

OKLAHOMA UNIFORM BUILDING CODE COMMISSION

**REGULAR MEETING MINUTES
CONSTRUCTION INDUSTRIES BOARD/UNIFORM BUILDING CODE COMMISSION
CONFERENCE ROOM
2401 NW 23RD STREET, SUITE 2F
OKLAHOMA CITY, OK 73107
MAY 17, 2016 – 1:30 P.M.**

COMMISSION MEMBERS PRESENT:

Amber Armstrong, Ross Barrick, Jim George, David Hall, Danny Hancock, Larry Herzel, Curtis McCarty, David Timberlake, and Cary Williamson

COMMISSION MEMBERS ABSENT:

Chris Henderson and Joe McKenzie

OTHERS PRESENT:

Billy Pope (OUBCC Staff), Kathy Hehnly (OUBCC Staff), Bryan Neal (Attorney General's Office), LaTisha Edwards (Office of Management and Enterprise Services – Agency Business Services), Mike Ervin (Oklahoma Capitol Strategies), Mike Means (Oklahoma State Home Builders Association), Mitchell Hort (City of Yukon), Mike Liston (Plumbers, Heaters, and Cooling Contractors), Rhonda Harding-Hill (Oklahoma Department of Commerce), Albert N. Janco, P.E., Jerry King (City of Oklahoma City), and Kelly Parker, P.E. (Guaranteed Watt Saver)

CALL TO ORDER:

Mr. David Timberlake called the regular meeting of the Oklahoma Uniform Building Code Commission to order at 1:30 p.m. in the Construction Industries Board/Uniform Building Code Commission Board Room at Shepherd Mall, 2401 NW 23rd St., Suite 2F, Oklahoma City, OK 73107.

STATEMENT OF COMPLIANCE:

The following statement was read into the record:

"This regular meeting of the Oklahoma Uniform Building Code Commission scheduled to begin at 1:30 p.m. on this 17th day of May, 2016, has been convened in accordance with the Oklahoma Open Meeting Act, Title 25 Sections 301 through 314.

Further, this meeting was preceded by an advance public notice that was sent to the Secretary of State electronically specifying the date, time, and place of the meeting here convened.

Notice of this meeting was given at least twenty-four (24) hours prior hereto. To date, sixty-five (65) people have filed a written request for notice of meetings of this public body."

REPORTS

CEO Report:

Mr. Pope gave his update to the commission. He reviewed the status of the request from City of Lawton to approve modifications to their adoption of the OUBCC codes. He noted, the City of Lawton had requested the OUBCC hold off on their review, as their modification was not yet complete. He added the Commission would see an agenda item at an upcoming meeting to create a technical

committee to review and provide a recommendation to the Commission on the requested language change. He noted funds received were holding steady which indicated the construction industry was still going strong. He noted there were some bills still going through the legislative process and asked Mr. Mike Ervin with Oklahoma Capitol Strategies to provide an update on those bills. Mr. Ervin provided a legislative report on several bills, including HB2758 which was still in conference committee and SB1329 which dealt with churches allowing temporary residence to people in need in the church facilities. He noted SB1329 was still in conference and provided information regarding the latest draft of the bill.

Financial Report:

Ms. LaTisha Edwards with OMES, ABS greeted the Commission. She reviewed each report and pointed out the budget-to-actual report showed the OUBCC was operating under budget for the fiscal year. She reviewed the available cash balance, the revenue received to date, the expenditures for the agency and the funds still encumbered. Mr. Timberlake thanked Ms. Edwards for her time.

OUBCC Risk Management Insurance Review Report:

Mr. David Hall gave his report. He noted based on Mr. Neal's comments at the last meeting, he, Mr. Pope, and Ms. Hehnly scheduled a conference call with the Office of Risk Management. He noted on the call, there was a wide ranging discussion from the property insurance to the D&O insurance and how the Commission's coverage filters down to from the state's policies. He noted there were two specific deductibles that the Commission needed to make sure were accounted for within the budget. He noted the first was the property insurance deductible at \$2,500 and the second was a \$25,000 D&O deductible. He noted the Commission was accountable for the deductible per occurrence. He added every time there was a precipitating incident that caused the Commission to go into the D&O coverage, the Commission would be responsible for the first \$25,000. He added if there was more than one instance per year, the Commission would need to have more than one deductible put aside. He stated the Commission's history did not indicate a proclivity of those types of claims, but from a prudent standpoint, he recommended considering at least two deductibles be put aside. He stated the Office of Risk Management was incredibly helpful and forthcoming.

Alternative Fuels Program Technical Committee Update:

Mr. Ross Barrick stated he had filed a written report under tab "D" in the book. He noted the last meeting was April 25th and the meeting was cut short due to a loss of quorum. He noted the committee was dealing with seven code books at the last meeting to address repair garages. He noted repair garages were classified into both major and minor repairs. He explained the difficulty and challenge had to do with the specific gravity of the different fuels, liquid, vapor heavier than air, and vapor lighter than air. He noted they were working through it to find ways to consolidate the needs for each fuel type. He added the committee was on schedule and discussed some of the ideas the committee was working towards to address the issues. He noted the next meeting was Monday, May 23, 2016 at 1:30 p.m.

ACTION AND DISCUSSION ITEMS:

Discussion and possible approval of the April 19, 2016 regular meeting minutes

Mr. Timberlake stated if everyone had reviewed the minutes and there were no additions or corrections, he would entertained a motion to approve.

MR. DANNY HANCOCK MADE A MOTION WITH A SECOND BY MR. LARRY HERZEL TO APPROVE THE MEETING MINUTES OF APRIL 19, 2016

VOTING AYE: Amber Armstrong
Ross Barrick
Jim George
David Hall
Danny Hancock
Larry Herzelt
Curtis McCarty
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Chris Henderson
Joe McKenzie

Discussion and possible action on OUBCC Code Academy with presentation by Mr. Kelly Parker, P.E.
Mr. Kelly Parker, P.E. with Guaranteed Watt Saver (GWS) addressed the Commission. He noted at last month's meeting he spoken during the public comment portion of the meeting on the differences between education and continuing education. He stated he was very much in favor of the OUBCC training code inspectors, with real training, not one-day sessions. He noted he felt the feedback from those public comments was that the Commission wanted to provide education and didn't understand what the issue was. He noted he did some research and spoke to the Governor's office. He asked them why the bill proposed during the last legislative session was vetoed. He stated their response was to send a copy of the veto with the veto language and noted it was part of the documents he provided. He noted what the Governor said in her veto was that "efficient government must constantly monitor and avoid unnecessary expansion..." he added that further in the paragraph she mentioned the word "grow." He stated when he spoke with the Governor's legal representative, Ms. Maria Maule, she stated the issue was that the OUBCC had clear authority to provide training but the Governor's policy was that training did not include continuing education, because there were other facilities that provided that continued education. Mr. Parker stated he asked if the Governor was in favor with what was in the statute and Ms. Maule's reply was absolutely. He noted he asked Ms. Maule if the veto was because the language in the bill used the words continuing education and her reply was yes. He stated Ms. Maule was aware there were bills that could be coming to the Governor's office during the current legislative session, but couldn't speak to them as she didn't know the final wording. He noted Ms. Maule stated she could speak to the Governor's policy which was not to add to the OUBCC's original statute to allow training. Mr. Parker stated the bills that were filed regarding the OUBCC utilized the words "continuing education" and he didn't think they would be approved given the Governor's current policy.

Mr. Parker noted he had contacted the State Home Builder's Association and asked if they were for the bills. He noted their reply was yes because it helped provide education. He noted he felt there was a difference and what everyone was missing was the fact the OUBCC was given statutory authority to

provide training and it has been lost because there was also an ability to provide certifications to inspectors. He noted the Commission had yet to spend money to train an inspector and provide a certification. He stated the OUBCC needed to offer module based training so that one of the modules could be the latest code updates. He noted testing would need to be done as required by the Construction Industries' Board. He added modular training would then allow the OUBCC to do what they were required to do in the first place, provide free education to code inspectors. He stated that was the end of his presentation.

The commission and Mr. Parker discussed if he felt the Governor's office would allow a code academy to be created, defining what the term "code academy" meant or changing the wording utilized, the large percentage of current code inspectors expected to retire within the next five years, different ways to provide modular training, that technology center continuing education was limited to plumbing electrical and mechanical disciplines, but there were no programs for inspectors and a lack of training for the people who design and build structures by the codes, as well as clarifying how Mr. Parker thought the process should be designed. They discussed continuing education and the different reasons why people went to the continuing education and that the training ought to be free to the municipal code inspector but others might need to pay for a module at a time.

Mr. Parker asked Mr. Bryan Neal, Assistant Attorney General if in his legal opinion, the OUBCC had the legal authority to do training for code inspectors for free. Mr. Neal replied, separate and apart from Mr. Parker, Mr. Neal had also spoke with Ms. Maule in the Governor's office. He stated he did this after hearing about Mr. Parker's conversation with Ms. Maule. He stated he wanted to make sure the OUBCC had not misunderstood something from the Governor's office. He noted in his conversation with Ms. Maule, she expressed the opinion the Commission had broad outreach authority for education. He stated he asked about the code academy versus continuing education and her reply was that the Governor's office wasn't as concerned about what the education was, it was more about who was to receive it. He added, by that Mr. Neal meant government personnel in the form of residential inspectors, commercial code inspectors, and code enforcement personnel working for the state, counties or cities receive the education, as opposed to the private sector individuals. He noted that was a distinction he had not really fully appreciated, and when the discussion was on the two types of education, Ms. Maule again expressed the concern was not what education was provided as opposed to the recipients who were to receive that education. He added there were differences in the language in the statutes and it did not indicate that all of it was to be free. He added, by the same token, it didn't say that there should be charges for an individual off the street that was not employed by a government entity. He noted as far as a basic concept of if the Commission had authority for education, Ms. Maule was in agreement that the Commission had that authority. Mr. Neal noted what was troubling in the language of the veto was because there were references to the code academy and continuing education. He noted the Commission tried to step lightly and to make sure what was presented in the form of rules were in compliance with the previous legislation adopted. He added Ms. Maule indicated they were comfortable with the rules as submitted. He added she did not want to comment on the pending legislation. He stated the Commission did have authority for a code academy that could be encompassed by the broad authority already given in the statute as it was amended in 2014.

There was further discussion between Mr. Neal, Mr. Parker and the Commissioners regarding the actual wording in the statute, the rulemaking authority of the Commission, different types of training that could be provided, more detailed discussion on Mr. Parker's ideas on how the training should be done and how he thought updated codes should be taught when new codes were adopted, and

clarifying who in Mr. Parker's opinion qualified for the free training. They discussed allowing the training to be taken by anyone who wanted it with a possible cost to the individual in the private sector, the lack of code books for inspectors, the bleak future of the industry and licensing requirements for some trade inspectors that include a minimum number of years of on-the-job experience as well as a national certification of training.

Discussion and possible action on the revised Fiscal Year 2017 (FY17) Budget

Mr. Hancock stated the revised budget included two D&O deductible amounts as discussed by Mr. Hall in his earlier report to the Commission. Mr. Pope noted there were two copies of the budget in the book, the first was a projection of what would probably be needed to fully fund a code academy and the second, which was the final proposal to fund FY17. The Commission discussed the proposed changes with a total increase of \$153,000 to the budget approved at the previous meeting.

MR. CURTIS MCCARTY MADE A MOTION WITH A SECOND BY MR. ROSS BARRICK TO APPROVE THE REVISED FY17 BUDGET

There was further discussion over the total budget price verses the budget amount and what was available in agency reserves, that some the costs would be one-time only to get things started with the code academy and would not be reoccurring expenses, and if the agency would be moving.

VOTING AYE: Amber Armstrong
 Ross Barrick
 David Hall
 Danny Hancock
 Larry Herzel
 Curtis McCarty
 David Timberlake

VOTING NAY: Jim George
 Cary Williamson

ABSTAIN: None

ABSENT: Chris Henderson
 Joe McKenzie

Discussion and possible action on the FY17 contract with OMES ABS for financial services

Mr. Timberlake noted the new contract was under tab "H" in the books. He asked if there were any questions or he would entertain a motion to accept the contract for renewal with OMES ABS. Ms. Armstrong asked if the Commission would need to go back and revise the budget if the contract was accepted. It was determined the budget would need to be revised.

MR. CURTIS MCCARTY MADE A MOTION WITH A SECOND BY MS. AMBER ARMSTRONG TO ACCEPT THE CONTRACT FOR FY17 FINANCIAL SERVICES WITH THE OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES, AGENCY BUSINESS SERVICES (OMES ABS)

VOTING AYE: Amber Armstrong

Ross Barrick
Jim George
David Hall
Danny Hancock
Larry Herzel
Curtis McCarty
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Chris Henderson
Joe McKenzie

Mr. Hall asked if the Commission could stop and amend the budget that was just approved to include the increased amount due. Mr. Neal determined the Commission could revisit an item already on the agenda that had action taken.

MS. AMBER ARMSTRONG MADE A MOTION WITH A SECOND BY MR. DANNY HANCOCK TO REVISE THE BUDGET BY INCREASING THE LINE ITEM FOR OMES ABS FINANCIAL SERVICES BY \$2098.00 IN THE NEWLY APPROVED BUDGET

VOTING AYE: Amber Armstrong
Ross Barrick
Jim George
David Hall
Danny Hancock
Larry Herzel
Curtis McCarty
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Chris Henderson
Joe McKenzie

Discussion and possible action on a request to change the Oklahoma Department of Labor representative to the Alternative Fuels Program Technical Committee from Mr. Terrance Hellman to Ms. Angelia Cobble

Mr. Ross Barrick stated Mr. Hellman started as the Oklahoma Department of Labor (ODOL) member on the committee. His alternate was Mr. Robert Lassiter. He noted around the first of the year, Mr. Hellman was assigned different responsibilities within ODOL. He added Ms. Cobble was in attendance

at the meeting on May 25, 2016. He noted the request was from ODOL to have her replace Mr. Hellman and continue with Mr. Lassiter as the alternate. Mr. Barrick and Mr. Williamson both stated they were okay with the change.

MR. ROSS BARRICK MADE A MOTION WITH A SECOND BY MR. CARY WILLIAMSON TO ACCEPT MS. ANGELIA COBBLE AS THE PRIMARY REPRESENTATIVE FROM THE OKLAHOMA DEPARTMENT OF LABOR ON THE ALTERNATIVE FUELS PROGRAM TECHNICAL COMMITTEE, REPLACING MR. TERRANCE HELLMAN

Ms. Armstrong noted the language in the email request stated she would serve as Mr. Hellman's alternate until approved by the Commission. Ms. Hehnly stated you had to read the entire email chain and that it was explained due to the agency's rules Ms. Cobble could not serve on the committee with the ability to provide a motion or vote, until approved by the Commission, but was welcome to come to the meetings and take part in the discussion.

VOTING AYE: Amber Armstrong
Ross Barrick
Jim George
David Hall
Danny Hancock
Larry Herzel
Curtis McCarty
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Chris Henderson
Joe McKenzie

NEW BUSINESS:

There was no new business.

PUBLIC COMMENTS:

Mr. Albert Janco, P.E. addressed the Commission. He stated there was significant precedence in Oklahoma for state agencies promoting and participating in education and continuing education, connected with or for customers of the particular state agency. He cited three examples of training sponsored by state agencies. He stated he wasn't sure why it was such a problem for the OUBCC to continue in the tradition of other state agencies doing basically the same thing. He stated the OUBCC should move forward with whatever it took to educate its consumers or constituency, including the general public, inspectors or licensed people. Mr. Timberlake thanked Mr. Janco for his support and continued interest in the OUBCC.

Mr. Jerry King, with the City of Oklahoma City addressed the Commission. He stated he wanted to propose an online training program for code inspectors. He added inspectors around the state may not

be able to travel to the regional meetings, which only covered specific topics and did not get into a comprehensive training program for inspectors. He felt it would be an excellent way to approach it and hoped the OUBCC would entertain that idea. He stated after seven years of the agency being in place, the municipal inspectors were still on their own when it came to inspector training and becoming certified and competent to pass the national certifications. He asked why the OUBCC would continue to want to expand the scope of their educational endeavors into continuing education when training for inspectors had not been addressed. He stated he wanted to address Ms. Armstrong's comments on the modular training when a new code was adopted. He stated the OUBCC should not go to continuing education at that point, the regular training program would need to have curriculums changed for the new code. So that new inspectors would get the proper training and if they just get continuing education after thirty-six months what kind of a training program would that be. He noted the Construction Industries Board regulated the inspectors for the State of Oklahoma and already had a continuing education program in place that required six hours of continuing education every year for code inspectors so there was no need for the OUBCC to get into that. He added there were plenty of agencies and groups that do that training.

Mr. King and the Commission discussed an online program and if that was sufficient or if some one-on-one training was needed; training needs for inspectors to be comprehensive not piece-meal; the need for inspectors to study on the job and on their own; who were the other agencies Mr. King mentioned in his remarks that provide continuing education training; and the OUBCC competing with private enterprise to provide continuing education training and that by providing it, the OUBCC took away the reason to have the private organization. They discussed Mr. King's thoughts on the difference between continuing education and training. He stated training was to get them from an entry level position all the way to where they were competent and qualified to sit for a certification exam. He added continuing education classes typically covered the differences between the code cycles and training on the current code; and the possibility of an inspector to be trained completely online without setting foot on a jobsite or if on-the-job experience was needed. Mr. King added there should be a module on ethics. Mr. Timberlake thanked him for his comments.

Mr. Kelly Parker with GWS addressed the Commission. He stated he wanted to speak to the Commission about the OUBCC website. He noted the website allowed for cities and municipalities to put their amendments on the site. He stated he did an inspection for a site in the City of Stillwater. He stated the builder contacted him after the inspection and stated for some of the things that didn't meet code, he didn't have to follow the guidelines. Mr. Parker said the builder told him weep holes were not part of the City of Stillwater inspection as well as venting of the bathroom vent fans through the roof. Mr. Parker stated he told the builder that he did have to comply because they were part of the state minimums. The builder noted it was not correct, because the City of Stillwater's attorney stated they did not have to abide by the state minimums because the City had adopted the codes prior to the State's adoption of the code and the OUBCC statutes made no revision for repealing or suspending any city adopted code that was still valid. He noted the OUBCC's website showed the City of Stillwater's code adopted. He stated the OUBCC statute required the creation of a website for all building codes adopted by the Commission that provided for a method of listing all codes adopted by a state agency or subdivision of the state containing higher standards and requirements than the codes adopted pursuant to the Oklahoma Uniform Building Codes. He stated the website listed a notice that stated no attempt was made to verify the codes listed met or exceeded the minimum standards adopted by the OUBCC, which was against the statute requirements. He stated he felt the OUBCC should only publish codes from the jurisdictions that exceeded the minimums. There was discussion between the Commissioners

and Mr. Parker regarding the intent of the agency was to adopt more uniform code. Before the discussion went any further, Mr. Neal noted there was not an agenda item to discuss the topic, the time period was for anyone from the public to present to the Commission, but questions should only be to clarify statements and should not be a discussion without running counter to the Open Meeting Act. Mr. Timberlake asked Mr. Parker to finish his comments. Mr. Parker noted he had finished his comments and the packet of information provided summed up what was on the website that was less stringent and should be corrected. He noted he only specified the City of Stillwater because he happened to do an inspection there.

ADJOURNMENT: (3:16 P.M.)

MR. DAVID HALL MADE A MOTION WITH A SECOND BY MR. JIM GEORGE TO ADJOURN

VOTING AYE: Amber Armstrong
Ross Barrick
Jim George
David Hall
Danny Hancock
Larry Herzel
Curtis McCarty
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Chris Henderson
Joe McKenzie

Minutes approved in the regular meeting on the 19th day of July, 2016

DAVID TIMBERLAKE
David Timberlake, Chairman
Oklahoma Uniform Building Code Commission

PREPARED BY: KATHY HEHNLY
Kathy Hehnly, Executive Assistant
Oklahoma Uniform Building Code Commission

OFFICIAL COPY - *Original with signatures in office file*