STATE OF NEW YORK - DEPARTMENT OF STATE

DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

MINUTES - STATE FIRE PREVENTION AND BUILDING CODE COUNCIL

Minutes of Wednesday, June 20, 2012 meeting of the New York State Fire Prevention and Building Code Council held at One Commerce Plaza, 99 Washington Avenue, Albany, New York, Conference Room 505 and 123 Williams Street, New York City, New York, Conference Room 19th floor commencing at 10:05 a.m. The following Council members, designees and staff were in attendance:

PRESENT:

Ronald Piester
Stephen Brescia
Michael Cambridge
Pablo Davis
Carmen Dubaldi
John Flanigan
Maria Guizzotti
Robert Hankin
Gary Higbee
John Lee
Joseph Sauerwein
John Torpey
Thomas Vanderbeek

ALSO PRESENT:

Raymond J. Andrews
Michael Auerbach
Joseph Ball, Esquire
Catherine Karp

Agenda Item 1 – Welcome

Ronald Piester called the meeting to order and welcomed everyone. He noted that there were changes to the membership of the Council. Ray took a roll call attendance and noted that a quorum was present.

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Agenda Item 2 - Minutes of the March 21, 2012 Meeting

Motion by Stephen Brescia to approve the minutes of the March 21, 2012 meeting, seconded by John Flanigan, approved unanimously with Robert Hankin and Thomas Vanderbeek abstaining because they had not attended the meeting.

Agenda Item 3 – Public Comment Period

Ray Andrews noted that there were public speakers who were present to address the Council regarding adoption of the Temporary Use Appendix A. Ray suggested that the speakers address the Council when the agenda item was presented, which was accepted.

Agenda Item 4 - Code Clarifications

Ray provided an overview and noted that there were two issues; one regarding reference to the wrong table in the Fire Code Section 3404.2.9.5.1.1 and the second in the Existing Building Code Section 1301.6.2 regarding formulas for tabulated area that was expressed differently in the Existing Building Code and the Building Code. Ray noted that the correct formula is in the Building Code. Ron confirmed that no action on the part of the Council was necessary and that the intent was informational and these changes would be posted on the Codes Division's website.

Agenda Item 5 - Code Change Adoptions

<u>Proposed Appendix A – Temporary Use of Buildings</u>

Ron noted that there were three items to address. The first dealt with proposed Appendix A, the Temporary Use of Buildings. Ray noted the intent was to allow buildings of certain occupancy types to temporarily use the structure for a different type of occupancy. This included agricultural buildings which are exempt from construction requirements and are found in the "U" (utility and miscellaneous) occupancy group. Ray noted that the issue of processing food has two categories by regulation; with employees and without. Without employees it is considered an agricultural building. If there are employees where food is processed, it is a factory. Concerns raised included the fact that allowing the public access to buildings that are not built to construction standards could be problematic in terms of safety. To address these concerns the Appendix was proposed and brought to the Council in March 2012, at which point some concerns about the number of occupants and lack of inspections and oversight were raised. Temporary use of F occupancies was also removed.

Ray then introduced the first speaker, Helen Thomas, from the New York State Maple Producers, who noted that her Board supported the Appendix and the opportunity to have maple sap houses safe and visited. She requested that permitting be a one-time process unless there were changes to the facility. The next speaker

was John Rusnica, an attorney with the Department of Agriculture and Markets, who had the same concerns regarding the permit.

Ray noted that Parts 1203 and 1204 address operating permits and were being considered for updating, but until that occurred this issue needed to be addressed in the proposed Appendix A. He further noted that the most significant change since the last Code Council meeting involved the number of occupants and for the most part limiting the time for a temporary occupancy to 60 days within a 12-month period.

Joseph Sauerwein made a motion to amend the proposed Appendix A that:

> The proposed appendix be modified in Section A-102.1.1 to include the text proposed by Agriculture and Markets, except that the code enforcement official may reinspect the building periodically, not annually, to ensure the conditions remain the same.

Stephen Brescia seconded. The motion carried unanimously.

There was discussion regarding the issue of a cap on the more than 60 days a year allowance for mercantile uses. Pablo Davis explained there was concern that small agricultural sales such as cheese were sold in very small spaces and were not limited to a production season. Ray noted that is why the building code official, on a case-by-case municipal-specific basis determines how long such a mercantile occupancy does business.

Joseph Sauerwein made a motion with suggested wording from Joseph Ball that:

> The proposed Appendix A be modified in Section A102.1.3 to state as per the exception in alternative two which states "The temporary mercantile use of buildings or spaces of less than 401 square feet may exceed 60 days."

John Flanigan seconded.

There was discussion on the wording, alternatives and the responsibilities of the code official. The motion carried unanimously.

A third public speaker, Tony Van Glad, a maple producer in Schoharie County and a member of the New York Maple Producers' Association, addressed some of the concerns raised regarding time limits and wording.

Robert Hankin made a motion to:

> Modify the regulation to specify a calendar year rather than twelve months.

Ron Piester called for a second. Seeing none the motion died.

John Torpey made a motion that:

> The Council gives conceptual approval of the proposed Appendix A as amended for submittal to the Governor's Office and for staff to work on the appropriate documents to go with the Appendix.

Stephen Brescia seconded. Motion carried with one negative vote.

Ron Piester thanked the Council and noted that the effort to address this issue had been going on for two years and that it began with a conversation between the Department of State, Department of Agriculture and Markets and the Maple Producers' Association. Assistance was provided by the New York State Farm Bureau, State Fire (within the Division of Homeland Security and Emergency Services), Department of Labor, and the Department of Health.

Consensus Changes to the Uniform Fire Prevention and Building Code

Ray Andrews provided an overview on the topic of adding allowable spans for lintels supporting masonry veneers back into the Residential Code. Ray noted it had been in the Code but it had been mistakenly not included in the last printing. Ray noted that procedurally this issue had gone through public comment and there were no comments and therefore it was being brought to the Council for a final vote.

John Flanigan made a motion that:

1. The Code Council finds and determines that the adoption of the rule that amends subdivision (c) of Section 1220.1 of Title 19 NYCRR, relating to allowable spans for lintels supporting masonry veneer, as set forth in the Notice of Proposed Rulemaking published in the State Register on April 4, 2012:
    A) Will not have a significant environmental impact;
    B) Will not have a significant adverse effect on any significant fish or wildlife habitat, scenic resource of statewide significance, important agricultural land, or area included in an approved local waterfront revitalization program; and
2. That the Code Council authorize Raymond J. Andrews, or any other employee of the Department of State's Division of Code Enforcement and Administration, to sign and deliver the State Environmental Quality Review Short Environmental Assessment forms, the State Environmental Quality Review Negative Declarations, the New York State Department of State Coastal Management Program Coastal Assessment forms, and the certifications of no significant coastal impact with regard to this rule; and
3. That the rule amending subdivision (c) of Section 1220.1 of Title 19 NYCRR, relating to allowable spans for lintels supporting masonry veneer, as set forth in the Notice of Proposed Rulemaking published in the State Register on April 4th be approved.

Stephen Brescia seconded. The motion passed unanimously.

Design Values for Southern Pine

Ray stated that the purpose of the presentation was to provide the Council with information and possibly take future action. It was discovered that the Southern Pine's structural values were below what was expected and found in the past, so the structural requirements in the code are not sufficient. Sam Francis,

Northeast Regional Director of the American Wood Council will be asked to present the issue to the Code Council in the future.

Ron Piester noted that at the International Code Council Board of Directors meeting in April they opted not to exercise their authority to take emergency change measures. They encouraged the submitter of the proposal to follow the ICC process, which had been done.

Agenda Item No. 6 - More Restrictive Local Standards: Town of Ulster Local Law #2 of 2012

Ray explained that the petition dealt with alarm systems. It was a requirement for all commercial buildings with an occupancy of 50 or more and had retroactive provisions. Paul Andreassen, the building code official from Ulster and Michael Auerbach, a staff member who prepared the distributed memorandum, presented information.

Mr. Andreassen noted the origination of this local law were many false alarms. Ron Piester questioned whether the Town of Ulster in its petition had established special conditions in the context of Article 18 of the Executive Law. Michael Auerbach said that he did not think that they had established special conditions and that there was nothing in the local law to suggest that there were special conditions

Joseph Sauerwein noted that there were many confusing points within the proposal and that some inconsistencies would be codified if accepted. He further noted that there was a potential of increasing false alarms.

Robert Hankin made motion that:

> The Council turn down the petition from the Town of Ulster for permission to have an MRLS, based on the determination that the Town had not established the existence of special conditions that warrant the adoption of this particular more restrictive local standard. Also, the Town had not established that this more restrictive local standard complies with existing fire protection engineering standards.

John Lee seconded. The motion passed unanimously.

Agenda Item No. 7 - Next Uniform Code and Energy Code Adoption Update

Ray described what each technical sub-committee was doing. He noted that staff were reviewing the International Code Council (ICC) 2009 and 2012 editions, as well as what is in the current 2010 New York codes, and paying attention to the New York- specific modifications. Ray noted that by September some of the codes would be complete and presented to the Code Council but that an overall schedule had not been prepared because the larger codes need more review.

Robert Hankin inquired whether a list of the members of the subcommittees and copies of the meeting minutes that have been completed could be provided. Ray noted that both of the requested items were already on the DOS website. Ray noted that when meetings were scheduled to be held an agenda is added to the website so that the public can see what was going to be discussed. After each meeting the minutes are added to the website.

Agenda Item No. 8 - Future Meetings

Ray gave the dates for future meetings which are also posted on the Department of State's website. The September meeting was rescheduled to the 19th.

Agenda Item No. 9- Other Business

Ron asked if there was other business to be addressed. There was none.

Motion by Robert Hankin to adjourn, seconded by John Flanigan. The motion passed unanimously and the meeting adjourned at 11:45.

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