

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 FEBRUARY 21, 2017 – 1:30 P.M.

COMMISSION MEMBERS PRESENT:

Amber Armstrong, Ross Barrick, Jim George, Chris Henderson, Larry Herzel, Curtis McCarty, Joe McKenzie, David Timberlake, and Cary Williamson

COMMISSION MEMBERS ABSENT:

Danny Hancock

OTHERS PRESENT:

Billy Pope (OUBCC Staff), Kathy Hehnly (OUBCC Staff), Lindsay Heinrichs (OUBCC Staff), Bryan Neal (Attorney General's Office), LaTisha Edwards (Office of Management and Enterprise Services – Agency Business Services), Mike Ervin (Oklahoma Capitol Strategies), Albert N. Janco, (P.E.), Kenny Whitson (PP 344 Training Center), Tim Yaciuk (Independent Electrical Contractors Association), Scott Hopkins (National Electrical Contractors Association), Mike Means (Oklahoma State Home Builders Association), Mike Bass (Delco Electric), Bryan P. Holland (National Electrical Manufacturers Association - NEMA); Cyndi Lewis (International Code Council), Jeff Sargent (National Fire Protection Association), and Tommy O'Donnell (Plumbers and Pipefitters Training Center)

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 21st day of February, 2017 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, seventy-two (72) people have filed a written request for notice of meetings of this public body.

REPORTS:

CEO Report:

Mr. Billy Pope, Chief Executive Officer reviewed his written report. Mr. Pope introduced the newest staff member, Ms. Lindsay Heinrichs, Administrative Assistant. He noted discussion with the State

Auditor and Inspectors office had begun for the 2016 fiscal year audit. He reviewed two bills that would directly impact the agency and asked Mr. Mike Ervin with Oklahoma Capitol Strategies to provide some more information. Mr. Ervin reviewed Senate Bill 283 and House Bill 1168 in depth, and asked if there were any questions. There were no questions for Mr. Ervin.

Financial Report:

Ms. LaTisha Edwards with OMES, ABS greeted the Commission. She reviewed each of the financial reports for the month of January, 2017, noting the agency was well under budget so far for the fiscal year. There were no questions for Ms. Edwards.

Storm Shelter Technical Committee Update

Mr. Larry Herzel address the commission. He noted the Storm Shelter Technical Committee (SSTC) had met twice so far, once in December and then again on February 1st. He stated the SSTC had agreed to meet on the first Wednesday of each month and the next meeting would be March 1, 2017. He added Mr. Adam Shupe and Mr. Chris Ramseyer were elected as the Chairman and Vice-Chairman of the SSTC, respectively. He noted he was a commission liaison to the SSTC along with Ms. Armstrong and Mr. McCarty. Mr. Herzel stated there was good attendance at both meetings, and the group was very knowledgeable; adding there were interested parties in the audience as well. He went over some of the discussion and information reviewed during the first two meetings and what the SSTC intended to review in the next meeting.

ACTION AND DISCUSSION ITEMS:

Discussion and possible approval of the November 15, 2016 regular meeting minutes

Ms. Armstrong and Mr. Herzel noted they each found some corrections to be made in the minutes that were minor and did not change the intent of the minutes. Both indicated they had provided the corrections to Ms. Hehnly.

MR. CURTIS MCCARTY MADE A MOTION WITH A SECOND BY MR. CHRIS HENDERSON TO APPROVE THE NOVEMBER 15, 2016 REGULAR MEETING MINUTES

VOTING AYE: Amber Armstrong
 Ross Barrick
 Jim George
 Chris Henderson
 Larry Herzel
 Curtis McCarty
 Joe McKenzie
 Cary Williamson
 David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Danny Hancock

Discussion and possible action on altering the frequency of the code adoption cycle (every three or six years) for all building and construction codes, including pending legislation

Mr. Pope reviewed the documents provided for the Commission in their books, which included a copy of Senate Bill 283 as introduced, email discussion with the State of Colorado regarding reciprocity and edition years of the adopted codes, and the September 2012 minutes along with a timeline chart discussed during that meeting regarding the adoption of the 2015 codes. He made a recommendation to postpone and table any action until Senate Bill 283 either passed or failed. Mr. Timberlake agreed with Mr. Pope, noting any action by the Commission would be trumped by the actions taken by the legislature. Ms. Armstrong discussed the motion made at the September, 2012 meeting, stating the motion was to skip the 2012 cycle and adopt the 2015 code cycle timeline as presented. She noted what had been approved by the Commission previously was the timeline which indicated the Commission would start the 2018 code review in 2017. She asked if the Commission needed to take action to suspend that motion until the legislation either passed or failed. There was some discussion on her question and if the motion stated the Commission was going to a three or six year cycle. Mr. Herzel noted the timeline he created for that meeting was only an example but the Commission's intent was not to bring the 2018 codes into the motion.

MR. CURTIS MCCARTY MADE A MOTION WITH A SECOND BY MR. JOE MCKENZIE TO SUSPEND THE 2012 TIMELINE AND POSTPONE ANY FURTHER ACTION ON THE CODE CYCLES UNTIL THE CURRENT LEGISLATIVE SESSION IS COMPLETED

Mr. Barrick asked where the 2017 National Electrical Code® (NEC®) fell in place on the timeline presented in 2012, noting there was nothing to represent the NEC® on the timeline. Ms. Armstrong noted the International Building Code® (IBC®) shown on the timeline represented all the 2018 commercial codes, including the 2017 NEC®.

VOTING AYE: Amber Armstrong
 Ross Barrick
 Jim George
 Chris Henderson
 Larry Herzel
 Curtis McCarty
 Joe McKenzie
 Cary Williamson
 David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Danny Hancock

RULEMAKING ACTION ITEMS:

Public hearing and discussion (including but not limited to the acknowledgement of receipt of and discussion of public comment forms received to date on Chapter 20, Adopted Codes, Subchapter 1 - IBC 2015, 748:20-1-18, number 5, and of other written public comments, if any) with a possible vote on permanent rulemaking on: Chapter 20, Adopted Codes, Subchapters 1 (IBC®, 2015), 3 (IFC®, 2015), 5 (IRC®, 2015), 7 (IEBC®, 2015), 9 (NEC®, 2014), 11 (IFGC®, 2015), 13 (IMC®, 2015), and 15 (IPC®, 2015)

Mr. Timberlake stated before the Commission discussed permanent rulemaking, the Commission needed to acknowledge receipt of the two public comment forms under tab "F" in the book. He stated he would entertain any discussion on those forms. Mr. Neal asked for the record if the two public comments received were the only ones to date. Ms. Hehnlly replied that was correct and there had been no verbal comments made as of yet.

Mr. Timberlake noted both public comment forms were the same and recommended changing the edition year of the International Energy Conservation Code® (IECC®), in the referenced standards section of the 2015 Edition of the International Building Code® (IBC®, 2015) from 2006 to 2015. The Commission confirmed neither the submitters of the public comment forms nor any representatives for them were present at the public hearing to provide any additional input. Mr. Neal reviewed the Commission's statutes which empowered them to adopt building and construction codes. He added the language that accompanied the IECC® included minimal references to building and construction codes, adding the language talks about the IECC® being a design document. He stated taking the document as a whole there was some question as to it meeting the authority granted by the Legislature. Mr. Herzel noted the Commission was led to believe they did not have the authority to review a newer version of the IECC®. Mr. Timberlake asked for any further comments on the public comment forms. He confirmed the public comment forms did not require any action or vote. Mr. Timberlake moved on to the rulemaking action. He noted he would open each subchapter by their heading and ask for any public comments individually. He added the Commission would wait until the conclusion of the review to have a vote on the adoption of the rules. He noted if there was discussion that required a change in anything, those changes would be pulled out and dealt with separately. Mr. Timberlake reviewed and called for discussion on subchapters 1 (IBC®, 2015), 3 (IFC®, 2015), 5 (IRC®, 2015), 7 (IEBC®, 2015), 9 (NEC®, 2014), 11 (IFGC®, 2015), 13 (IMC®, 2015), and 15 (IPC®, 2015). There was no discussion or public comments on any of the subchapters.

MR. LARRY HERZEL MADE A MOTION WITH A SECOND BY MR. JOE MCKENZIE TO ADOPT THE MODIFICATIONS TO CHAPTER 20, ADOPTED CODES, SUBCHAPTERS 1 (IBC®, 2015), 3 (IFC®, 2015), 5 (IRC®, 2015), 7 (IEBC®, 2015), 9 (NEC®, 2014), 11 (IFGC®, 2015), 13 (IMC®, 2015), and 15 (IPC®, 2015)

VOTING AYE: Amber Armstrong
 Ross Barrick
 Jim George
 Chris Henderson
 Larry Herzel
 Curtis McCarty
 Joe McKenzie
 Cary Williamson
 David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Danny Hancock

NEW BUSINESS:

There was no new business.

PUBLIC COMMENTS:

Mr. Tim Yaciuk, Executive Director for the Independent Electrical Contractors Association (IECA) addressed the Commission. He stated he spoke to the Commission at the November, 2016 meeting regarding the adoption of the 2017 National Electrical Code® (NEC®, 2017). He voiced his disappointment with the decision made to await the outcome of the pending legislation. He added the electrical industry was evolving at a rapid pace and by skipping and not reviewing a code cycle, which was the sole focus of the Commission, a disservice was done to the public. Mr. Yaciuk stated public safety was number one and the electrical industry was one where a mistake could kill workers or a building occupant and by not adopting the NEC®, 2017 the State was not keeping up with the technology and the minimum standards for the industry.

Mr. Scott Hopkins, Executive Director of the Oklahoma Chapter of the National Electrical Contractors Association, addressed the Commission. He stated he sent out an email to all the Business and Commerce Committee last week, to inform them that on Senate Bill 283, it wasn't appropriate for the Legislature to micromanage what a Governor appointed Board had been given the authority to do. He added he echoed Mr. Yaciuk's statement. He noted he was fighting at the Capitol to keep the Commission in the business doing their job that the members in the room had pushed so hard to create. He added it was difficult for him when he was talking to his association members, to answer the question on why the Commission was not reviewing the code. He asked the Commission what he should tell those asking. He noted to lump every code cycle in a generic format was not appropriate. He stated the bottom line was that industry was not asked. He felt the Commission in doing its job, should be contacting the industry. He recommended the Commission appoint panels to discuss the issues and come up with a resolution.

Mr. Bryan Holland working for NEMA Codes and Standards addressed the Commission. He stated NEMA stood for the National Electrical Manufacturer's Association. He noted his group represented 350 manufactures of electrical, alarm, and communication products. He noted the companies employed around 400,000 American workers and contribute around 150 billion dollars to the US Economy. He noted as a SDO (Standard Developing Organization) they published 600 nationally recognized electrical standards and were heavily engaged in the development of the I-Codes and NFPA standards, specifically the NEC®. He thanked the Commission for the agenda item and allowing stakeholders to express their concerns about the possibility of moving from a three-year to a six-year cycle. He noted it was not something new or unique to Oklahoma and it was a strategic initiative from the National Association of Home Builders to undermine the three-year process at the national level. He added NEMA did not consider the Home Builders Associations as adversaries, rather as collation partners in the construction industry, but believed they were misinformed on the harm a six-year code adoption cycle could cause the citizens of this state and all the stakeholders, including themselves. He noted their argument was that the three-year cycle no longer had merit and didn't represent the construction industry properly. He noted he agreed with that statement but felt the argument he had was not that the

three-year cycle was too short, it was too long. He added with innovation in technologies, electrical product safety, resilience, and energy efficiency was being updated every day. Mr. Holland stated that reasonably, a one-year cycle was not practical; and a six-year cycle was irrational. He added the three-year cycle was a happy compromise in the middle and has worked in all 50 states for a very long time. He added it was only recently that some states had chosen to move away from the three-year cycle and there had been bad consequences from those decisions. He thanked the Commission for the opportunity to speak. Mr. Timberlake asked Mr. Holland where his information regarding issues with states moving to a six-year cycle was coming from. Mr. Holland noted he personally represented eleven states in his organization and had relationships with different groups as well as Home Builders Associations in each of his states. He noted he had seen the issue come up in those states and knew what the concerns were, which was that the three-year cycle had no merit and was the profit motive of manufacturers with the code update process. He noted he agreed with the manufacturers profit motive as those profits enhanced electrical safety and reduced fires and allowed organizations to exist that saved lives every day. He added home builders also made a profit and were manufacturers. He added the electrical manufacturers created their products in a factory, where home builders manufactured their products in the field. He noted as an example, no one wanted a nine-year or six-year old cell phone or a brand new cell phone with features from six years ago or a brand new car that performed like a car did six years ago. He added no home owner or building owner wanted a building that had life and fire safety, the resilience or energy efficiency from six years ago. He noted a six-year cycle would hurt the industry in Oklahoma.

Ms. Cyndi Lewis with the International Code Council addressed the Commission. She stated she wanted to comment on the notion that there were many states moving to the six-year cycle. She added in the United States there were only four states (Utah, North Carolina, Minnesota, and Wisconsin) that had statutory language requiring a six-year cycle, adding the language in each of the four states dealt with the International Residential Code® only. She noted she would like to see the OUBCC review the codes every three years instead of burdening the jurisdictions with determining stringency, as a lot of them didn't have the resources to make those determinations. She noted the OUBCC was a well-respected governing body. She added everyone had total confidence that the OUBCC was the reviewing body and the jurisdictions wanted to follow the OUBCC. Mr. McCarty asked if Ms. Lewis was aware of any other states that may not have legislative statutory language that required a six-year, but a governing body similar to the OUBCC, had rules in place that make it a six-year code cycle. Ms. Lewis noted it was news to her a month or so ago that there had been a decision in 2012 to move to a six-year cycle. She added Arkansas had no statutory requirements, but was on a six-year cycle. She added Texas adopted the energy code on a six-year cycle through the State Energy Conservation office. Mr. McCarty asked if she was aware of any other states nationwide that were on a six-year cycle. Ms. Lewis stated she was not aware of any.

Mr. Jeff Sargent with the National Fire Protection Association (NFPA) addressed the Commission, noting his association published the National Electrical Code® (NEC®). He expressed the support of NFPA for the state to move to a three-year regular adoption cycle. He added one of the challenges standards developers had was the fact that they had to represent all of the stakeholders involved and keep up with technology advancements. He stated the technology in the electrical industry was changing daily. He noted standard developers kept up with the challenge by updating the codes on a three-year basis and had been doing so since 1952. He added the next challenge was to get the states to adopt those codes on a timely basis. He added it was disappointing the code cycle determination had ended up in the legislature because OUBCC were the construction experts in the state and knew best

what was good for Oklahomans. He added the OUBCC had done what was in the best interest of Oklahomans in the past. He stated the pending legislation was a step backwards. He thanked the Commission for their time.

ADJOURNMENT: (2:19 P.M.)

MS. AMBER ARMSTRONG MADE A MOTION WITH A SECOND BY MR. JOE MCKENZIE TO ADJOURN

VOTING AYE: Amber Armstrong
Ross Barrick
Jim George
Chris Henderson
Larry Herzel
Curtis McCarty
Joe McKenzie
Cary Williamson
David Timberlake

VOTING NAY: None

ABSTAIN: None

ABSENT: Danny Hancock

Minutes approved in the regular meeting on the 18th day of April, 2017

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.*