CALIFORNIA BUILDING STANDARDS COMMISSION
MEETING MINUTES

April 19, 2011

1. CALL TO ORDER

Secretary Anna Caballero, Chair, called the meeting to order at approximately 10:00 a.m. at Sacramento Convention Center, 1300 J Street, Room 103, Sacramento, California.

ROLL CALL

Commissioners Present:	Secretary Anna Caballero, Chair Isam Hasenin, Vice-Chair James Barthman Tony Hoffman Stephen Jensen Danielle Paxson Richard Sawhill Jeffrey Schnurr Doug Williams Steven Winkel
Also Present:	David Walls, Executive Director Jim McGowan, Deputy Executive Director Stephanie Davis, Executive Assistant Jane Taylor, Staff Senior Architect Michael Nearman, Architectural Associate

Vice-Chair Hasenin led the Commission in the Pledge of Allegiance.

2. APPROVAL OF THE JANUARY MEETING MINUTES

Commissioner Barthman had a correction to the Minutes on page 7, Item 12.

> **MOTION**: Commissioner Winkel moved approval of the January Meeting Minutes with the correction noted above. Commissioner Barthman seconded. Motion carried with one abstention.

3. SELECTION OF VICE-CHAIR OF CBSC FOR 2011

Vice-Chair Hasenin agreed to continue in that office.

> **MOTION**: Commissioner Sawhill moved approval for Vice-Chair Hasenin to continue in that office. Commissioner Hoffman seconded. Motion carried unanimously.

4. UPDATE ON TRACKING OF LOCAL ORDINANCES FILED WITH CBSC & POSTED ON CBSC'S WEBSITE

Executive Director Walls provided the update. He stated the following:

- As the CBSC receives, reviews, and files local ordinances they can be scanned and posted on the website.
- CBSC is up-to-date; a few are still under review or need additional information. About 220 have been accepted and filed on the website.
- Local jurisdictions that have amended the Green Code are identified with an X.
- Anyone can use the website easily to determine the local building ordinances filed at the Commission.
- The page will be modified to become even more user-friendly.

5. CURRENT CODE ADOPTION CYCLE

Executive Director Walls provided this update.

a) Estimated Timeline

The timeline that was previously submitted is still online, and has been moved forward to have an effective date of July 2012 for the current cycle.

A good portion of the proposed changes will be before the Commission at the July 20 meeting. Some of the disabled access regulations being proposed by DSA and HCD and swimming pool regulations being proposed by the California Department of Public Health will take longer.

The plan is for a draft publication to be available prior to the October Commission meeting, with final publication in January 2012.

b) Code Advisory Committee (CAC)

Three CAC meetings have been held, and they are complete. Disabled Access, Green Building Code, and Ad Hoc were all full day meetings.

The 45-day comment period for everything except disabled access and swimming pool regulations will start on Friday, April 22.

Public Comment – *None*

6. PROPOSED EMERGENCY STANDARDS ADOPTIONS AND APPROVALS

a) Building Standards Commission (BSC EF 01/11)

Mr. Walls stated that the first emergency was the Building Standards Commission and the Division of the State Architect co-adopting provisions relating to a petition.

Jane Taylor, Staff Senior Architect, explained that the section being proposed for emergency regulations contains mandatory provisions for reducing light pollution in nighttime non-residential building and site lighting in the California Green Building Standards Code, Part 11. It underwent review by the Green Building Focus Group and the Green Building Code Advisory Committee during the last code cycle.

In late 2010, a petitioner claimed there was some ambiguity and inability to comply with the regulations, as well as public safety issues. The proposed emergency would amend this part, correcting and simplifying provisions and initially moving them to the Voluntary Appendix. They would later be made permanent.

Patrick Splitt, President of App-Tech Inc., had requested to speak on this item. He was the petitioner and stated that he had dealt extensively with BSC staff, and supported the resolution they had devised. The main idea was to remove the mandatory requirements until they had a chance to come up with a better standard, the basis of which he proposed putting into the Addendum so people could see it.

Mr. Splitt pointed out that the lighting he was concerned about, from a safety viewpoint, was task lighting for occupied businesses.

Kevin Reinertson, Office of the State Fire Marshal, stated that they had given the emergency a preliminary review, and there was no conflict between their provisions of the Building Code or the Fire Code. They have not determined whether it promotes fire and panic safety.

> **MOTION**: Vice-Chair Hasenin moved to concur with the emergency finding. Commissioner Hoffman seconded. Motion carried unanimously.
>
> **MOTION**: Commissioner Hasenin moved to adopt the proposed regulations. Commissioner Barthman seconded. Motion carried with one vote against.

Ms. Taylor stated that a definition of security lighting should be included.

Listening to the discussion, Commissioner Sawhill observed that all the needed information wasn't there; not everyone had weighed in; we are moving rapidly on the language modification under an emergency amendment, when in fact we had gone through an entire process prior to now. Perhaps the matter should be brought back to the July meeting so it could be properly considered.

The Commissioners discussed how to proceed, and whether to leave it in the Appendix or take it out. By leaving it completely out of the Code, there was no danger that a local jurisdiction would make the mistake of adopting it.

Bob Raymer of the California Building Industry Association (CBIA) stated that if the Commission were to delete the emergency now, CBIA could publicize it to the residential and the construction industry. In addition, as we look at proposed retrofit standards for additions and alterations, CBIA could add this issue as one of the things CDPA, builders, and managers look at. There is a very good process of getting this out to the industry.

> **MOTION**: Commissioner Winkel moved to adopt the draft Appendix Section 5.106.8 "Light Pollution Reduction" as proposed. Vice-Chair Hasenin seconded. Motion carried with one vote against.

b) Office of the State Fire Marshal (SFM EF 01/10, SFM EF 02/10, SFM EF 03/10)

Mr. Reinertson stated that the Commission had before them an emergency rule-making package to adopt three Temporary Interim Amendments (TIAs) that were produced by

the National Fire Protection Association (NFPA) regarding anti-freeze, and residential as well as commercial occupancies.

The Fire Marshal has made the modification to maintain concentrations of propylene glycol and glycerin to 40 and 50% for residential occupancies in California.

The other amendment regarding the adoption of the TIA is an annual inspection for residential occupancies. The TIAs that NFPA produced required a mandatory annual inspection. The Fire Marshal was unable to move forward with that and made an amendment to make the inspection voluntary or recommended.

Mr. Raymer stated that he was in strong support of the Fire Marshal's emergency proposal.

> **MOTION**: Commissioner Sawhill moved to concur with the finding of an emergency. Commissioner Williams seconded. Motion passed unanimously.
>
> **MOTION**: Commissioner Barthman moved to approve the recommended changes. Commissioner Williams seconded. Motion passed unanimously.

c) Office of the State Fire Marshal (SFM 01/11, SFM EF 02/11, SFM 03/11)

Mr. Reinertson stated that this emergency rulemaking was relatively simple: it corrected a glitch that was created in the adoption of the 2010 California Residential Code. It had resulted in the possibility of untrained professionals doing hazardous installations for electrical wiring. This possibility was being corrected.

In addition, the emergency was being correlated with the current law.

> **MOTION**: Commissioner Barthman moved to concur with the finding of an emergency. Commissioner Winkel seconded. Motion passed unanimously.
>
> **MOTION**: Commissioner Barthman moved to approve the recommended change. Commissioner Hoffman seconded. Motion passed unanimously.

7. FOLLOW UP ON ERRATA FOR CALGREEN, SECTION 5.106.8, "LIGHT POLLUTION REDUCTION"

Mr. Walls stated that while the change was non-substantive, the action taken for Item 6a made the issue moot.

Mr. Splitt clarified that in his comments he was dealing with the Commission's errata procedure in general.

8. REPORT FROM LOCAL JURISDICTIONS ON THE IMPLEMENTATION OF THE 2010 CODES

Mr. Walls reported that he had felt that it would be good to hear from building officials about their efforts at implementation of the new code, especially CALGreen.

- Osama Younan, Chief of Green Building Division, Los Angeles Department of Building and Safety, spoke about his division's experience with adoption and implementation of the Green Code.

In order to be consistent with the City's previously existing green building program, the City expanded the scope of the CALGreen Code to include additions and alterations.

Leading up to the effective date of the Green Code, the LA Department of Building and Safety did a number of presentations and public outreach to development and business groups. Mr. Younan noted that BSC and the California Department of Housing and Community Development (HCD) have put forth a great effort in reaching out to various groups in the region.

Regarding implementation, the LA Department of Building and Safety developed forms and checklists to facilitate the plan check and inspection processes.

Since last year, there was a lot of regional coordination through the International Code Council LA Basin Chapter, which represents 89 jurisdictions. The goal is to make going across jurisdictional lines as seamless as possible for developers.

Since implementation began on January 1, 2011, the Department has reviewed hundreds of projects that have been subject to the Green Code. So far, implementation has been very smooth, although the learning curve has been steep and some issues have arisen:

- Contractors in the field have been unfamiliar with the process.
- The moisture barrier requirement in residential buildings is a concern.
- The code requirement for sealed combustion gas fireplaces are another concern, along with wood-burning fireplaces not being allowed.
- Contractors have had difficulty purchasing energy-starred humidity-controlled bathroom exhaust fans through their local suppliers.

Mr. Younan expressed sincere appreciation to Mr. Walls, Mr. Doug Hensel, and their respective staff for their continued support and assistance.

- Nancy Springer, Acting Building Official of Butte County, began by outlining the positive points:
  - Applicants are now more aware of recycling and sustainable products in the Green Code.
  - Several programs were implemented within the county General Plan that will help implement the Green Code.
  - The county adopted the mandatory requirements. The tier levels are a voluntary measure.
  - Everyone very much appreciated the outreach programs of Mr. Walls and Mr. Hensel. The guide to the code book was a huge success.

  Some of the drawbacks have been as follows:
  - There were some complaints on the sealed combustion gas fireplaces.
  - The forms were a big issue ("If we're going green, why do we have all these forms?").

  - Local adoption of the ordinance was a lot of work: the water efficiency ordinance required coordination with other agencies; the recycling ordinance required coordination with the landfill, the graywater ordinance required coordination with the Health Department, etc.
  - With the bad economic times, 21 individuals had been laid off and only nine (9) were left. With limited staff and training budget, bringing on new codes and requirements hit hard. Contractors themselves don't want to take time off for training when they finally get a job to work on.
  - Sample forms were helpful, but for some forms the county had to coordinate with its own agencies.
  - Those in this geographic area have established a Local Area Development Meeting that takes the new building code forms and creates forms that can go across counties and jurisdictions.
  - People complained about the new fire sprinkler requirement for residential. Ms. Springer welcomed the smoke detector exceptions that Mr. Reinertson had talked about.
  - Butte County has an extreme issue where new single-family dwellings must have fire sprinklers but manufactured homes do not.

- Stephan Kiefer, Building Official with the City of Livermore and California Building Officials, noted that throughout the state, implementation has gone very well given that the Green Code and the Residential Code are new. Training provided by a number of organizations has been quite helpful.

  Mr. Kiefer directed his comment toward the ongoing implementation of the state building codes at the local level, not so much the issues related to the new codes this year.

  Throughout the state at the local level there continues to be difficulty – not only among the regulators but also among the design profession and the builders – in implementing the state codes. California's building code is essentially twice the size of building codes throughout the rest of the country.

  Mr. Kiefer's issue dealt with the number of amendments we continue to see in the California Building Code and the lack of clarity in how those various amendments from various state agencies are implemented and applied to specific occupancies within the buildings.

  He encouraged the Commission and state agencies to apply the nine-point criteria more strictly and diligently.

- Rick Walters, Building Services Manager for the City of Woodland, began by noting that Woodland already had an ordinance for recycling better than the Green Code. It also has had also had fire sprinklers since the mid-90s.

  Two large tracts in town had submitted before the first of the year, but the City convinced them to submit under the new code as their best interest. Mr. Walters had contacted the two superintendents for their input.

- Before CALGreen, it was easy to be ahead of the competition. Now it's difficult to explain to the homebuyer how the tier works.
- It's hard to discern who is responsible for items and features that the homebuyer is having trouble getting – the contractor or the industry.
- Irrigation meters: who measures them, where do they find them, and what happens when they are installed incorrectly?
- Homebuyers pick their own carpet and the City cannot inspect for VOC content.
- The moisture check requirement is unclear.
- From a management standpoint, tracking, collecting, and inspecting paperwork is difficult because of the magnitude of forms.

- Steve Berger, Building Official , noted that he had spent $1200 for each new set of codes; it's a "tsunami" of codes. Code officials want to do a good job, but training is necessary – and right now no one has the budget for training.

  He went on to state that experts write the codes but then the generalist must try to follow them. It forces an underground permit industry. Those who are trying to do a good job and follow the codes are being undercut; the city also loses a lot of revenue.

9. FUTURE AGENDA ITEMS – *None*

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

- Eric Emblem, representing the Joint Committee on Energy and Environmental Policy, commented that this committee was put together by the Energy Commission, the PUC, and Investor-Owned Utilities' Compliance.

  The Compliance Committee has spent a lot of time talking about online permitting. It feels that compliance in the state of California is somewhere between 10% and 25%. Approximately 75% of installs and retrofits are going unpermitted and uninspected.

  Delving into this, the Compliance Committee found that complaints from contractors and people in the industry are that it's very difficult to get through the process of getting permits.

  The BSC could think about moving forward with online permits, to make the permit process simpler. We need a central repository for forms and information in the state of California, particularly with all the reports required by the Energy Commission.

- Mr. Reinertson commented on work that started with the disabled community as a result of the 2007 code adoption. There had been a large number of advocates speaking against the codes.

  Over the last three years, the Fire Marshal had met with the disabled community for approximately 13 meetings. It has turned out that the codes aren't exactly the issue. It's more that the Fire Marshal needs to work with building owners: how do we train for when there is an event and buildings are evacuated? Are people left on certain floors waiting; are they in the correct location; does the building have an area of evacuation assistance?

But the efforts have stalled because of staffing, workload, and the adoption of the California Residential Code. The Fire Marshal will be refocusing later this year, getting the Task Force together on the Access Committee.

11. CLOSED SESSION: PENDING LITIGATION: To confer with or receive advice from legal counsel regarding Deloris Keeler and Toby Keeler v. California Building Standards Commission, et al. (Los Angeles Superior Court Case No. SC111422). (Authority Cited: Government Code Section 11126(e)(1))

The Commission went into closed session.

12. ADJOURN

Chair Caballero adjourned the meeting at approximately 11:32 a.m.