

**CALIFORNIA BUILDING STANDARDS COMMISSION  
MEETING MINUTES**

**January 23, 2013 – 1:00 p.m.  
January 24, 2013 –10:00 a.m.**

**Wednesday, January 23, 2013**

**1. CALL TO ORDER:**

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

**ROLL CALL:**

*Commissioners Present:*

Secretary Anna Caballero, Chair  
James Barthman  
Stephen Jensen  
Sheila Lee  
Erick Mikiten  
Kent Sasaki  
Richard Sawhill  
Richard Sierra  
Randy Twist  
Steven Winkel

*Also Present:*

Jim McGowan, Executive Director  
Michael Nearman, Deputy Executive Director  
Stephanie Davis, Administrative Assistant  
Enrique Rodriguez, Associate Construction Analyst  
Mia Marvelli, Architectural Designer  
Cynthia Biedermann, Assoc. Gov. Program Analyst  
Kevin Day, Technical Analyst

Chair Caballero welcomed everyone and led the Pledge of Allegiance.

**2. APPROVAL OF THE DECEMBER 11 & 12, 2012 MEETING MINUTES:**

Commissioner Lee noted that under Public Comment on page 8, “PE system” should read “PV system.”

**MOTION:** Commissioner Jensen moved approval of the December 11 & 12, 2012 Meeting Minutes with the above correction. Commissioner Twist seconded. Motion passed with one abstention.

**3. PROPOSED EMERGENCY STANDARDS ADOPTIONS AND APPROVALS:**

**a) Division of the State Architect – Access Compliance (DSA/AC EF 01/12)**

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Mr. Chet Widom, State Architect, stated that the DSA was asking for certification and permanent approval of the Emergency Building Standards pertaining to disabled access in the 2010 California Building Code, Chapter 11B, approved as an emergency by the Commission on July 19, 2012.

**Public Comment**

- Ms. HolLynn D’Lil stated that she opposed the emergency adoption, and presented a petition signed by 245 people with disabilities and their supporters. They failed to understand how this was an emergency, and were opposed to its reduction in accessibility. Her understanding was that this was a violation of Government Code 4459. Ms. D’Lil stated that accessibility standards are the foundation for the civil rights of people with disabilities in California. Without access to the built environment, their rights are meaningless.
- Mr. Richard Skaff, Executive Director of Designing Accessible Communities, did not believe that the standards for emergency regulations were met by the package. He added that many of the emergency adoptions, as well as much of the rest of the package, are going to reduce access. Mr. Skaff felt that the change to the standards developed by the U.S. Access Board for single-measurement items, were in response to industries such as the U.S. American Institute of Architects (AIA) citing design issues.

Mr. Skaff continued that California has always been known to have codes that assured that people with disabilities could function in the community built environment. These changes are going to have a dramatically negative effect.

- Mr. Eliot Howard asked who is behind the emergency regulations. He questioned path of travel; the removal of the requirements in the second element; and the guide wire issue. Mr. Howard stated his basic opposition to the Emergency Regulations as they were presented today.
- Ms. Terelle Terry, Californians for Disability Rights, stated that these emergency regulations were the child of builders, contractors, people who hate those with disabilities, and people such as restaurant people who don’t want disabled patrons. We all share a common mortality, and disabilities remind people of that. The only emergency here is actually the haste with which the building industry wants these regulations passed. People object to lawsuits filed by the disabled, but it is one of the few alternatives available.
- Ms. Connie Arnold asked the Building Standards Commission to reject the emergency proposal, particularly Items 2 and 7 – the toilet center line issue. She described the difficulties of trying to find an accessible toilet when out in public.
- Mr. Bob Raymer, California Building Industry Association (CBIA), stated that this association strongly supports the adoption of the emergency regulations. DSA had gone through 2,500 code provisions in the Federal Standards and identified the half dozen being presented today, where compliance with the state regulations would effectively render the BSC noncompliant with the federal regulations.

**Teleconference Line Public Comment**

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

- Ms. Pauline Horbath, a wheelchair user, voiced strong opposition to the emergency regulations. Access in public is already difficult, and she asked the BSC not to take away any more.
- Ms. Celia McGuinness, attorney and mother of a teenager with disabilities, stated that she knew that everyone in the BSC would agree that people with disabilities are entitled to full and equal access to public accommodations, and to participate fully in the life of society. The state had developed a covenant with people with disabilities in the 1970s, stating that businesses were not required to upgrade their access until they made alterations to their facilities.

Ms. McGuinness objected to Item 7, a “safe harbor” exception that if a business is already in compliance with the 2007 or 2010 Guidelines, and then makes alterations to an area, it does not have to upgrade its accessibility at the same time. It is unnecessary: there is already a provision in the law that a business can apply for an unreasonable hardship exception. Secondly, the safe harbor provision demonstrates an interest in saving businesses money over allowing access and improving lives for people with disabilities. Thirdly, the DSA’s 2007 Title 24 Code was not the pinnacle of accessibility; the DSA has constantly improved access for people with disabilities over the years.

- Ms. Sharon Toji of Access Communications stated that she was on the consultant team that had reviewed the items. She has been involved in writing access code since 1992. These emergency regulations reconciled some important sections of the 2010 Americans with Disabilities Act (ADA) with the California Building Code (CBC). Ms. Toji chided her friends in the disability community because while they disagreed with certain sections, this document accomplishes a huge amount of access.

Ms. Toji mentioned the toilet center line dimensions issue. She was disappointed that the suggested standard of 17½-18" had been ignored. She hoped that the BSC might consider moving the range closer to 18".

- Mr. Greg Thomas, a general contractor and disabled person, stated that the construction community is not as educated today as it was 50 years ago, when 1/8" was the maximum to be out of tolerance, rather than ¼" or even 1" as it is today. The toilet issue needs to be looked at again and brought back in line with the state. There seems to be a political agenda here.
- Ms. Daphne Barnes Fullers, a disabled person in a power wheelchair, stated that claiming that changing the standards was an emergency is arbitrary. There is nothing here that is an emergency. She objected to all six of the items. In her city and county, Title 24 is not even being enforced. Further, some of the California code is less restrictive to the disabled than the federal ADA and violates it. She wanted to see the BSC work with the disabled community.
- Mr. Peter Margen, a Bay Area consultant, stated that he did not believe that the differences between the California code and the ADA were irreconcilable. He was also very concerned that sufficient research had been done on the toilet issue around its impact on people with disabilities. When the change was ratified through the Federal Access Board, there was no research – it was purely a suggestion by the building industry: it was

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

much easier to contain something within a 2" range than 18" exactly. The issue had not been properly vetted with the access community.

Mr. Margen also voiced opposition to the provision to grandfather in restroom facilities to the 2007 or 2010 CBC standards. There is no urgency to adopt these changes as an emergency, when we are adopting something less than we had before. It is bad code that sets a bad precedent.

- Ms. Joan Reilly, caregiver for a disabled veteran, stated that the issues disturbed her. Places such as state parks and city buildings should have accessible restrooms but don't; there is no reason to weaken the code now.
- Mr. Greg Thomas Yates made a short comment in support of the disabled community.

**Commissioner Questions and Comments**

Commissioner Sasaki asked about the water closet issue with the change of 16" minimum and 18" maximum from the side wall or partition – was the purpose of the change to provide tolerance? Mr. Widom replied that it was. Mr. Dennis Corelis stated that the federal ADA standards do not allow any tolerances beyond the 16-18". The DSA was trying to establish that – to stay within both the state standard and the federal standard.

Commissioner Mikiten asked if there had been any substantive investigation of a range such as 17-18". Mr. Widom responded that it had been under discussion, and the DSA had decided to stay with the federal standard.

Commissioner Winkel mentioned the question of lack of research. Two sets of documents make mention of the 16-18" dimensional criteria (which have various standing in various states): ANSI A117.1 and the 2010 ADA Standards, based on the 2004 ADA Standards which went through a 16-year period of promulgation and adoption. Mr. Corelis summarized the review they had taken of regulations going back to the early 1960s. A working group of the DSA Access Committee had held a public hearing in Oakland; of the nine individuals on the committee, nine were wheelchair users. They were divided in their opinion.

Commissioner Mikiten stated that he appreciated the personal stories the public had offered. We all need to realize that this aspect of the code has a personal component. He shared a personal story that had happened after the last Commission meeting: at a restaurant he had been asked to let the staff remove his wheelchair from the side of the booth, as it was in the server's way.

Commissioner Mikiten continued that there had been no scientific method for determining the 16" versus 18" measurement. He would like to talk with staff more about the process used with accessibility code items. They are more challenging than the rest of code, which industry experts and professionals are making, commenting on, and crafting.

Commissioner Mikiten proposed to amend the measurement to the 17-18" range. This would respond to some of the issues that had arisen and would respect the amount of public input received. As an architect he acknowledged the difficulty of making renovations to an existing water closet.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Commissioner Sasaki requested an explanation for some of the public commenters as to why these amendments had been termed “emergency.” Mr. Widom described the process of the comparative analysis of the ADA and the CBC, which had resulted in approximately 2,500 items for which you could choose the most stringent or the most accessible between the two, and meet both codes – except for five items.

The goal of the DSA was for California citizens not to be forced into violation of the state or federal code for the five items. The “emergency” time interval was the interim period before the new code came into effect on January 1, 2014.

Commissioner Lee commented that since July, Californians have been using the 16-18" regulation. She suggested making Commissioner Mikiten’s amendment for the 2014 code instead of for this emergency adoption.

Commissioner Winkel expressed concern about the issue of “grandfathering” or being compliant with the code in effect at the time. He continued that now, we are at the point where an access specialist is needed to interpret what the code says. We are complicating access – hindering accessibility because no one can get it right.

Commissioner Sawhill asked for staff comments on the proposed motion before the Commission voted.

Commissioner Winkel felt that if the Commission voted in favor of the proposed amendment, a group of people would be in difficulty if they were using 16" or 16½".

Commissioner Mikiten commented that it takes awhile for changes such as these to catch on; none of the architects he had spoken to in the last six months actually knew anything about these emergency issues. If the Commissioners agree with the amendment, and it sounds as if they do, we should go ahead and change it out; there would be six months of a different set of dimensions instead of a year and a half.

Mr. Widom responded that if someone had built last month at 16½", they would be in violation of California code. That is the problem.

To that, Commissioner Mikiten suggested simply putting the date of the adoption of the emergency regulations at July 19 through today’s date. From this point on, 17" would be in effect.

Mr. Widom stated that a supplement has already been published; a second supplement would have to be published effective today which is not published. As Commissioner Lee had pointed out, building officials would continue to approve plans, and the building industry to build plans, that would have a 16-18" dimension; to make the 17-18" effective today, they would all be in violation.

Commissioner Mikiten requested the earliest practical date for publication and dissemination of the information. Mr. Widom agreed that this could be discussed.

Commissioner Winkel wondered if a further amendment could take care of Item 7, making it a “safe harbor” amendment.

Commissioner Jensen stated that from a building department standpoint, the application date used for processing permits is more important.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Mr. Jim McGowan stated that there may be a problem with making amendments to an existing emergency regulation that is approved by the Commission. It would negate what the Commission did initially, which was to approve the emergency regulations as they were. It would be more appropriate for the DSA to bring forward their regulation in the regular package, and for the Commission to amend it at that point, making it effective in January 2014.

Mr. Widom noted that they had sent a very detailed description of all the emergency regulations to every building official in California, and were aware of the proposed changes. Their reaction was unknown.

Commissioner Sawhill commented that no one would leave today with a clear understanding of what's happening – a good demonstration of why emergency rulemaking does not work. We have processes to ensure that stakeholders, staff, and all involved have a clear understanding of what we are trying to accomplish; that is not occurring here. I'm going to vote "No" if they want to revert back to the previous language, that would be fine. He stated he was not comfortable with the outcome.

Commissioner Jensen asked if we reject this item will it revert back to the original language?

Chair Caballero clarified that there was still a motion on the table which needed to be addressed, then the question could be addressed.

Commissioner Winkel stated that he is afraid we may have created a monster in the sense that if we vote down the entire emergency procedure in effect since August 2012, it reverts back to the original language so anyone complying with the emergency would then be in violation.

Commissioner Mikiten asked about a contingency whereby the Commission would vote on the emergency standards with amendment; if it passes, and legal counsel confirmed that the amendment was doable, then it would proceed. If not, the amended portion would be invalid.

Chair Caballero deferred to Alex Holtz, BSC Legal Counsel, who responded that the rulemaking by emergency adoption had already taken place, and he did not feel it appropriate to make a legal determination on whether the recommendations are appropriate or not. He felt that the Commission was there to make a ruling on whether the rulemaking process was followed in the emergency adoption.

**MOTION:** Commissioner Mikiten moved to amend the center line measurement to 17-18" from the side wall or partition. Commissioner Winkel seconded. Motion failed by a vote of seven noes to two ayes.

**MOTION:** Commissioner Sierra moved to adopt the staff recommendation to approve certification of the Access Compliance (DSA/AC EF 01/12) emergency standard. Commissioner Lee seconded. Motion passed by a vote of eight ayes and one abstention.

Chair Caballero advised those individuals who were watching via teleconference that the Commission completed item 3a and would hear later on from the DSA on more proposed code changes regarding access compliance.

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

Commission Break

**b) Office of Statewide Health Planning and Development (OSHPD EF 01/13)**

Mr. Glen Gall, Regional Supervisor for the Building Standards Unit at OSHPD, stated that he was there to fix some regulations to be considered under emergency standards, in response to AB 491 from the last legislative session. The statute addressed the development of freestanding cardiac catheterization laboratory requirements for two California hospitals that had met certain criteria for some dates in 2012. The regulations also establish the outside performance requirements for the standards to be equivalent to catheterization laboratory standards for in-patient services.

Mr. Gall continued that OSHPD had looked to the national standards as guidelines. OSHPD had held a public hearing and incorporated comments where possible.

Mr. Gall explained the particulars of the two specific hospitals.

**Public Comment**

There was no public comment.

**Commissioner Questions and Comments**

**MOTION:** Commissioner Barthman moved to approve the finding of emergency for OSHPD EF 01/13. Commissioner Jensen seconded. Motion passed unanimously.

**MOTION:** Commissioner Sierra moved to approve the language of OSHPD EF 01/13. Commissioner Winkel seconded. Motion passed unanimously.

**4. PROPOSED CODE ADOPTIONS AND APPROVALS:**

**a) Corrections Standards Authority (CSA 01/12) (Board of State and Community Corrections – BSCC)**

Ms. Allison Ganter, Board of State and Community Corrections (BSCC) stated that the regulations apply to local juvenile correction facilities. They were developed in a workgroup setting in conjunction with subject matter experts in juvenile detention project management, architecture, and construction, as well as the State Fire Marshall.

Ms. Ganter summarized the regulations.

- The terms *minor* and *child* have been replaced with *youth*.
- Many definitions have been updated to reflect actual practices in juvenile detention facilities.
- Definitions have been added to conform to SB 81 requirements for construction projects.
- Regulations for operational program statement and submittal for some classifications have been revised.
- Some design requirements were revised.

There were no overwhelming changes.

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

**Commissioner Questions and Comments**

Commissioner Lee asked for a definition of *youth*; Ms. Ganter did not locate a definition, but noted that it was more an industry term that subject matter experts deemed better.

Commissioner Lee explained that when changing “minor” to “youth” it is generally expected that the term would be defined so the public knows how that term is applied.

Ms. Ganter further explained that not all the persons within the facility were “minors” and therefore using an industry accepted term such as “youth” was more acceptable. She agreed to go back and look into the matter, and agreed that a definition was necessary.

For the record, Commissioner Sawhill requested Ms. Ganter to concur that each building standard code proposed by BSCC had been reviewed and discussed with stakeholders to ensure that any issues had been addressed; therefore there was no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle. Ms. Ganter concurred.

**Public Comment**

There was no public comment.

**MOTION:** Commissioner Lee moved approval of the adoption of the amended administrative provisions, with an amendment that a definition of *youth* be included. Commissioner Mikiten seconded. Motion passed unanimously.

**b) California State Lands Commission (SLC 01/12)**

Dr. Avinash Nafday of the Marine Facilities Division of the California State Lands Commission (CSLC) described the Marine Oil Terminal Engineering and Maintenance Standards (MODEMS). Mr. Nafday summarized the proposed modifications.

The proposed modifications include:

- Revision of tables within MODEMS
- Updates of references
- Clarification of language

The amendments comply with the Administrative Procedures Act. They were noticed to the public, and were adopted by the State Lands Commission.

Commissioner Sasaki asked how many terminals exist off the California coast; the CSLC representative replied that there are around 35, some of which were built as far back as the 1930s and are still in operation.

For the record, Commissioner Sawhill requested the CSLC representative to concur that each building standard code proposed by CSLC had been reviewed and discussed with stakeholders to ensure that any issues had been addressed; therefore there was no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle. The representative concurred.

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

**Public Comment**

There was no public comment.

**MOTION:** Commissioner Sawhill moved approval of the amendments to the California Building Code, Chapter 31F, Marine Oil Terminals for incorporation into the 2013 California Building Code. Commissioner Barthman seconded. Motion passed unanimously.

**c) California Energy Commission (CEC 02/12)**

Mr. Andrew McCallister, Energy Commissioner for the CEC on Energy Efficiency Issues, stated that every three years the CEC updates these standards – a monumental undertaking.

The CEC had held 45 pre-rulemaking meetings with industry dealing with pertinent issues, and 15 Energy Commission workshops and hearings. The CEC had received over 1,000 public comments, each of which they had responded to.

The policy context is California's Energy Codes and the Governor's Clean Energy jobs, policies, and strategies – broad goals for the state. Mr. McCallister stated that today's standards were an important step in the road to net-zero-energy buildings – a goal for 2020 for residential buildings and 2030 for non-residential buildings.

The 2013 revision was adopted by the CEC on May 31, 2012. It is a significant improvement to the energy efficiency of newly-constructed buildings, as well as additions and alterations to existing buildings. It will reduce electricity demand at critical peak periods, and save about 25% energy for residential and 30% energy for non-residential.

Major achievements are:

- Window and insulation improvements
- HVAC requirement improvements
- Training and certifications for technicians who verify operations of non-residential HVAC and lighting systems
- Facilitation of future solar and electric systems

The CEC had an extensive stakeholder participation process, successfully reaching consensus with almost all stakeholders. All the evidence in the records supports the CEC's adoption of these standards.

**Commissioner Questions and Comments**

Commissioner Sawhill requested Mr. McCallister to concur that each building standard code proposed by CEC had been reviewed and discussed with stakeholders to ensure that any issues had been addressed; therefore there was no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle.

Mr. McCallister introduced colleagues Maziar Shirakh and Pipen Brehler, staff counsel to answer the question. Mr. Shirakh stated that based on the CEC's extensive public participation process, they concurred that there was no foreseeable reason to anticipate

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

the need for emergency regulations before the next code cycle. He also directed the Commissioners to the Public Errata in their binders.

Commissioner Lee asked the CEC to try their best to simplify the process for building departments to enforce energy regulations. She noted that by adding additional regulations particularly to residential buildings, people may choose not to follow the building code.

Mr. McCallister responded that the CEC has a number of activities along those lines – in particular, implementation of AB 758. It looks at the existing building stock and tries to figure out high-level policy initiatives and strategies for the CEC to recommend. The low compliance rate for projects on HVAC change-outs, for example, indicates a big problem. He agreed that the process needs to be streamlined; it needs to be to everyone's advantage to get a permit.

Commissioner Jensen asked about the energy reduction goals of 25% for residential and 30% for non-residential. Ms. Martha Brook replied that the figures incorporate both new construction and additions/alterations – basically the whole code change results in that much savings.

Commissioner Jensen asked if the CEC had coordinated with other state agencies on the Green Building Standards Code. Ms. Brook replied that they had worked with the Housing and Community Development Agency as well as the Building Standards Commission on the green standards process.

Commissioner Winkel referred to Section 150 of the Index, noting that it did not direct the reader to the desired information. He added that the CEC was on shaky ground regarding at least two of the *Nine Point Criteria* for evaluation.

- To apply or use any applicable national IECC standards.
- The Building Code uses IECC standards; it is meant to go together with the Energy Code.
- He urged the CEC to start looking at the organization of the document to help practitioners around the state to comply with it.

Ms. Brook noted that the CEC collaborates extensively with American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) for the non-residential standards. She noted that the CEC has targeted multi-family dwellings for the next update.

Mr. Shirakh of CEC further explained that as the CEC worked with California Building Officials (CALBO), they had tried to simplify the code to make it more palatable for building departments. For example, they had tried to eliminate as many exceptions as possible, as exceptions add to complexity.

Commissioner Mikiten also expressed concern about the complexity of the information. He complimented the CEC on the narrative description in the Final Statement of Reasons that provided the rationale for changes. A CEC staffer said that as required by the EPA, the Final Statement of Reasons would be available on the website.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Mr. McCallister stated that regarding complexity, the marketplace can be expected to move only so fast. CEC is trying to work with all the various stakeholders to make the standards workable in practical terms for them. He added that as the CEC moves forward towards zero-net-energy, it needs to keep the BSC in the loop more often than every three years.

Chair Caballero agreed, remarking that giving the BSC an opportunity to collaborate mid-cycle would be a good idea.

**Public Comment**

- Mr. Bob Raymer stated support of the standards. The review of this cycle's proposals was by far the most detailed and in-depth that he has seen. At the start of this process, the CBIA had been strongly opposed to the standards because of their stringency and the cost of compliance in the Central Valley. The CEC had worked with the CBIA in finding ways to keep the standards on track with the goal of zero-net-energy in 2020, but also to contain the cost of compliance in the Central Valley.

Mr. Raymer agreed with Mr. McCallister's plan to work with contractors, CALBO, and industry to find a way to tackle the huge problem of non-compliance with existing building regulations. Mr. Raymer also agreed with Commissioner Lee's and Commissioner Jensen's thoughts on simplicity and could see the CEC taking steps in that direction, particularly in efforts to find a marketable prescriptive package that doesn't require energy consultants.

- Mr. Tom Enslow, representing the International Brotherhood of Electrical Workers (IBEW), the California State Pipe Trades Council, and the California Advanced Lighting Controls Training Program (CALCTP), stated that all three organizations strongly support the 2013 Energy Efficiency Standards. He reiterated Mr. Raymer's comment about the stakeholder participation. Initially there had been widespread stakeholder concern, but at the end of the day there was almost uniform support for what was crafted – a testament to the hard work of CEC staff.

Mr. Enslow addressed Commissioner Lee's concern about enforcement on the building officials' side. The goal had been to simplify the job of the building officials; they will be able to look at acceptance tests signed by certified individuals, simplifying their jobs and encouraging compliance.

- Mr. Erik Emblem of Western States Council Sheet Metal, Air, Rail and Transportation Workers, registered that organization's support for the CEC and the tremendous amount of work they had done to put together the Title 24 Energy Efficiency Code. Having moved here from Washington D.C., he felt that California's system is second to none.

- Mr. Peter Hartman (via teleconference), a San Francisco attorney, had been asked to speak on behalf of the Asphalt Roofing Manufacturers Association (ARMA). He stated that ARMA's position was that the standards being adopted for new cool roofs do not meet the proper standards. ARMA's position was that further studies should be undertaken so that the industry and the CEC can obtain accurate data. ARMA urged the Commission to defer this option of the regulations, to return them for further study, and to work with business groups on the issue.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Commissioner Sawhill requested a response from the CEC for the telephone caller. Mr. Maziar Shirakh, Senior Mechanical Engineer Project Manager, CEC, for the 2013 Standards, referred to the testimonies about extensive stakeholder engagement during the process. The CEC's engagement with ARMA was no different. CEC had worked with them over an extended period of time with public workshops, stakeholder meetings, email exchanges, conference calls, etc. The proposal had changed substantially because of this interaction with ARMA.

Mr. Shirakh stated that the CEC had changed the initial thermal emittance criteria from .85 to .75, and the solar reflectance criteria from .70 to .67, then to .63, in direct response to ARMA's feedback. Other suggestions were also incorporated which Mr. Shirakh described thoroughly.

Mr. Brehler also attested to the extensive stakeholder involvement which had included ARMA.

**MOTION:** Commissioner Sierra moved approval of Parts 1 and 6 of the California Code of Regulations, Title 24; and the 2013 Energy Efficiency Standards. Commissioner Twist seconded. Motion passed unanimously.

Chair Caballero stated that she had received a request from Mr. Dennis Richardson of the American Wood Council to speak on Agenda Item 6; he was present today but could not attend tomorrow.

Mr. Richardson spoke as the newly appointed Southwest Regional Manager of Codes and Standards for the American Wood Council. He stated that the American Wood Council has had little opportunity to participate in the stakeholder process over the past four years. Going forward, they would like to provide input and serve as a technical resource to BSC staff and state agencies as amendments are proposed in future editions of the code.

He continued that as energy provisions continue to evolve, building structure may be affected. The American Wood Council wants to comply with the energy provisions and goals being set, but also to ensure that the structure is adequate to the standards.

**MOTION:** Commissioner Barthman moved to adjourn until 10:00 a.m. the following day. Commissioner Sasaki seconded. Motion passed unanimously.

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

**Thursday, January 24, 2013**

**1. CALL TO ORDER:**

Chair Caballero called the meeting to order at 10:00 a.m. at the Department of Consumer Affairs, 1625 North Market Blvd., First Floor Hearing Room, Sacramento, California 95834.

**ROLL CALL:**

*Commissioners Present:*

Secretary Anna Caballero, Chair  
James Barthman  
Stephen Jensen  
Sheila Lee  
Erick Mikiten  
Kent Sasaki  
Richard Sawhill  
Richard Sierra  
Randy Twist  
Steven Winkel

*Also Present:*

Jim McGowan, Executive Director  
Michael Nearman, Deputy Executive Director  
Stephanie Davis, Administrative Assistant  
Enrique Rodriguez, Associate Construction Analyst  
Mia Marvelli, Architectural Designer  
Cynthia Biedermann, Assoc. Gov. Program Analyst  
Kevin Day, Technical Analyst

Chair Caballero stated that a quorum was present, then led the Commission in the Pledge of Allegiance.

She stated that the Commission would take up the two Division of the State Architect items in order to help with deliberations.

**4. PROPOSED CODE ADOPTIONS AND APPROVALS: (Cont.)**

**e) The Division of the State Architect – Access Compliance (DSA-AC 02/12)**

Mr. Chet Widom stated that the DSA had elected to withdraw the item because of administrative work that needed to be done. They will bring back the item at the April meeting.

**f) The Division of the State Architect – Access Compliance (DSA-AC 01/12)**

Mr. Widom gave a presentation for the Commissioners. He stated that a year ago, a major task facing the DSA was the alignment of the proposed CBC Access Revision with the updated ADA Standards which were slated to go into effect and become mandatory on March 15, 2012.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Mr. Widom thanked the ADA team and the wide range of stakeholders who had stood with the DSA for the entire year.

He gave the vision for the 2013 California Building Code Accessibility process and product:

- To maintain California's position as a leader in the provision accessibility.
- To integrate and align the updated 2010 ADA Standards and the updated 2010 CDC Standards into a single comprehensive document, that would meet both the 2013 CDC and the 2013 ADA, using the most stringent (i.e. accessible) of the various items within both of those codes.
- The process would be transparent and collaborative with heavy stakeholder participation.
- No new initiatives would be brought into this year's process.

DSA had started by looking at the rich history of California's leadership in the whole idea of prohibiting discrimination and providing access to the public. Mr. Widom described the legislation involved. It originated with the Civil Rights Act of 1959, and ended with the revised regulations for the ADA of 1990 and the revisions to the 1994 ADA Guidelines (ADAG) which became mandatory on March 15, 2012.

Mr. Widom described the development of the California Code, which has been a work in progress since its inception with a variety of revisions from 1982 through the present. The current code was published in July 2010 and became effective on January 1, 2011. Mr. Widom was hopeful that the current revision would be published in July 2013 and become effective in January 2014.

Mr. Widom described the DSA process, which began in late 2011. To decide on a format for California's new code, they chose to survey a vast array of stakeholders. The results were that 14% wanted to maintain the CBC as the model code; 21% wanted to use the ANSI/IEC code; and an overwhelming 65% wanted to use the federal ADAG as the model code.

DSA confirmed some additional parameters:

- ADA is the law of the land and the minimum baseline for California's new code.
- California has specific requirements in place that sometimes exceed ADA that must be integrated and aligned into ADA.
- Californians deserve clarity in the requirements for equal and realistic access which will also meet the legal requirements.
- The scope and detail of the proposed code should be as specific and enforceable as possible.

DSA began a comparative analysis of the California code and the federal code, and engaged the services of a consultant who created the Alliance for Access, formed by 13 experts including Certified Access Specialists (CASps) from California.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

DSA rotated workshops which included videoconferencing and teleconferencing up and down the state. To ensure a neutral perspective, DSA engaged the CSU Sacramento Center for Collaborative Policy for facilitating the workshops. The DSA targeted separate code sections for the various meetings. For maximum accessibility for everyone, DSA posted the meetings on the website a minimum of ten days in advance; also, provisions were made for the visually-impaired and hearing-impaired.

Emails announcing the workshops were mailed to every individual and organization on the list of 450. Mr. Widom, Dennis Corelis, and Bob Chase spoke at countless organizations urging participation. Comments from those participating were encouraged and accepted through August 20, 2012. Mr. Widom displayed a very long list of involved stakeholders from both the building industry and the disability community.

Stakeholders provided 957 comments which DSA used to make changes; DSA added 175 substantive provisions to the model code and deleted 41. Mr. Widom gave examples of the changes.

Other changes were:

- A number of non-substantive format layout changes, for example, chapter numbering, tying diagrams to the verbiage, and movement of definitions.
- Advisories were removed and may be compiled into a separate document.
- Creation of a matrix showing where every item in the CBC had been moved in the new model code.

DSA submitted a Notice of Proposed Actions – Initial Statement of Reasons and Express Terms to the BSC on October 26, 2012. They had gone through a 45-day public comment period and two 50-day public comment periods, all ending on January 7, 2012. DSA received 69 comments requesting changes that were accepted. Mr. Widom gave examples of the 69 comments in opposition to specific revisions of model code that DSA had declined to accept for a variety of reasons.

Mr. Widom noted that both CBC and ADA generally state that everything must be accessible. He explained some of the unique situations that have been considered as exceptions: high diving boards, ice skating rinks, and ski slopes, for example.

Mr. Widom described some of the more difficult or controversial issues:

- The minimum 4” clearance at the base of curb ramps
- Building entrance accessibility on sloped sites
- The definitions of *path of travel* and *accessible route*

Mr. Widom stated that the proposed building standards would be applicable to public-funded buildings, structures, sidewalks, curbs, and related facilities, as well as privately-funded public accommodations in commercial facilities. They will also be applicable to private housing which is available for public use.

Mr. Widom closed by requesting the BSC’s approval of the amended access compliance provisions.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

**Commissioner Questions and Comments**

Commissioner Jensen asked if DSA has coordinated its changes with the Department of Housing and Community Development (HCD). Mr. Bob Chase, DSA Deputy Director, responded that they have coordinated extensively with HCD. Most of the access revisions for public housing have been moved into the DSA chapter. Definitions have also been coordinated between the two agencies.

Commissioner Lee commented that the BSC's responsibility lies only in adopting the California regulations. The DSA's effort in completing this task is going to help all Californians because they can now be sure they are in conformance with the ADA regulations.

Commissioner Lee continued that we now need to think about how we can enforce the code. In many situations it can be impossible. She spoke on behalf of building departments in California: they put a lot of time into checking that plans are in conformance with California regulations. This code will be much appreciated.

Commissioner Sasaki asked how much bigger the new section is than the prior sections. Mr. Chase responded that it is 336 pages long, 100 pages of which are where the old code is stricken. The final 2010 CDC will actually use less paper – the strikeouts will be eliminated. From there it will go to two columns.

Commissioner Sasaki asked about structural repairs in existing buildings; will path of travel to the work still be required to be accessible as in the 2010 CDC? Mr. Dennis Corelis responded that there will be no change from the current code to the proposed code. California does now have some restrictions, etc. to recreational areas to comply with federal code.

Commissioner Sawhill asked about deferring the decision on color contrasting until the ADA completes its study. Mr. Widom stated that the decision will wait until the next code cycle.

For the record, Commissioner Sawhill asked DSA to concur that each building standard code proposed by DSA had been reviewed and discussed with stakeholders to ensure that any issues had been addressed; therefore there was no foreseeable reason why an emergency rulemaking process would be required prior to the next code adoption cycle. Mr. Widom replied that he could not guarantee that they would not find some major problem; but certainly they had gone over the revisions as many times as possible, and they had no desire to come back for an emergency.

Commissioner Winkel asked about Alterations in Chapter 2. Would the new regulations grandfather in the 2010 work? Mr. Chase noted that DSA had no intent to freeze the requirements at the 2010 or 2007 codes. He confirmed that the 2010 code had been retained, in 2013 language.

Commissioner Winkel asked if it were the intention that the Association for Children with a Disability (ACD)'s criteria for issues such as the toilet center line and the 1½" handrail clearance would align? Mr. Chase replied that the ACD would be the ones to answer.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Commissioner Winkel asked about the recreational facility items in Chapter 10. Was it DSA's belief that those items are currently uncovered in California code? Mr. Chase responded that DSA believes that California law makes broad statements about them, citing beaches as an example. "Outdoor developed area standards" may become part of the ADA, which will make them part of California law. Currently accessibility is done on a best practice volunteer basis – much less enforceable than parking space dimensions, for example.

Commissioner Mikiten offered a list of bullet items from the Comment section of the Final Statement that support further review:

- Page 9: Discussion and clarification of structural impracticability
- Page 10: Clarify *primary path of travel*
- Page 16: Shortest route from accessible parking – a common problem
- Page 20: Clarify language about 16" accessible comfort
- Page 22: Define *hazardous vehicular areas*
- Page 23: Clarify wording on driveway aprons
- Page 43: Eliminate the sink depth dimension, since there are plenty of requirements about the lip, countertop, and bottom of the sink

Commissioner Mikiten offered a series of questions about specific items. (DSA gave explanations where possible.)

- Page 146: Accessible toilet facilities on the ground floor where higher levels are not served by an elevator
- Page 155: Clarification on *five upward and downward trips*
- Page 159: What is the genesis of the numbers at the bottom of the page? A higher proportion of toilets is desirable
- Page 174: Clarification in the section on self-storage facilities accessible spaces
- Page 170: Should "Installation or Removal with Special Tools" be in this section?
- Page 173: The language on guest rooms is confusing
- Page 251: The maximum of 37" for an ambulatory accessible stall – what was the DSA's comment on that?
- Page 192: An additional diagram is needed
- Page 206: Doors in series were reduced from 52" to 48"
- Page 214: A definition of *blended transitions* is needed
- A definition of *destination-oriented elevators* is needed
- Page 269: For further study: the 16" accessible comfort

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

- Page 280: Why is there an exception for resiliency at curb ramps?

**Public Comment**

▪ Ms. HolLynn D’Lil commented that the regulations were technical and complicated, and they were rushed through. However, there is much that’s good in the package that will move access forward. She requested to have six or seven items taken out of the package because they are serious issues:

- The Structural Impracticability section – 11B-20111, Exception in Scope – lacks strict language and will leave a large loophole.
- Section 11B-202.4 needs a phrase added about the previous code cycle.
- The sports areas Section 11B-203.10 through 203.14 concerning waterslides, animal containment areas, raised diving boards and diving platforms, raised boxing rings, and raised structures used for judging and scoring a sport.

Ms. D’Lil asked not to institutionalize the discrimination that these sections allow.

▪ Mr. Richard Skaff withdrew his comments from the previous day about DSA’s process for developing this group of code changes. DSA had accomplished the requirement of implementing this project. He wondered how many licensed architects and building departments would be able to assimilate and apply the 2500 items in the package.

Mr. Skaff was also concerned that the people affected by this package would be able to understand the 2500 items, for example, the toilet and handrail items. Would they be able to participate in the process? He cited an example of a wheelchair lift, in which people with disabilities worked with code experts and came up with a successful design. He hoped that DSA would continue to work collaboratively this way in the future.

Mr. Skaff listed issues of difficulty:

- Sports facilities
- The exception to the limit in sports facility dining areas (Section 11B-205, Exception 3)
- Standards for gangways and boat docks (Section 11B-224.112)
- Hotel and motel bathrooms
- Destination elevators

He hoped that the disabled community could meet with DSA to go over the full package between now and the 2014 date when it would become final.

▪ Mr. Gary Layman, representing the Certified Access Specialist Institute (CASI), voiced support for DSA and its process to come up with the revised code. He had participated in venue meetings, teleconferencing, a webinar, and an advocate meeting. He described CASI’s function and activities, stating that CASI was there to work with the disabled community – as well as DSA – to discern their feelings and their approach.

Mr. Layman mentioned companion seating – both state and federal regulations state that it is permitted to be removable. He mentioned that structural impracticability is in the

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

code for a purpose: building divisions are very much aware of structural impracticalities based on terrain, for example in San Francisco, Tahoe, or Paradise that prevent an accessible route. There are always gray areas in the code, and this is one of the hardest sections for which to obtain acceptance from everyone.

- Ms. Connie Arnold reiterated Ms. D’Lil and Mr. Skaff’s statements about items to hold back from the package for emergency adoption later. She voiced concern about the exceptions permitted via structural impracticability. There are still barriers that the disabled community faces every day that prevent full and equal access. Being excluded because of lack of accessibility impacts how an individual feels about himself or herself.
- Mr. Richard Skaff read a statement from Ms. Lilibeth Navarro, Executive Director and Founder of Communities Actively Living Independent & Free (CALIF). She listed points in opposition to the proposed changes to the current Accessibility Standards, which had been described in earlier Public Comments. Copies of Ms. Navarro’s statement would be provided for the Commissioners.

Ms. Navarro believed that for both the federal government and DSA, no research or data was used to determine how the proposed changes would impact the disability community. She also believed, based on the criteria required by the BSC, that many of DSA’s proposals are arbitrary and capricious.

- Ms. Terelle Terry commented that there are a number of items which limit accessibility although DSA does want better accessibility: the restaurant scoping is a severe reduction, as is the boat ramping. Ms. Terry noted that the code was developed over 35 or more years, and thousands of people were involved today’s revisions. She agreed with Ms. D’Lil and Mr. Skaff on the items that should be placed aside because they severely restrict access and add new limitations. She added that destination elevators severely limit accessibility for handicapped people because there are no regulations.
- Mr. Eugene Lozano, First Vice-President of the California Council of the Blind (CCB), stated that this organization has advocated for access to the environment for more than 35 years. He noted that if the formatting of the proposed regulations goes to two columns, there will be an access problem with software for the visually impaired.

Mr. Lozano mentioned three areas to which CCB had objections:

- Section 11B-705.1 Warnings – problems with contrast, use of federal yellow, blended transitions/islands/curb ramps, rigid surfaces, and 24" rather than 36" size of boarding platforms.
  - Section 11B-707 Sales Machines/Devices – touch and sound are needed.
  - Section 11B-810.2 Bus Stop Path – the verbiage should be clear that the boundary between the bus stop path and roadway should be raised.
- Mr. Jeff Thom, CCB Chair of the Governmental Affairs Committee, amplified on four of the points made by Mr. Lozano.
    - Regarding point of sale machines: he attested to the need for both tactile and sound cues.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

- Regarding detectable warning surfaces issues: the deletion of the contrast formula is a violation of the goal of this code cycle: to enhance access for those who are blind or have low vision. We are putting almost unfettered discretion into the hands of those administering this requirement by deleting the formula.
- Regarding the federal yellow requirement: Those with limited vision view themselves as seeing persons who are reliant on visual cues; however, they don't have the ability to use those cues as well. It is essential to provide the necessary contrast to provide the maximum color possible for travel through the environment.
- Resiliency and sound-on-cane contact requirements, especially on curb ramps and traffic islands, provide recognition of technical warnings far sooner.

Mr. Thom thanked DSA for promptly putting materials in an accessible type of screen reader format. He hoped that would continue with future regulations.

▪ Mr. Bob Raymer stated that the CBIA – a coalition of 19 building industry organizations – had submitted a letter regarding the major reformatting of the Chapter 11B Provisions. Their regulations are now formatted in the same way as the Federal Department of Justice Regulations; also, the newest provisions in the California Code that are more stringent than the ADA are included. For the first time in 20 years, plan checkers and building departments will now be able to check for it all. From a business community perspective, the potential for lawsuits is drastically reduced. This will also put code users on a much faster track for Department of Justice certification.

Mr. Raymer stated that they strongly support the DSA revisions. Objections to some sections have been heard, but CBIA hoped to see the vast majority of the package go forward. It represented a huge step in the right direction for state code.

In terms of the process, Mr. Raymer commented that as detailed as the CEC's process had been, they had not performed nearly the type of outreach and user-friendly public participation that DSA has done. DSA had done an extraordinary job dealing with the multitude of needs the package encompassed.

▪ Mr. Kurt Cooknick, representing the American Institute of Architects California Council (AIACC), spoke in support of the revisions. He mentioned in regard to application, that for design professionals this is a long-sought change. In addition to ADA certification, it brings clarity and certainty for designers.

Regarding errors in design, particularly the 16" versus 18" issue – what architects design is not always what is constructed; they may not ever see it. It is imperative that those responsible for construction have a clear comprehension of the changes.

Mr. Cooknick added that architects had no issues with any of the items called to the BSC's attention today. DSA had done an incredible job in the short amount of time they had to sort through the volume of work.

**Teleconference Line Public Comment**

▪ Mr. Michael Mankin, a Sacramento architect and disabled individual, had sent two letters. One requested for some language from 2010 code to be grandfathered in. The

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

other addressed the water closet issue: 16" was too small and should be changed to 17-18".

- Mr. Greg Thomas Yates, general contractor, asked about the accountability of building inspectors for issues that are not defined properly – they may become legal issues.
- Ms. Donna Pomerantz, CCB President, recognized the mammoth task DSA had undertaken. Those in the disability community are students of life, and have learned through their everyday direct experience how the regulations impact them. They wish to work together with DSA to make a full barrier-free accessible environment for all.

Ms. Pomerantz spoke about the importance of having detectable warnings in federal yellow for the many people who are in the beginning stages of losing their vision. There is no reason that all areas of the built environment shouldn't be hazard-free. These safety warnings have benefits for seniors, people with diabetes and macular degeneration – more and more people need them. They are not a luxury. She requested for the visually impaired to come to the table and assist in working through solutions to the issues mentioned by other speakers today.

### **Commissioner Comments**

Commissioner Mikiten requested for DSA to address each of the commentary issues, to explain the genesis; whether it was a change from 2010; and the potential of any decrease in access. Another Commissioner requested to hear whether the item was contrary to the new ADA regulations.

Mr. Widom and DSA staff responded as follows.

**Structural impracticability.** DSA added this section at the request of the BSC Code Advisory Committee. It applies to a very narrow group of possibilities and requires a very involved process. Mr. Widom cited the example of a research lab in the middle of a wetlands – it would be impossible to build an accessible route from the edge of the water to the facility. Mr. Corelis added that a topographically challenging (that is, sloping) site does not trigger this requirement. The building official, not the applicant, makes the determination. It must go into the record and must be subject to the mandatory appeal process.

Commissioner Lee expressed concern that the Exceptions section is confusing for the public; it refers back to Section 1.9.1.5. Possibly it should be removed. Mr. Widom was amenable to changing the wording back to the prior code.

**Path of travel for water slides, etc.** Mr. Widom and staff clarified that the code provides an accessible route *to the water slide*, not to the top of the water slide. It also applies to the edge of the animal pen and so on. The language is federal language; it is an ADA requirement.

**Percentage of dining.** Mr. Widom explained that this was written specifically for dining in an athletic venue. If it is a stadium, regular restaurants are required to have access. If the object in a particular dining area is to view the ballgame down below, the federal standard is for 25% required in that area only. The language is ADA language.

**Boat docks.** DSA had taken the federal language.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

**Hotel and motel non-accessible bathrooms.** Mr. Widom stated that it had been taken out because there are no dimensions in the current code. If there had been a specific dimension, DSA would have been more comfortable – but it lacked enforceability. A reference was made to the current CBC, Section 11B.4.6.

**Destination elevators.** Mr. Widom stated that this issue does need to be addressed, but it would mean a substantive change. Mr. Corelis stated that the current federal language has a series of exceptions. Better regulations need to be developed for the supplement to the 2013 code with an effort that will include participation by the stakeholders.

**Detectable warning strips.** DSA had stayed strictly within existing code requirements. Many people had requested adding detectable warning strips; that would have constituted a substantive change. DSA believes that it should, with law, put in the redaction of the contrast as a placeholder, and wait until a new formula comes about. Mr. Corelis added that the IECC had very recently approved a draft revised formula; their process is to formalize it in 18-24 months.

**Warning in transit.** California code lists 24-36" while federal code lists 24". The DSA will take direction from the BSC on this issue.

**Bus stop path.** The issue constitutes a substantive change. DSA had heard no outside testimony; it requires a fair hearing.

**Point of sales machines.** It is a substantive change for those who manufacture the machines. It also needs a hearing to obtain input from everyone.

**Public Comment (continued)**

- Ms. Sharon Toji commented on issues in Section 11B starting with 202.4, 202.8, 206.4 and 216.1.
  - California has long had an additional standard of including signs as one of the elements in the path of travel that need to be accessible. In California, signs are a distinct element that must be included.
  - There is confusion about 206.4, but tactile exit signs are required. Where there are steps, the sign must say *EXIT STAIR DOWN* and the sign should direct to the nearest accessible exit.
  - The Access Board has supplied poorly written standards for exceptions on signage. Ms. Toji stressed that the size of the lettering needs to have exceptions; a task force should meet and quickly come up with some meaningful exceptions. Ms. Toji would like to see this item withdrawn and revisited.
  - For car position indicators in elevators – ½" high is not big enough; size and contrast need to be increased (taking colorblindness into consideration as well).
  - For destination indicators – they should comply with 11B-407.4.8.1.1.
  - For 11B-504.4.1, Contrasting Stripes – visual contrast alone is not an adequate standard.

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

- For 11B-703.4.2, Sign Location – the space next to the door is sacrosanct; architects and electricians should not put anything there. Clear verbiage for exceptions should be included.
- Ms. Toji did not think the Access Board was going to buy the exception on the Emergency Procedures.
- Edges and corners had unintended consequences that had caused many problems. Triangles should have a maximum radius of 1/8", otherwise they can feel like circles to the blind community.
- Bus schedules need to comply with size requirements.

Mr. Widom recommended that Ms. Toji's new items be put on the list of issues to be addressed. In some cases they can be Advisories.

Commissioner Jensen asked about the toilet center line issue. Mr. Widom responded that he preferred to leave the dimensions at 16-18" to match the federal government, but did not see a major problem changing it to 17-18". Mr. Jim McGowan stated that the Commission could not make that amendment here on the floor – it would have to be sent out for a 45-day comment period because it is a substantial change.

Commissioner Lee spoke in regard to the 24-36" platform issue. Mr. Corelis replied that there appears to be a difference of opinion – some people want 24" as the absolute dimension, while others say wider is better and they would like that where possible. The federal guidelines list 24" as the absolute dimension, and it allows compliance with current California code. The problem has not been resolved with the U.S. Department of Justice.

Commissioner Mikiten and Chair Caballero asked if the toilet center line 17-18" issue could be re-circulated and still meet the April deadline. Mr. Widom answered that it would be very difficult because of the publication process.

Commissioner Sasaki asked about the publication date for a supplement; Mr. Widom replied that it would be 18 months.

Commissioner Winkel referred to the 10-12 items at issue. In terms of substantial changes, striking text did not seem to be any different than changing 16 to 17. Mr. Jim McGowan read Section 1-415(a)(4) from Part 1 of Title 24 which addresses the "approving as amended" provisions. The Commissioners discussed with Mr. Widom the possibility of making changes. Unfortunately the original meeting date of January 9-10 had been pushed back to allow for the 15-day comment period.

Commissioner Sawhill commented that the way the schedule was evolving, it almost sounded as if there was a predetermination that the Commission was going to rubber-stamp what was approved – if they did not, it would disrupt the publication process schedule. Chair Caballero stated that there are substantive issues that the Commission could send back for more research and public feedback, to return in 18 months. However, the framework at the beginning of the process was to build off of the ADA.

Mr. Michael Nearman explained how the size of this package and the amount of vetting required had resulted in the meeting being set for January 23-24. He then explained how

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

a 45-day comment period also includes an initial 2-3 weeks to work out the new language and develop the necessary notice and other parts of the rulemaking, as well as time at the end of the 45 days to resubmit that information, notice the next meeting, and attend the meeting. The deadline with the publisher is May 15, 2013. If changes are sent after that, the publishers cannot guarantee the publication target of July 1 for the 13 parts of code.

Commissioner Sierra asked how soon changes could be made after that date. Mr. McGowan replied that this code is intended to become effective January 1, 2014; the supplement would become effective 18 months later, that is, July 2015.

Commissioner Lee asked about making the items discussed today an emergency adoption. Mr. Widom said that the problem is that a state agency has to make a finding of emergency. It would be incumbent upon DSA to come back to the BSC with a finding that meets the Administrative Procedure Act litmus test for an emergency. The Commission would then reconsider the changes.

Commissioner Mikiten made the following suggestions:

- For clarification, to include the language *water slide structure*.
- To redact the strikeout of the contrast requirements.
- To return to the 24-36" range for the tactile warning (withdraw the strikeout).

Commissioner Lee expressed concern that allowing 36" would not conform with the ADA requirements. Mr. Widom reiterated that 24" only would allow compliance with both the CDC and the ADA. Commissioner Mikiten stated that although he personally felt that more is better, he did not want to go into conflict with the ADA.

Commissioner Winkel remarked that reinstating language should not be considered a substantive change as it has already been used in the real world. He added that he wished to re-explore the BSC's definition of a substantive change. If the Commission made any changes, he would like them to have a 15-day turnaround to avoid delaying publication.

Commissioner Winkel asked about the dividing line between a 15-day review and a 45-day review. Mr. Nearman answered that it depends on if the material is sufficiently related to what was originally proposed, and that it is not a substantive change or significant alteration compared to what was noticed before. A litmus test for the Commission is the concept of whether the general public would have been sufficiently notified that the changes were going to occur at the meeting.

Mr. Alex Holtz, BSC Legal Counsel, felt that the determination is in the hands of the Commissioners as to whether the change is substantive – whether it goes materially beyond the rulemaking file that was already established to trigger another rulemaking process.

The Commissioners continued to discuss whether the 16" change was substantive, the definition of a substantive change, public vetting, and so on.

**MOTION:** Commissioner Sawhill moved to adopt the package as recommended by staff with the following amendments: To change the toilet centerline-dimension from *16-18"* to *17-18"*; to withdraw the strikeout of *hotel*; to withdraw *structural impracticability*; to withdraw the

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

strikeout of *contrast colors*; friendly amendment suggested by Commissioner Mikiten to clarify water slide *structure*; and return *path of travel* from 203.10 to 203.14. Commissioner Barthman seconded. Motion passed unanimously.

Mr. Michael Nearman pointed out that for the 16-18" range, there would be some conflict between what is in the current 2010 code and the change for the new code.

Commissioner Lee requested DSA staff to take care to announce all the changes to architects and contractors, as they had done for the building departments. She would also like to see more workshops to educate the public on the new requirements.

**MOTION:** Commissioner Barthman moved that the State Architect's Office and staff continue to work with the disabled community to see if their other concerns can be resolved, with the State Architect's Office bringing back supplemental code to be effective July 1, 2015. Commissioner Sierra seconded. Motion passed unanimously.

Mr. Jim McGowan reminded the State Architect that the amendments that the Commission had just approved would need their justifications within 15 days of this meeting submitted to the CBSC otherwise the changes are nullified.

**d) The Department of Housing and Community Development (HCD 08/12)**

Mr. Shawn Huff asked the BSC to approve the package as amended. It had gone through the following process: an informal focus group, the Code Advisory Committee, a 45-day comment period, the HCD response to comments, and a 15-day comment period during which no comments were received.

HCD had made several amendments during the process that were the result of coordination issues and were not substantive. HCD had made ongoing contact with DSA throughout.

Mr. Huff stated that it had tried to align with as many provisions of the 2010 ADA as possible. One was the 16-18" provision. HCD now requested the BSC to direct it to make the same modification that the DSA had done. This would affect three different items.

**Commissioner Questions**

Commissioner Mikiten asked about Section 1110A.3 on page 12 under Exterior Routes of Travel – was language there intended to be under Interior Routes of Travel? Mr. Stoyan Bumbalov replied that it had been amended from DSA language.

Commissioner Winkel asked about 1½" handrail clearance for interior stairs in 1123A.4 – was the intention to modify it to align with DSA? Mr. Huff replied that they would look at the issue next time.

Commissioner Sasaki asked if a designer or builder using these provisions will be in compliance with the 2010 ADA regulations. Mr. Huff replied that the regulations did not need to follow those regulations. The Fair Housing Amendments Act guides HCD and DSA with regard to this.

**CALIFORNIA BUILDING STANDARDS COMMISSION  
JANUARY 23-24, 2013 MEETING MINUTES**

Commissioner Winkel asked about the figures for the multiple accommodation toilet in 11A-9a – they should align with DSA. He encouraged HCD to make the illustrations look like those in DSA’s final package. Mr. Huff responded that they would be looking at that further.

**Public Comment**

- Ms. Connie Arnold spoke about common areas in condominium complexes. She said that if a regulation were to state that when the public can rent a common area, it must be accessible, then all the homeowner associations would say that no one from the public can rent – only the residents. Ms. Arnold described discrimination she encountered in the condominium complex. She stated that accessibility is equality for everyone.
- Mr. Bob Raymer stated that CBIA supports HCD’s provisions.

**Teleconference Line Public Comment**

- Ms. Sharon Toji stated that she had previously forgotten to bring up an issue that may also apply to housing. She noted that all requirements are exempted for accessibility in public use areas except where there are accessible units, meaning accessible for wheelchairs. However, those who are visually impaired and hearing impaired need accessible signage in the corridors of housing. Ms. Toji wanted to ensure that in 11A and 11B, requirements are not being exempted for accessible signage.

**Commissioner Comments**

Commissioner Mikiten requested HCD staff to address any changes in common use areas and signage. Mr. Bumbalov responded that the signage requirements used by DSA originated with ADA. DSA had also conducted multiple meetings in which these issues were discussed. HCD had taken the DSA language on signage and modified it to match their format.

Mr. Huff commented that he was not sure which language Ms. Toji was referring to. He had not heard those comments from her during the public comment period.

**MOTION:** Commissioner Jensen moved to adopt the package as recommended by staff; friendly amendment by Commissioner Mikiten to include the toilet centerline-dimension change from 16”-18” to 17”-18” as approved for the DSA. Chair Caballero further clarified the motion to include the other items that the Commission asked DSA to change in order that the requirements align with each other. Commissioner Twist seconded. Motion passed unanimously.

Mr. Jim McGowan reminded HCD staff that the amendments that the Commission had just approved would need their justifications within 15 days of this meeting.

**5. FUTURE AGENDA ITEMS:**

There were no future agenda items.

**6. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA:**

There were no public comments.

**7. ADJOURN:**

**CALIFORNIA BUILDING STANDARDS COMMISSION**  
**JANUARY 23-24, 2013 MEETING MINUTES**

Chair Caballero noted that Commissioner Jensen was leaving the BSC. She said that he had been a great Commissioner and they would miss him; she thanked him for his service to the state of California.

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

Chair Caballero adjourned the meeting at approximately 4:30 p.m.