudible) affected by proposed code change during the
12 code change development process, which was concluded in
13 December of 2009 and went through the various committees
14 and (inaudible) issue. The agency (inaudible) take these
15 comments under consideration during the subsequent
16 rulemaking.

17 With regards to the newly proposed amendment, references to
18 the ICCES acceptance criteria and evaluation reports
19 compliment but do not replace (inaudible) existing code
20 requirements. They are provided to identify alternates for
21 code users that save time and effort by identifying
22 alternatives acceptable to OSHPD and DSA without going
23 through the lengthy testing and analysis or the alternative
24 means of compliance processes for each separate project.
25 The ICC and all documents, again the evaluation reports as

1 well acceptance criteria, that are directly referenced have
2 been reviewed by both agencies, DSA and OSHPD, for
3 conformance with the code requirements and are acceptable
4 alternatives to again both agencies. They are widely
5 accepted in the design, construction, and in general the
6 enforcement community.

7 Furthermore, the public interested in efficient and timely
8 review is enhanced by the proposal amendments that
9 reference the ICCES documents. The reason is that the
10 proposal amendments reduce any possible ambiguities in
11 identifying acceptable alternatives. The existing code
12 requirements are retained, and authority to use other
13 approved alternatives should they become available is
14 maintained.

15 In the amendments, the ICC documents are identified only as
16 acceptable alternatives and do not replace something that
17 existed in the language. Here is a good example; 2009
18 Section 912 that deals with (inaudible) concrete
19 (inaudible) and specifically for (inaudible) that we have
20 identified with the word appendix (inaudible) 318, and I
21 will come back to that. If you go into appendix
22 (inaudible) 318, the (inaudible), and this is (inaudible)
23 shall be in accordance with an approved procedure. Here is
24 the problem, the problem is before appendix D life was
25 worth living. Until appendix D was brought forward, life

1 is not worth living because it takes several hours of
2 calculation just to certify the capacity of single anchor.
3 It's not farfetched unfortunately. So appendix D, which it
4 requires (inaudible) testing of all possible anchors, these
5 requirements are retained in the CBC without modification.
6 If somebody wanted to go that direction, they can go
7 direction. The use of -- by the agencies (inaudible)
8 third-party evaluations by an accredited organization such
9 as ICCES removes the need for the agency to evaluate the
10 (inaudible) for every user (inaudible) anchors, which is in
11 more recent times consuming task.

12 In closing, all proposed references to ICCES are
13 complimentary to existing code provisions. Again, it's
14 very important to point that no code provisions have been
15 replaced by a reference to ICCES documents, so therefore,
16 all code permitted options or compliance with a specific
17 requirement remain the same and normally, as it was stated
18 earlier, has been (inaudible). As such, we and I don't
19 want to speak for the DSA, I presume they are also in
20 concurrence with our statements, we are not in support of
21 the public comments. Thank you.

22 CHAIR SHEEHY: Okay. Great. Well, we're not going litigate
23 this necessarily

24 MR. GILLIGAN: We're not going to litigate. Can I just make a
25 brief comment?

1 CHAIR SHEEHY: Very brief.

2 MR. GILLIGAN: And very brief. I think --

3 CHAIR SHEEHY: And is your microphone on, Mr. Gilligan?

4 MR. GILLIGAN: Sorry. I (inaudible).

5 CHAIR SHEEHY: No worries. (Inaudible).

6 MR. GILLIGAN: We are both looking at this document and we are
7 both interpreting it and reading it differently, okay? I
8 would offer what I offered you before that some
9 manufacturers believe that this is causing constraint to
10 the trade, okay? I believe that there is substance to what
11 I am saying. I ask you individually to read the thing that
12 I (inaudible). I could go on longer, but I didn't bore you
13 with reading it, whatever.

14 CHAIR SHEEHY: Okay.

15 MR. GILLIGAN: As far as the things on the (inaudible), the
16 code I think is basically a reference to ICCES for a
17 (inaudible), and I'm not (inaudible) at this time. But I
18 think that the point I made earlier that there is a
19 significant different between when all of these products
20 (inaudible) --

21 CHAIR SHEEHY: Don't backtrack now. Now you made that point
22 earlier, all right? No offensive, but really we're trying
23 to get out of here.

24 MR. GILLIGAN: Okay.

25 CHAIR SHEEHY: So was there a new point I think --

1 MR. GILLIGAN: No.

2 CHAIR SHEEHY: -- (inaudible).

3 MR. GILLIGAN: No.

4 CHAIR SHEEHY: All right. Well, you were very articulate with
5 the way you described your position. Now I'm informed by
6 the Vice Chair of the Commission, Mr. Hasenin, he is going
7 to recuse himself from this item to make sure there's no
8 conflict of interest. Do we have any other members that
9 are in the same situation? Is there somebody here, Dave,
10 or one of the other Commissioners that can help me frame
11 this in a way so that we can act on it because I'm sure
12 exactly.

13 COMMISSIONER WINKEL: Can I try asking a few -- a couple
14 questions?

15 CHAIR SHEEHY: Yes, sure.

16 COMMISSIONER WINKEL: In a few words, asking Mr. Gilligan, you
17 state that it's illegal. What's your basis for that?

18 MR. GILLIGAN: Well, my basis and that goes back to nine-point
19 issue is I believe it's illegal for there to be
20 establishment of the (inaudible) --

21 COMMISSIONER WINKEL: Okay. But that's --

22 MR. GILLIGAN: -- except in very extreme situations.

23 COMMISSIONER WINKEL: But that's not within the nine-point
24 criteria.

25 MR. GILLIGAN: Well, all I can (inaudible) nine-point

1 (inaudible).

2 COMMISSIONER WINKEL: I think I probably am familiar with them.
3 Thank you.

4 MR. GILLIGAN: Yeah. I believe that is also illegal, as I
5 pointed out, to delegate a non-delegable governmental duty,
6 which is to make these decisions about the acceptance being
7 made, to a private enterprise.

8 COMMISSIONER WINKEL: Okay. That's all I needed for that. I
9 guess what's the other competitive organization you're
10 talking about?

11 MR. GILLIGAN: Well, the other competitor right now is IAPO EX
12 (phonetic).

13 COMMISSIONER WINKEL: Okay. Thank you. And I guess the last
14 question on the effective dates of the things you're
15 talking about being out of date. This document does not
16 become effective if it's adopted today until probably
17 January 1st, 2011. Is it anticipated that the reference
18 standards would be correlated and up to date at that time?

19 MR. GILLIGAN: No.

20 COMMISSIONER WINKEL: Why not?

21 CHAIR SHEEHY: Okay.

22 COMMISSIONER WINKEL: That's yes or no. That's fine.

23 MR. GILLIGAN: No. No. No, it's not and I can give you the
24 (inaudible).

25 COMMISSIONER WINKEL: Okay. Thanks.

1 CHAIR SHEEHY: Okay. Do we have other questions by
2 Commissioners?

3 COMMISSIONER DALEY: I have some more questions.

4 CHAIR SHEEHY: Yes, please, Mr. Daley?

5 COMMISSIONER DALEY: Do you have any proposed language and
6 exceptions, you know, referring to ICCES or Eagle;
7 something that would satisfy your concerns?

8 MR. GILLIGAN: I would basically go back mainly to what we
9 offered today and then basically take out those provisions.
10 Now I may be inclined in my (inaudible) that the issue is
11 the post-installed anchors were largely involved in the
12 adoption of the (inaudible), which will have language that
13 you could adopt very neatly into the code, but I don't have
14 any details (inaudible).

15 CHAIR SHEEHY: Mr. Walls -- Mr. Daley, Mr. Walls wanted to make
16 a comment. Did you finish with your questions?

17 COMMISSIONER DALEY: Go ahead, Dave.

18 MR. WALLS: I just had another question. Does OSHPD offer
19 (inaudible) methods of construction?

20 MR. TOKAS: Absolutely. It's always been on (inaudible).

21 MR. WALLS: Well, if that's the case, then any other
22 alternative to the EF system we think can be used in place?

23 MR. TOKAS: It can be proposed and --

24 MR. WALLS: Thank you.

25 CHAIR SHEEHY: So there's not a novel.

1 MR. TOKAS: Absolutely.

2 CHAIR SHEEHY: Okay. We've got more? Yes?

3 COMMISSIONER WINKEL: One other. This actually had a parallel
4 construction with DSA. Is it worthwhile getting -- Rather
5 than going through this twice, would it make more sense to
6 hear a commentary from DSA at this point? I'm trying to
7 dispose of (inaudible).

8 CHAIR SHEEHY: Yeah, that's work.

9 COMMISSIONER WINKEL: They the same issue twice.

10 CHAIR SHEEHY: That's e)(I).

11 COMMISSIONER WINKEL: Is that right?

12 MR. TOKAS: It's the identical issue.

13 COMMISSIONER WINKEL: Yeah, it's identical, so let's if we can
14 get an opinion.

15 MALE: Identical to b)(II)?

16 MR. GILLIGAN: Well, there may be a bit of language difference
17 but --

18 CHAIR SHEEHY: I think that's a great suggestion by Mr. Winkel.
19 Let's hear from DSA.

20 MR. GILLENBERTEN: I'm John Gillengerten, the Structural
21 Engineer with the Division of the State Architect, and we
22 are in concurrence OSHPD's position. The provisions that
23 we have offered are complimentary. They save a huge amount
24 oft time evaluating the current anchorage products. On a
25 case-by-case basis, there are literally hundreds of

1 hundreds of pages of documentation you have to look. And
2 even if you only did that once, there are hundreds of
3 propriety products out there and the state simply doesn't
4 have the resources or frankly the expertise to go through
5 the detailed evaluation of each of these different
6 anchoring products.

7 As Mr. Tokas mentioned, these regulations have become
8 extremely complex and the -- it's an extremely laborious
9 calculation process and there is extensive testing that is
10 required in order to qualify these different types of
11 anchors. So this is an option that the existing code
12 language remains so nothing has been taken away. What has
13 been added is information that informs the user of
14 acceptable alternatives. If there were other acceptable
15 alternatives out there beside the ICC criteria, we would
16 have put those in, but at this point time there aren't.

17 CHAIR SHEEHY: Okay. So I don't think we had any requests to
18 speak on your item, so I think a motion to approve --

19 MR. WALLS: Can I ask a question?

20 CHAIR SHEEHY: Absolutely.

21 MR. WALLS: Normally, the ES evaluation services is up to the
22 jurisdiction to accept or reject. So if I understand what
23 you've done here is just written down the bigger ES
24 products that you've accepted.

25 MR. PATTERSON: Can I chime in. This is Chip Patterson with

1 DSA. We originally proposed this for the 2007 code and it
2 adopted. There are only I believe three references to ES
3 acceptance criteria?

4 MR. GILLIGAN: No. There are more than that.

5 MR. PATTERSON: There are not many.

6 MR. GILLIGAN: There are about half a dozen (inaudible).

7 MR. PATTERSON: They were only referenced in the cases where
8 there are complex issues with the use of those things, and
9 it was only regarding metal (inaudible) anchors and a
10 couple of other areas where there are literally perhaps
11 (inaudible) or more of listings that are listed to varying
12 criteria. These acceptance criteria documents are prepared
13 by ICCES and they're done so in a public transparent
14 manner, and we can see what that criteria is. And by
15 referencing that criteria, we provide immediate answers to
16 design professionals so that they can select listings that
17 can be used. It is interim. As the other code
18 organizations develop criteria that we can see and
19 reference, then these amendments will change and evolve and
20 (inaudible).

21 MR. WALLS: That's what I'm saying is primarily a jurisdiction
22 could accept or reject these items.

23 MR. PATTERSON: Right.

24 MR. WALLS: And all you've done is put down in writing so
25 people (inaudible).

1 MR. PATTERSON: And (inaudible) for those few credible cases
2 that --

3 MR. GILLENBERTEN: And if I could respond to a question
4 directly. We're actually not identifying products. We're
5 identifying the acceptance criteria.

6 MR. WALLS: That's the test.

7 MR. GILLENBERTEN: So it's the testing protocols --

8 MALE: Let's ask John.

9 MR. GILLENBERTEN: -- are used to qualify the products.

10 MALE: Then it would be like any other standard.

11 MR. GILLENBERTEN: That's correct.

12 COMMISSIONER WINKEL: Point of clarification.

13 CHAIR SHEEHY: Yes.

14 COMMISSIONER WINKEL: Also, my understanding that these are in
15 the DSA and OSHPD sets of proposal so that these are only
16 accessible to designers on DSA and OSHPD projects. This
17 does not have any impact on local adoption.

18 MALE: Right.

19 COMMISSIONER WINKEL: Okay. I mean you guys do a lot of work
20 but it has a limited application in terms of it doesn't go
21 to every project in the state.

22 CHAIR SHEEHY: Okay. At this point, unless there's more,
23 Commissioner, but I think we could dispense with Items
24 d)(III) and e)(II) as one motion. I'm sorry?

25 MR. WALLS: We'll wait. Okay.

1 CHAIR SHEEHY: No. Just d)(III) and e)(II). These are the
2 same. Essentially, they're the same items but one is for
3 OSHPD and one is DSA, correct?

4 MR. WALLS: Right.

5 CHAIR SHEEHY: So I think since we've had this testimony, now
6 wouldn't it be appropriate?

7 MR. WALLS: Again, you other issues on e)(II).

8 MALE: Yeah.

9 CHAIR SHEEHY: Do you have other issues on e)(II) that you want
10 to talk about?

11 MR. GILLENBERTEN: Well, we had no public comments on our code
12 package. There are some technical differences between
13 the --

14 CHAIR SHEEHY: So you done then with e)(II)?

15 MR. GILLENBERTEN: But we had no public comments.

16 CHAIR SHEEHY: Okay. So that's it. You're done. So we can do
17 d)(III) and e)(II). Is there a motion to approve?

18 COMMISSIONER WINKEL: So moved.

19 MALE COMMISSIONER: Second.

20 CHAIR SHEEHY: We have a motion and second. All in favor?

21 COMMISSIONER MEMBERS: Aye.

22 CHAIR SHEEHY: Are there any opposed? Any abstentions? We
23 have one abstention. Mr. Hasenin has I think for both
24 items.

25 COMMISSIONER HASENIN: That's correct.

1 CHAIR SHEEHY: Okay. Now let's move on to d)(IV).

2 MR. BORBA: This is OSHPD's proposed adoption of the 2009 IEC
3 with the non-structural amendments incorporated into the
4 2010 CBC. These proposals make minor editorial and
5 technical modifications for clarity, consistency with other
6 parts of Title 24, coordination of with Title 22, which are
7 the licensing certification requirements, and provides new
8 sound transmission requirements for hospitals that are
9 consistent with the 2006 AIA guidelines.

10 CHAIR SHEEHY: Excellent. Are there questions or comments from
11 the Commissioners? I have no requests at the dais from the
12 public. Is there anybody from the public that wanted to
13 comment on this item? Seeing none, is there a motion to
14 approve Item No. d)(IV) -- 7 d)(IV)?

15 COMMISSIONER JAMISON: I'll make a motion to adopt and approve.

16 MALE COMMISSIONER: Second.

17 CHAIR SHEEHY: I have a motion and second. All in favor?

18 COMMISSION MEMBERS: Aye.

19 CHAIR SHEEHY: Any opposed? Any abstentions? d)(IV) is
20 approved. Item 7 d)(V).

21 MR. BORBA: This is OSHPD's proposed adoption of an amendment
22 to Article 726(c) of the National Electrical Code for
23 incorporation into the 2010 California Electrical Code.
24 This amendment was based on comment that we received at the
25 public comment period. It relates to automatic transfer

1 switches. That amendment that is before is automatic
2 transfer switches rated 600 EAC shall be listed for
3 emergency use or approved by an alternative testing
4 approval program acceptable to the authority having
5 jurisdiction. All other amendments were approved at the
6 Commission meeting to the electric code were approved in
7 November.

8 CHAIR SHEEHY: Okay.

9 MR. BORBA: This is the one remaining amendment to the
10 electrical code.

11 CHAIR SHEEHY: Thank you, Mr. Borba. Did you have anything to
12 ask, folks? All right. Do we have questions or comments
13 from the Commissioners? I have no requests from the public
14 on this item. Is there anybody that wanted to speak?
15 Okay. A motion would be in order.

16 MALE COMMISSIONER: Move approval.

17 MALE COMMISSIONER: Second.

18 CHAIR SHEEHY: We have a motion and a second. All in favor?

19 COMMISSION MEMBERS: Aye.

20 CHAIR SHEEHY: Any opposed? Any abstentions? Did you get the
21 motion and the second, Dave?

22 CHAIR SHEEHY: Did you get it Stephanie?

23 MS. DAVIS: Let me (inaudible).

24 MR. WALLS: Yes.

25 CHAIR SHEEHY: Okay, very good. Item 7 d)(VI).

1 MR. BORBA: This is OSHPD's proposed amendment or adoption of
2 the 2009 Uniform Plumbing Code with amendments for
3 incorporation into the 2010 CPC. We have a few editorial
4 and minor technical modifications to existing requirements
5 that were clarifications and consistency with the other
6 code sections, in particular the California Building Code.
7 We did withdraw amendments pertaining to AES PVC and CPVC
8 piping based on public comments that we received.

9 CHAIR SHEEHY: Okay. Any requests from the public to speak on
10 this item? And questions or comments from our
11 Commissioners? Seeing none, is there a motion?

12 COMMISSIONER WINKEL: Move approval.

13 CHAIR SHEEHY: We have a motion to approval.

14 MALE COMMISSIONER: Second.

15 CHAIR SHEEHY: We have a second. All in favor?

16 COMMISSION MEMBERS: Aye.

17 CHAIR SHEEHY: Any opposed? Any abstentions? Seeing none,
18 that item is approved. Okay. Now we're going to move on
19 to the Division of the State Architect. The first Item is
20 7 e)(I).

21 MR. SMITH: Good afternoon, Mr. Chair. My name is Howard Chip
22 Smith with DSA, and I have (inaudible).

23 CHAIR SHEEHY: Now did you say you didn't have any testimony?

24 MR. SMITH: On Part I.

25 MR. WALLS: I don't believe there are.

1 CHAIR SHEEHY: No. I'm not trying to (inaudible). It just
2 looks like you'd comment before have all the testimony.
3 Did you have the testimony for this item?

4 MR. SMITH: There were public comments made in the 45-day
5 public comment period. There were -- I can look. And
6 there were, let's see, what exactly would you like me to do
7 here?

8 CHAIR SHEEHY: I was just asking you if you had any prepared
9 remarks you wanted to make on this item. And I think the
10 answer no, right?

11 MR. SMITH: Yeah.

12 CHAIR SHEEHY: But I think I threw you when I asked, and I
13 think you maybe thought I wanting you do something, and I
14 was just trying to be polite to ask if you had any remarks,
15 but I think the answer is no. You're good to go, right?

16 MR. SMITH: Yes.

17 MR. WALLS: We're good.

18 CHAIR SHEEHY: Okay, very well. Then I don't see any requests
19 from the public on this item. Okay. So are there
20 questions or comments from the Commissioners. Seeing none,
21 is there a motion to approve?

22 MALE COMMISSIONER: Motion to approve.

23 CHAIR SHEEHY: We have a motion.

24 COMMISSIONER WINKEL: Second.

25 CHAIR SHEEHY: We have a second. All those in favor?

1 COMMISSION MEMBERS: Aye.

2 CHAIR SHEEHY: Any opposed? Any abstentions? That Item e)(I)
3 is approved, e)(II) has also been approved. Thank you very
4 much. Which now takes us to Housing and Community
5 Development, this is Item 7 f)(I). This I understand it,
6 this is all the HCD items (inaudible) dealing with, of
7 course, with residential laws (inaudible).

8 MR. WALLS: That's correct.

9 CHAIR SHEEHY: Right.

10 MR. TUBB: Good afternoon, Commissioner -- Mr. Chair and
11 Commissioners. My name is Shawn Tubb (phonetic). I'm
12 representing the Department of Housing and Community
13 Development located at (inaudible) give any technical
14 guidance that we may need with regard to our first package
15 and the State of California Building Code. The California
16 Building Codes, which were (inaudible) in 2007, in addition
17 to the California Building Code. We're repealing four
18 amendments to the code that are no longer necessary, and
19 amendments to the building standards from the previous
20 rulemaking, relocated and (inaudible) with existing adopted
21 necessary amendments, and I'll make it very brief. At this
22 point in time, we believe that we have consensus with our
23 package. We went through the proper rulemaking process and
24 then comment to period. At this point, I would just
25 actually turn it over to you and ask you if you would adopt

1 the package as submitted to you, and then remaining
2 questions that we may answer or comments, we would be glad
3 to do such.

4 CHAIR SHEEHY: Is there any questions or public comments on
5 this item? Questions or comments from our Commissioners?
6 Seeing none, is there a motion?

7 COMMISSIONER WINKEL: Move approval.

8 COMMISSIONER JAMISON: Make a motion to approve and adopt.

9 MALE COMMISSIONER: Second.

10 CHAIR SHEEHY: We have a motion to approve. We have a second.
11 All in favor?

12 COMMISSION MEMBERS: Aye.

13 CHAIR SHEEHY: Any opposed?

14 MR. WALLS: I think that was Christina and Steve.

15 CHAIR SHEEHY: Any abstentions?

16 MALE: Yeah.

17 CHAIR SHEEHY: Okay. So 7 f)(I) is approved. f)(II)?

18 MR. TUBB: I believe that's our residential package, correct?

19 FEMALE: Yes.

20 MR. TUBB: With that, I'm going to be as brief as the building
21 codes and in fact probably. The same position -- I have
22 the same position as far as Department. We went through
23 the normal rulemaking process. We did have a few more
24 comments here in the 45-day comment period. We did address
25 what we could and we make the agreement to work with some

1 of the stakeholders on some of the comments that we did not
2 make amendments during this rulemaking process due to the
3 fact that it would have extended our package past -- took
4 it another 45 day. So with that said, we do believe we
5 still have consensus, and at this time, we'd ask you again
6 for your approval.

7 CHAIR SHEEHY: That's great. Thank you for working towards a
8 consensus. I still don't see any public comment on this
9 one, and I don't see anyone. Seeing none, are there
10 questions or comments from the Commissioners? All right,
11 hearing none, is there a motion to approve 7 e)(II)?

12 MALE COMMISSIONER: So move.

13 CHAIR SHEEHY: We have a motion.

14 COMMISSIONER WINKEL: Second.

15 CHAIR SHEEHY: I'm sorry. Correct, we're at f)(II). We have a
16 motion and we have a second.

17 COMMISSIONER JAMISON: Second.

18 CHAIR SHEEHY: All in favor?

19 COMMISSION MEMBERS: Aye.

20 CHAIR SHEEHY: Any opposed? Any abstentions? That item is
21 approved. Okay. Now we're going to do 7 f)(III).

22 MR. TUBB: Okay. Thank you. Jim Roland is going to join me
23 from HCD because he was our guidance person with regard to
24 most of it. Again, with the plumbing code, call on Jim.

25 MR. ROLAND: I will be as brief as I can. We did not receive

1 any public comment during the public comment other than the
2 graywater standards, which we have addressed earlier, and
3 that was the approval for the emergency. Other than that,
4 we have consensus on our plumbing code package, as is it
5 right now. And again, I'll turn it over to you for any
6 questions or approval.

7 CHAIR SHEEHY: Great, thank you. And thank you for joining us.
8 Now we do have comments on this one. Do we have Mr. Tom
9 Enslow here? Please come forward. With the California
10 State Pipe Trades Council. Welcome.

11 MR. ENSLOW: You're welcome. Is this on?

12 MR. WALLS: No.

13 CHAIR SHEEHY: Press the button. Just, no, no, down there.

14 MR. ENSLOW: Good afternoon, Commissioners. Tom Enslow with
15 the law firm of Adams, Broadwell, Joseph, and Cardoza
16 appearing again on behalf of the California State Pipe
17 Trades Council. The California State Pipe Trades Council
18 have been advocates of graywater systems and is pleased to
19 support the proposal that the agency has put forth. We're
20 in support for California to expand the use of graywater
21 systems. We feel this will go a long way toward that.
22 Thank you.

23 CHAIR SHEEHY: Thank you, Mr. Enslow. Do you we have any other
24 public comment on this item? Questions or comments from
25 the Commissioners?

1 MALE COMMISSIONER: Move approval.

2 CHAIR SHEEHY: We have a motion.

3 MALE COMMISSIONER: Second.

4 CHAIR SHEEHY: We have a second. All in favor?

5 COMMISSION MEMBERS: Aye?

6 CHAIR SHEEHY: Any opposed or abstention? Okay. That item is
7 approved. 7 f)(IV) is next.

8 MR. TUBB: That will be the existing building code?

9 CHAIR SHEEHY: Are you asking me or telling me.

10 FEMALE: Yes.

11 MR. TUBB: Well, I didn't have it in front of me.

12 MR. WALLS: Yes.

13 MR. TUBB: Yes.

14 CHAIR SHEEHY: Okay. Sorry. I wasn't sure for a moment.

15 COMMISSIONER HASENIN: (Inaudible) question.

16 MR. TUBB: This is the same proposal that the department put
17 out through the 2007 California Existing Standards Code.
18 We have made no amendments to it and received no comment
19 during the comment period. Again, we will turn it over to
20 you with little fanfare or anything more said for your
21 approval.

22 CHAIR SHEEHY: Okay. Excellent. There's no public comment on
23 this item. Questions or comments from Commissioners? Is
24 there a motion?

25 MALE COMMISSIONER: So move.

1 MALE COMMISSIONER: Move to approve.

2 COMMISSIONER WINKEL: Second.

3 CHAIR SHEEHY: We have a motion and a second. All those in
4 favor?

5 COMMISSION MEMBERS: Aye.

6 CHAIR SHEEHY: Any opposed? Abstentions? This item is
7 approved. Thank you for your question.

8 MR. TUBB: Thank you.

9 CHAIR SHEEHY: We're now going to go to the Department of Water
10 Resources. This 7 g)(I), and the question is can we take
11 g)(I) and g)(II) together? And if we can, that would be
12 our preference.

13 MR. MAITA: Let's see, is this -- I think this microphone is
14 on. I'll be very brief. Good afternoon, Mr. Secretary and
15 Members of the Commissioner, Executive Director Walls, my
16 name Ricardo Maita, and I'm a civil Engineer with the
17 California Department of Water Resources, Floodplain
18 Management Branch, and I'm registered civil engineer here
19 in California and I'm a certified floodplain manager. With
20 me in the audience our team that's worked on this code
21 update for improvements of public safety due to potential
22 deep flooding in the Central Valley, and I'll call on them
23 as you may have questions or as public has questions.
24 We are here -- To be very brief and to kind read some clear
25 testimony, just taking more than two minutes, we are here

1 to request a condition to approve the proposed code update
2 for R30 and R3.1 occupancy groups that will establish an
3 evacuation location above the expected 200-year flood level
4 and related codes for levee-protected areas in the Central
5 Valley where flood depths exceed three feet.

6 There are approximately 1,600 miles of state, federal
7 levees here in the California Central Valley that protect
8 rural communities, small towns, and urban areas including
9 Sacramento including this building that we're meeting at
10 today, so this is very important for public safety.

11 This is the first building code update package that is in
12 response to the state's package of six flood bills that
13 were passed by the legislature and signed by the Governor
14 in 2007, and this one specifically is in response to the
15 Health and Safety Code Section 50465. In response to the
16 Health and Safety Code, DWR proposes to protect human life
17 and reduce property damage in deep flooding areas in the
18 Central Valley by this building code update.

19 Historical events here in the Central Valley, and we've
20 had probably about 40 state/federal levees in the last 55
21 years, and the events that we're very much familiar,
22 Hurricane Katrina and Hurricane Rita in Gulf Coast,
23 validate the importance of improving building standards
24 that protect the life, safety, and welfare of the public in
25 the area subject to deep flooding where people are

1 protected by manmade structures such as levee and
2 floodwalls.

3 We emphasize public safety in this first code update
4 package proposal. We have consulted with relevant state
5 agencies including the Division of the State Architect,
6 the State Fire Marshal, HCD, and others. We devoted
7 significant efforts to public outreach, the building
8 industry, to local governments, professional
9 organizations, and with the public. We held many
10 workshops on the -- during development of this code. DWR
11 has incorporated throughout the process comments made by
12 the public and stakeholders to improve the code package
13 that will improve public safety while factoring into
14 account economic considerations.

15 DWR believes that the proposed code package is complete
16 and ready for adoption by the Building Standards Commission
17 as part of the State Building Code and as part of the
18 Residential Code. I believe we have two agenda items.

19 MR. WALLS: That's correct.

20 MR. MAITA: The Commission's approval of this proposed code
21 highlights the importance of protecting lives and economic
22 development in deep floodplains protected by state and
23 federal levees in the Central Valley and will facilitate
24 public education by properly recognizing flood risk and the
25 need for better protection through building codes.

1 We respectfully request that the Commission move for
2 adoption agenda Items 7 g)(I) and 7 g)(II), which together
3 compose the package DWR 0109 that will improve public
4 safety here in the Central Valley. And I want to remind
5 the Commission that this goes with the voluntary and not
6 the mandatory, so that's been part of our process that
7 we've been working the Commission and Advisory Council.
8 I'm happy to answer any questions you may have or the
9 public may have at this point.

10 CHAIR SHEEHY: Thank you, Mr. Maita. Mr. Raymer?

11 MR. RAYMER: Thank you, Mr. Chairman and Commissioners. Bob
12 Raymer, Senior Engineer and Technical Director with
13 California Building Industry Association, and in support of
14 DWR's packages for Part 2 and Part 2.5. As the DWR
15 representative just indicated, both of these packages will
16 be placed in the voluntary appendix initially. We got a
17 good task force that's done some good work so far. We look
18 forward to continuing working with DWR and we'll also be
19 looking at multi-family construction and school facilities
20 down the road. We've still got a lot of work to do with
21 this (inaudible). Thank you.

22 CHAIR SHEEHY: Thank you, Bob. We can take these two items
23 together, Items g)(1) and g)(II) as one motion if anybody
24 is so inclined.

25 MALE COMMISSIONER: So moved.

1 CHAIR SHEEHY: I have a motion.

2 MALE COMMISSIONER: Second.

3 MALE COMMISSIONER: Second.

4 CHAIR SHEEHY: And a second. All in favor?

5 COMMISSION MEMBERS: Aye.

6 CHAIR SHEEHY: Any opposed? Any abstentions? g)(I) and g(II)

7 are approved. Future agenda items, is that Ms. Walls?

8 MR. WALLS: It's for, yeah, if any Commission wants it.

9 CHAIR SHEEHY: Any Commissioner have a request at this time for

10 future agenda items?

11 MALE COMMISSIONER: A quick point of order. We had a couple of

12 people that --

13 CHAIR SHEEHY: We're going to get there. Everybody that wanted

14 a chance to testify can. That comes under Item No. 9,

15 which is comments from the public on issues that are not on

16 the agenda.

17 MALE COMMISSIONER: Sorry.

18 CHAIR SHEEHY: So but we got (inaudible) first. Future agenda

19 items, do the Commissioners have any requests?

20 MALE COMMISSIONER: Not me.

21 CHAIR SHEEHY: Okay. Well, if something comes up in the next

22 up in the next few moments, don't be shy. Okay. Finally,

23 we come to Item No. 9, which is comments from the public on

24 issues not on this agenda. First, we're going to have Ms.

25 Yerkes and then we're going to come back and pick up the

1 testimony that was lost when Item 7 b)(III) was withdraw.
2 So, Ms. Rome and Ms. Navarro, thank you for waiting. I'm
3 sorry for the wait, but we appreciate your participation.
4 Ms. Yerkes?

5 MS. YERKES: Good afternoon. Is this on?

6 CHAIR SHEEHY: No. Can you try the other one?

7 MS. YERKES: There. Is the --

8 MR. WALLS: That one.

9 CHAIR SHEEHY: There you go.

10 MS. YERKES: Okay. Thank you. Good afternoon, Secretary and
11 Commissioners. I am Sara Yerkes, and I am Senior Vice
12 President for Public Relations for the International
13 Building Council, and I wanted to be here personally to
14 thank you, the Commission and the Commissioners,
15 individually for this historic day. For the first time,
16 the State of California adopted the International
17 Residential Code with the significant provisions, so
18 congratulations. We're elated and I've very pleased to be
19 here to witness this.
20 I not only want to commend the Commission and the
21 individual Commissioners for years of effort on this
22 adoption package, but also to recognize that this would not
23 have come to fruition with the leadership of your Executive
24 Director, someone whom I admire very much and consider a
25 friend, Dave Walls. He has been an incredible leader in

1 this process. And on behalf of ICC and our stakeholders, I
2 want to thank David for making this an open consensus
3 process. I know it's not easy dealing with all the
4 different interests, but you're always gentleman and very
5 professional and a pleasure to work with.

6 MR. WALLS: Thank you.

7 MS. YERKES: The staff work done by the state agencies in the
8 departments involved in this adoption also need to be
9 recognized and commended. The Housing and Community
10 Development, the State Fire Marshal, and the Division of
11 the State Architect, the California Energy Commission,
12 OSHPD, and other have work so hard in delivering a package
13 on time despite budgetary constraints, and staff layoffs
14 over the past couple of years.

15 I would also like to thank the Chairs that have been part
16 of this process that are not here today, Secretaries Fred
17 Aguiar and Rosario Marin, who also gave so much time and
18 effort to this adoption. Through your leadership and with
19 today's adoption, California has moved to the national
20 forefront of building and fire safety, and the citizens of
21 California should be proud. And I'm also pleased to meet
22 you, Secretary Sheehy.

23 CHAIR SHEEHY: Thank you.

24 MS. YERKES: I'm so glad that I had this opportunity, and I
25 look forward to working with you. And lastly but not

1 least, a very important group to both the State of
2 California and ICC, our stakeholders who (inaudible)
3 practice and enforce the codes and volunteers so much time
4 and resources to the development of the codes both at the
5 national level as well as to the state reviews and state
6 review processes; the code officials, the building
7 industry, the building owners and managers, architects,
8 structural engineers, advocacy groups, the labor, the
9 (inaudible) and so many others. As always, the
10 International Code Council is ready to serve you and looks
11 forward to its continued partnership with the State of
12 California and the California Building Standards Commission
13 in developing the strongest, most efficient state building
14 codes on earth. Thank you again for all your efforts.
15 And I shall sit. And let me introduce my colleagues. Of
16 course, I'm here with Chris Ajo (phonetic, who you all know
17 represents ICC in Sacramento, and my colleague Jay Peters.
18 Thank you again so much. It was pleasure seeing all of
19 you. And you know I told years ago I'm not going away and
20 this is continuing partnership, so we're really looking
21 forward to now embarking on the 2010 construction codes for
22 California. Thank you.

23 CHAIR SHEEHY: Ms. Yerkes, thank you very much, and thank you
24 for recognizing the hard work of so many people including
25 our Executive Director, who I've just started to get to

1 know and whom I already have great professional admiration
2 for. And I want to especially thank you for recognizing
3 all the hard work of my predecessors. I really -- I don't
4 really deserve any other than maybe running a good meeting
5 today and that's about all you could say hopefully. But I
6 know that Secretary Aguiar worked very hard and I know that
7 Secretary Marin had a lot of passion in the this area and
8 did a lot to get us to where we got to today. And so since
9 neither Mr. Aguiar or Ms. Marin are here, I want to
10 acknowledge and thank you for acknowledging all their work
11 and their passion, and I'm just really humbled to have been
12 able follow in their footsteps as the Undersecretary and
13 now Secretary, so thank you.

14 MS. YERKES: Thank you, Secretary. And by the way, you did run
15 a great meeting.

16 CHAIR SHEEHY: Oh, thank you for that. Thank you very much.

17 Okay, so my apologies to Ms. Navarro and Ms. Rome. You
18 sort of got the short stick, but you're going to have all
19 the time. The good news is we're not in a rush. I guess
20 we have time to spar, so why don't you come forward.

21 You're going to want talk about Item 7 b)(III).

22 MS. NAVARRO: Right. We'll take the rest of the evening.

23 MALE COMMISSIONER: That's no fair (inaudible).

24 CHAIR SHEEHY: We're going to have to order some more espresso.

25 MALE: Right, and pizza.

1 CHAIR SHEEHY: Could you please identify yourselves for the
2 record?

3 MS. NAVARRO: (inaudible) wanted to speak on this item.

4 MR. RAYMER: I'll go ahead and kick off.

5 CHAIR SHEEHY: I'm sorry. Are you all on the same page here?
6 Are you going to tag team us?

7 MR. RAYMER: Yes, we are. So in deference to the green
8 building standards --

9 CHAIR SHEEHY: You're not going to ask us for more mandatory
10 building regulations, are you?

11 MR. RAYMER: No, not today. We're finished with that.

12 MALE COMMISSIONER: We're not going to consider it.

13 MR. RAYMER: I'm Bob Raymer, Senior Engineer and Technical
14 Director with the California Building Industry Association,
15 and with me today is Lauren Navarro with National
16 (inaudible) Environmental Defense Fund and Victoria Rome
17 with the National Resources Defense Council.

18 The Part 1 regulations, while they have a great many
19 provisions, the ones that are being proposed for
20 modification here deal with the Code Advisory Committee
21 structure and when and which they going out doing business.
22 This can be a very perplexing. The development and
23 adoption comes to be a very perplexing administrative
24 process, so those that are under them know this. A great
25 many of us have had 10, 20, even 30 years of experience.

1 But with regards to the emerging issue of green building
2 standards and the environmental community, they're kind
3 of just learning how to embrace the code adoption process.
4 And the changes that Mr. Walls is making to the Part 1
5 regulations make this a more open and understandable
6 process and one that ensures input from a variety of
7 different public groups as well as a variety of very
8 important state agencies that might not otherwise be
9 involved in the code adoption process including ARB, the
10 Energy Commission, Integrated Waste, and so on. So with
11 that, we both industry and I also speak on behalf of
12 Matthew Hargrove and the Business Properties Association.
13 Industry is joining the environmental community supporting
14 the adoption of these regulations.

15 MS. NAVARRO: Thank you, Bob. I really couldn't have said
16 better. This Lauren Navarro for the record with the
17 Environmental Defense Fund. For those of you who don't
18 remember, we co-sponsored a bill along with NRDC last, AB
19 828, which was designed to do all the things that Bob
20 mentioned, to create a process where environmental groups
21 and industry had a clear role, as well as bringing all the
22 agencies that are involved and the public and (inaudible)
23 the environment issues throughout the state into this
24 process with goal of making sure that the green building
25 standards were fully integrated and those process were

1 fully integrated with green building standards.

2 So we understand that there was some sort of an
3 administrative -- The administrator, she worked for the
4 Department of Finance and we just ask that in the next
5 meeting that it should be resolved and we're able to adopt
6 this. Thank you.

7 CHAIR SHEEHY: I'm sorry. Ms. Navarro, I was following you
8 until the last point. There was something that Finance was
9 holding up (inaudible) with this?

10 MR. RAYMER: Apparently one of the approval forms coming DOF
11 wasn't in receipt for this particular set of regs. Isn't
12 that why this was pulled?

13 CHAIR SHEEHY: No. I requested that it be pulled because I
14 didn't think it was necessary for us to tell ourselves what
15 to do.

16 MR. RAYMER: Okay.

17 CHAIR SHEEHY: And because the Governor vetoed that bill.

18 MS. NAVARRO: Well, thank you for explaining that a little
19 further.

20 CHAIR SHEEHY: No, I'm sorry. I thought that was clear, and so
21 I didn't want you to walk away thinking it was because of
22 the Department of Finance. Now it's possible that Finance
23 is holding something up, Ms. Navarro. But to be completely
24 frank with you, I have no -- I have no knowledge of that.

25 MS. NAVARRO: Well, I fully appreciate that. And I do want to

1 go back to the issue of the Governor vetoing the bill and
2 the whole bill process. Even throughout the process, you
3 know, because we work so closely with Ms. (inaudible) on
4 Board, you know, solid folks and that sort of thing in the
5 legislation hearing. Our understanding from reading the
6 Governor's veto message was the fact that he vetoed it
7 perhaps in response to the fact that the regulations were
8 already on the table. So for that, we believe that the
9 regulations shouldn't be pulled because the (inaudible)
10 message is there or because he vetoed the bill because the
11 veto message strongly said that it is because, you know,
12 the regulations (inaudible). I'm sorry. (Inaudible).

13 CHAIR SHEEHY: I didn't mean to throw you a curveball, but, Ms.
14 Rome?

15 MS. ROME: Yes. I'm Victoria Rome with Natural Resources
16 Defense Council, and I think, you know, we submitted a
17 letter in support of these regulations and we have felt for
18 a few years now that it's very important that, you know,
19 the environmental and public health agencies be active
20 participants in this process and that's not to say that Mr.
21 Walls hasn't done a great job in reaching out and including
22 the stakeholders, but these regulations -- the bill was
23 very important to us, the regulations are very important to
24 us, and I think it's really unfortunate that the same day
25 the green building code was adopted over some controversial

1 issues that these regulations have also been pulled. And
2 I --

3 CHAIR SHEEHY: And certainly, I appreciate comments. This
4 certainly doesn't mean that this isn't an issue that can't
5 be revisited in the future.

6 MS. ROME: Okay. I'd like to respectfully request this may be
7 put on a future agenda.

8 CHAIR SHEEHY: And all of your comments are all on the record.

9 MS. ROME: Thank you.

10 CHAIR SHEEHY: Do we have any other questions or comments from
11 board members? Is there anybody else in the public that
12 wanted to comment on this item? Okay. Then I think a
13 motion to adjourn is in order.

14 MALE COMMISSIONER: (Inaudible)?

15 CHAIR SHEEHY: We don't have a motion, do we? The Building
16 Standards Commission January 12th meeting is adjourned, and
17 the meeting on the 13th is no longer necessary so it will
18 not take place. Thank you all very much for all your
19 (inaudible).

20 **(Off the Record)**

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Dated April 6, 2010.



Tamyra Morgan, Transcriber
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