

STATE OF NEW YORK - DEPARTMENT OF STATE
DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

DRAFT MINUTES - STATE FIRE PREVENTION AND BUILDING CODE COUNCIL

Minutes of the Wednesday, September 19, 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; 123 Williams Street, New York City, New York, Conference Room 20th floor and 65 Court Street, Buffalo New York, Conference Room 208 commencing at 10:10 a.m. The following Council members, designees and staff were in attendance:

PRESENT:

Raymond J. Andrews
Stephen Brescia
Carmen Dubaldi
John Flanigan
Maria Guizzotti
Robert Hankin
Gary Higbee
John Lee
Willie J. Lightfoot
Joseph Sauerwein
Bryant D. Stevens
John Torpey
Thomas Vanderbeek

ALSO PRESENT:

John Addario
Michael Auerbach
Joseph Ball, Esquire
Joseph Hill
Catherine Karp

Agenda Item 1 – Welcome

Raymond J. Andrews called the meeting to order and welcomed everyone. Ray noted that Ron Piester, the normal designee for the Code Council, was at a public hearing today and could not attend and that therefore Ray was representing the Secretary of State at this meeting. He took a roll call attendance and noted that a quorum was present. The agenda was revised, with no objections, to address the More Restrictive Local Standards first and then the code updates for the Uniform Code and the Energy Code.

Agenda Item 2 - Minutes of the June 20, 2012 Meeting

Motion by Robert Hankin to approve the minutes of the June 20, 2012 meeting, seconded by John Flanigan, approved unanimously.

Agenda Item 3 – Public Comment Period

Ray Andrews noted that there were public speakers who were present to address the Council regarding the More Restrictive Local Standards petitions. Ray suggested that the speakers address the Council when the agenda items were presented, which was accepted.

Agenda Item 4 - Code Clarifications

Ray Andrews provided information to the Council regarding code clarifications, including typographical errors, etc. that had been found over the last few months. Ray noted that these would be addressed as clarifications on the Department of State Internet site. Ray noted this agenda item was for informational purpose only and no action was required and asked if there were any questions. Seeing none, the Council moved to the next agenda item.

Agenda Item 5 - More Restrictive Local Standards

Ray Andrews provided an overview and gave historical background regarding the Energy Law and changes effective at the beginning of 2011. Ray noted that the Energy Law requirements are different than the Uniform Code, specifically that there need not be special conditions and that the petition does not have to be submitted by the chief executive officer. What must be shown is that the proposed energy code is more restrictive than what the state energy code provides.

--Village of Tarrytown – Local Law #5 of 2012--

Ray explained that the submitted material dealt with the Energy Conservation Construction Code of New York State (ECCCNYS) 2010 and the adoption of a more restrictive energy code based on use of the most current International Energy Conservation Code (IECC) (2012) and introduced Michael Blau who made remarks and provided information about the petition. There was discussion of whether their local standard was in fact more restrictive. Joe Hill and Michael Auerbach noted that on the whole the 2012 IECC is more restrictive than the 2010 ECCCNYS, although NYS has some provisions that are more restrictive. There was discussion on how more restrictive energy codes can interact with other codes; for instance, tighter buildings may need greater ventilation. Further it was noted that Tarrytown's MRLS adoption mandates the most current IECC when each edition is adopted; the next is expected in 2015.

Thomas Vanderbeek made a motion:

That the Code Council determines that the Village of Tarrytown local energy code has some provisions that are less restrictive than the ECCCNYS, but that the Tarrytown local energy code is, as a whole, more restrictive than the ECCCNYS; provided that the determination that the Tarrytown local energy code is, as a whole, more restrictive than ECCCNYS is subject to the following conditions:

- (1) both the ECCCNY and the Tarrytown local energy code shall be and shall remain in effect in the Village of Tarrytown;
- (2) in those situations in which the provisions of the Tarrytown local energy code are more restrictive than the corresponding provisions of the ECCCNY, the Tarrytown local energy code provisions will apply;
- (3) in those situations in which the provisions of the Tarrytown local energy code are less restrictive than the corresponding provisions of the ECCCNY, the provisions of the ECCCNY will apply;
- (4) without limiting the scope of conditions (1), (2), and (3) above, any building that is exempt from the Tarrytown local energy code by reason of its location in a locally designated historic district shall remain subject to the ECCCNY;
- (5) the Code Council's determination that the Tarrytown local energy code is, as a whole, more restrictive than ECCCNY shall be effective only so long as the Tarrytown local energy code is the 2012 IECC, and the Code Council's determination shall cease to be effective if and when the Tarrytown local energy code is or becomes, whether by its own terms or by reason of further action of the Village of Tarrytown, any other version or edition, past or future, of the IECC; and
- (6) that in instances where the ECCCNY is more restrictive than the Tarrytown code, those differences shall be listed and provided to purchasers and users of the Tarrytown code.

John Flanigan seconded the motion which was approved unanimously. The Council noted that the village must enforce requirements of the current New York State code that are more restrictive. Michael Blau noted that the village would develop an information sheet that identifies those items.

--Village of Mastic Beach – Local Laws #13, #14 and #15 of 2012--

Ray provided information on the petition which addressed housing, fire and property maintenance provisions. Ray referred to the material that staff prepared and noted that there was no representative from the village present.

Robert Hankin made a motion:

To deny the petition for all three local laws based upon the fact that the village did not meet submittal (time) requirements required for approval by Executive Law. Further that the village work with Department of State, Division of Code Enforcement and Administrative staff to rewrite a local law that clearly addresses provisions which are more restrictive and defines the special conditions in their municipality.

Gary Higbee and Bryant D. Stevens seconded the motion which was approved unanimously.

--City of Ithaca – Local Law 12 of 2012--

Ray provided an overview of this item which requires the use of a whole building sanitary trap, and prohibits certain venting requirements (e.g. stack type air admittance valves) due to use of the trap. Ray noted that there were two speakers and introduced Julius Ballanco, representing Studor Corporation

and Lewis DuBuque, Executive Director of the New York State Builders Association. Both spoke in detail about the problems with building traps. Marc Albanese from the City of Ithaca spoke about the petition and the special conditions being Ithaca's topography and consistent requirement for building traps that necessitate the more restrictive venting requirements.

Robert Hankin made a motion:

That the Council turn down the petition from the City of Ithaca based on the determination that the city has not established the existence of special conditions and that the city has not established the proposed standard comply with recognized engineering standards that warrant adoption of this particular more restrictive local standard. That the city has not established that this more restrictive local standard conforms to existing engineering standards and accepted engineering and fire prevention practices.

Stephen Brescia seconded the motion. The motion was approved unanimously.

Agenda Item Number 6 - Code Change Adoption

Ray Andrews provided an overview and introduced Joseph Hill who provided a report on Energy Conservation Construction Code of New York State (ECCCNYS) and a synopsis of concerns. Discussion about specific provisions ensued. No action by the Council was required.

Agenda Item Number 7 - Next Uniform Code and Energy Code Adoption Update

Ray Andrews provided information as to the status of code updates. Ray noted that the schedule had been accelerated based upon the Governor's request that updated commercial portions of the ECCCNYS be effective by next summer. The other codes are on still on the original schedule, although how this can be expedited is being considered. Ray noted that a schedule for 2013 Code Council meetings had been distributed and that provisions for video teleconferencing from Albany, Buffalo and New York City had been made.

Other Business

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

Motion by John Flanigan to adjourn, seconded by John Torpey. The motion passed unanimously and the meeting adjourned at 12:35.