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**STATE OF NEW YORK - DEPARTMENT OF STATE  
 DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION  
 DRAFT MINUTES - STATE FIRE PREVENTION AND BUILDING CODE COUNCIL**

DRAFT Minutes of the Wednesday, November 18, 2014 meeting of the New York State Fire Prevention and Building Code Council commencing at 10:10 a.m., held at:

One Commerce Plaza, 99 Washington Avenue, Albany, New York, Conference Room 505;  
 123 Williams Street, New York City, New York, Conference Room 231; and  
 65 Court Street, Buffalo New York, Conference Room 208.

The following Council members, designees and staff were in attendance:

**COUNCIL MEMBERS PRESENT:**

- Ronald Piester, Presiding
- Nicholas Altieri
- John Flanigan
- Shawn Hamlin
- Judith Kennedy
- Paul Martin
- Vincent Rapacciuolo
- John Torpey
- William Tuyn
- Keith Wen

**ALSO PRESENT:**

- Mark Blanke
- Rich DiGiovanna
- Jasmine Liverpool
- Miriam McGiver

**Agenda Item 1 – Welcome.**

Ronald Piester called the meeting to order and welcomed everyone. Ron explained a change in the video system that now requires an audible request to speak from those who wish to speak in the Buffalo and NYC locations. Ron introduced a new member to the Code Council, Mayor DeBlasio of NYC, represented today by his designee Keith Wen from the NYC Department of Buildings. Keith Wen thanked him, and said he looks forward to working with the members of the Code Council. Ron introduced two colleagues from the office of the Counsel with us today, Richard DiGiovanna, sitting in for Joe Ball, and Jasmine Liverpool.

At Ron’s request, Mark Blanke introduced the Agenda and items in documents that have been submitted to the Code Council members for consideration prior to this meeting. Mark Blanke took a roll call attendance, and noted that a quorum was present. Ron requested a change to the agenda: Agenda Item No. 6, Uniform Code Change Adoption: Sparking Devices, is related to legislation that was enacted by the Legislature and recently delivered to the Governor’s office. The Governor has not yet taken action on that, and so it would be premature for the Council to take any action. Ron asked for a motion to amend the agenda postponing Agenda Item No. 6 to a future meeting. John Flanigan moved the motion; seconded by Paul Martin. There was some discussion about the meaning of the legislation. The motion passed unanimously.

### **Agenda Item 2 - Minutes of the August 20, 2014 meeting.**

Ron introduced the minutes. Nick Altieri requested one adjustment, changing the adjournment time on the last page from 12:22 am to 12:22 pm. A motion was made to approve the minutes as corrected by Nick Altieri by John Torpey, seconded by Nick Altieri, approved unanimously.

### **Agenda Item 3 – Public comment.**

Mark Blanke introduced 13 speakers who had signed up to address the Code Council.

- The first speaker was Timothy Reilly representing New York Association of Fire Equipment Companies, presented information about fire suppression for gas stations, including of states in the Northeast and businesses like BJ's Wholesale Club that require fire suppression at gas stations. Mr. Reilly requested that the mandate for fire suppression at gas stations be included in the next update of the NYS Uniform Code and Energy Code.
- The next two speakers introduced, John Graziosi of Gerber Homes and Dominic Marinelli of the United Spinal Association who asked to speak about accessibility requirements in the Building Code, had asked to speak from the Buffalo location, where high snowfall was causing traffic delay; they were not present.
- The next speaker was Sean Maxwell, representing Steven Winter Associates, speaking on blower-door infiltration testing for residential buildings. Mr. Maxwell spoke about Section R402.4.1.2, testing for envelope air leakage. He stated that blower-door language in the code is appropriate for single-family homes but is not practical for multifamily buildings. He will submit language suggested by New York's multifamily building industry; it proposes a method used by NYSEDA for its Multifamily Performance Program, the EPA's Energy Star for Multifamily High Rises, LEED for Homes Mid-Rise; and in ASHRAE 62.2-2013.
- The next speaker was Dottie Harris, representing Build Safe New York Alliance, speaking in support of the adoption of the 2015 International Codes for the next NYS code update. The position of the Alliance is that this would serve to ensure the safety of the public and the first responders in the built environment, and would meet the needs of New Yorkers and ensure that our structures fit into our environmental and climate conditions. Additionally, the Build Safe NY Alliance supports the adoption of the International Codes with as few amendments as possible so that governmental members will work through the national code development process to effect changes to the I-Codes that address their needs.
- The next speaker was Mark Barbato, president of the New York State Builders Association, speaking on residential sprinkler systems. He expressed a concern that costs for installing sprinkler systems are expressed in cost per sprinklered area, often including uninhabited area like basements in addition to the listed habitable area. He urged the code council to keep in mind additional costs for our consumer.
- The next speaker was Lew Dubuque, executive vice president of the New York State Builders Association (NYSBA), speaking on residential sprinkler systems. Lew said that housing market in New York State as well as our economy have suffered greatly over the last several years; and that the case study for Greenburgh, NY reported in the NFPA Research Foundation's 2013 Cost of Residential Sprinklers Final Report issued in September 2013 supported the cost estimates submitted by NYSBA. He next talked about recent legislation signed into law in August that requires all homebuilders to provide written information to prospective homebuyers on the benefits and costs of installing fire sprinklers in their homes.
- The next speaker was Brad Williams, representing the New York State Independent Living Council. Mr. Williams spoke to support two enhancement that NYS has had in the past to support independent living, including mandating a 8-foot access aisle for handicap parking and the other to do with dwelling unit adaptability enhancements for Type B units. NYS's special concern in this area is supported by the Governor-issued recent policies designed to increase integration and participation of disadvantaged citizens in the community: Olmstead Executive Order No. 84, Veterans with disabilities prioritized in the 2014 State of the State, and people with disabilities under the Employment First Executive Order No. 136. He urged the code council to provide enhancements for the 8-foot access aisle and dwelling unit adaptability for items our community supports and needs.
- The next speaker was Todd Stewart, representing the New York State Builders Association. He implored the Council to call on technical subcommittees when considering future changes to the Codes. He is concerned with energy code changes that impact constructability, including especially the blower door test. NYSBA position is that the construction, air sealing and insulation techniques that are required in the

code and which will need to be visually inspected by the code enforcement officer are enough; it is hard to justify the added cost and potential challenges of mandating a blower-door test. NYSBA also has an issue with the maximum air-exchange rates that are being mandated - going from 7 air changes per hour to 3 air changes per hour is a huge leap, and 3 air changes exceeds Energy Star standards and standards adopted by other states. NYSBA recommends recommend 5 instead. He also urged the council not to mandate achieving a HERS rating, but if one is mandated to be less stringent than the 54 upper limit in the proposed code; such as an upper limit of 70.

- The next speaker was John Hofelich, representing the New York State Builders Association, who spoke about stair geometry. Historically New York State has adopted a modified stair code. The proposed 2015 ICC code is a lowered stair rise and an increased stair depth. John said that a study by Department of Health, the AIA and the National Association of Home Builders did not show that a decrease in riser height or an increase in tread depth made the stairs safer, but instead showed that uniformity was the major safety factor, such as due to additional floor coverings on the bottom rise and the top rise. The impact on cost and home affordability due to this is great, while impact on safety is small; to have risers and treads needed to meet the new stair geometry is more expensive for and thence less affordable for consumers. The modular home industry has a major problem with this because they have height and width restrictions.
- The next speaker was Pete Belmonte, representing the Capital Region Builders and Remodelers Association, who spoke in opposition to requiring fire suppression sprinklers in one and two family homes.
- The next speaker was Clifton Perez, an advocate for the Independent Living Center of the Hudson Valley, a disability rights advocate since 1985, been very involved with disability issues, with the ADA, to speak about maintaining current enhanced protection in NYS for people with disabilities, including mandating type B dwellings for all apartments.
- The next speaker was Joe Reich, speaking in regards to modifications to accessible dwelling units and handicapped parking aisles. He spoke about the benefits of the current NYS modification, potential hardships for disabled if removed and of other states that have modifications similar to NYS's current ones. The current NYS modifications are not in the 2015 ICC codes. He put together an information packet for distribution to the code council members
- Guy Burton, representing Burton Protective Coatings, spoke about the advantages in preventing fire spread of using protective coatings such as he represents.

#### **Agenda Item 4 – Commercial Energy Code Adoption.**

Ron Piester introduced that this is a final package for ready for action by the Code Council today. Mark Blanke presented the proposal for consideration by the code council, with input by Joe Hill. The proposal is to replace the existing Title 19 NYCRR Part 1240 with a new Part 1240 which essentially incorporates the 2010 edition of the Energy Conservation Construction Code of New York State, the 2010 edition of the ASHRAE Standard 90.1 relative to commercial buildings, the 2012 edition of the International Energy Conservation Code, and a 2014 New York State supplement that basically ties it all together and amends all the previous documents listed. This Commercial Energy Code update is a mandate by the U.S. Department of Energy. DOE has set benchmarks for state energy codes to meet in terms of energy savings for commercial buildings. By adopting this rule, the State of New York will satisfy to the Department of Energy benchmark. The code council briefly discussed the agenda item, and then passed unanimously the following motion moved by John Flanigan and seconded by Nick Altieri:

- (1) that the rule to amend the State Energy Conservation Construction Code (the "Energy Code"), as proposed by notice of proposed rulemaking published in the State Register on June 18, 2014, be changed (a) to incorporate the November 2014 edition of the publication entitled "2014 Supplement to the New York State Energy Conservation Construction Code," published by the New York State Department of State (the "2014 Supplement"), rather than the April 2014 edition of the 2014 Supplement; and (b) to make other changes as reflected in the revised rule text presented at this meeting;
- (2) that the Code Council find and determine that for the purposes of the State Administrative Procedure Act, the changes made to the originally proposed rule do not constitute a "substantial revision" to the originally proposed rule;
- (3) that the Code Council find and determine that the adoption of the rule to amend the Energy Code, in the form presented at this meeting, will not have a significant environmental impact, and 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;

(4) that Mark Blanke be authorized to sign and deliver, on behalf of the Code Council and the Department of State (a) the State Environmental Quality Review Act Short Environmental Assessment Form, (b) the State Environmental Quality Review Act Negative Declaration, (c) the New York State Department of State Coastal Management Program Coastal Assessment Form, and (d) the Certification of No Significant Coastal Impact;

(5) that the rule to amend the Energy Code, in the form presented at this meeting, be approved; and

(6) that this rule and the changes made to the Energy Code made by this rule shall be effective January 1, 2015.

So moved.

Ron clarified that the effective date means that if a building permit application is submitted prior to January 1, 2015, and has been deemed complete by the municipality, that project should and may comply with the current provisions of the State Energy Code for commercial buildings. If a building permit application is submitted on or after January 1st, 2015, then that project shall meet the newly adopted provisions of the State Energy Code.

Ron indicated that the Department of State will post on its website the newly adopted Part 1240, a free online version of ASHRAE 90.1-2010, a free online version of the 2012 IECC commercial energy provisions, and also the 2014 supplement, all of which has been approved today, to be effective January 1, 2015.

Ron said he would like to publicly recognize, congratulate and thank all who have taken part in the tremendous effort to complete this proposed update, including this Council, the technical subcommittee that assisted in reviewing these documents, and also the Department of State staff and our Office of Counsel.

#### **Agenda Item 5 – Truss, Pre-Engineered Wood and Timber Construction - Form and Symbol Designation.**

The Code Council members were asked to adopt new rules and regulations as an emergency rule. The emergency rule is needed due to new legislation that concern the use in residential structures of certain common types of construction: truss, pre-engineered wood, and timber. The legislation was enacted in September, to become effective on January 1, 2015, and at that time requires use of a form(s) and symbol(s) designated by the Code Council. This is the first Code Council meeting since its enactment. For new residential structures, the new legislation requires that the permit applicant complete a form prescribed by the Code Council to notify the local code enforcement official when any of these types of construction are used. The legislation also requires that a sign or symbol designated by the Code Council be affixed to the exterior of the residential structure, on the electrical box on the exterior of the structure if one exists, to notify firefighters and others that the structure has these types of construction. The Code Council was asked to approve the form and the symbol, which are described in a document submitted to Code Council members, and which are similar to those currently mandated for the same purpose in commercial construction. Ron said we will develop a template that communities can use. After some discussion, John Torpey moved to adopt the new Part 1265 as an emergency rule, with the emergency rule taking effect on January 1, 2015. Shawn Hamlin seconded. The motion passed unanimously.

#### **Agenda Item 6 – Code Change Adoption: Sparkling Devices**

This agenda item was postponed to a future meeting.

#### **Agenda Item 7 – Uniform Code and Residential Energy Code Update**

Ron and Mark presented this agenda item as a continuation of a discussion that the Council has been having on these updates. No action is expected of the Code Council at this time; rather guidance and confirmation that the update is proceeding in the direction that the Code Council members expect. At the last meeting, the Code Council approved a proposal to move forward with updating the Uniform Code by directly adopting the 2015 codes published by the International Code Council (2015 I-codes) with only those NYS updates that can be justified as needed due to special conditions in NYS, such as legislation that requires something other than is in the I-Codes. Staff has prepared for the Code Council members a document that compares the current NYS codes with the 2015 I-codes, including a description of NYS modifications that staff recommends removing and NYS modification that staff recommends maintaining and some discussion of why those modifications are recommended.

There are issues that the Code Council hasn't addressed yet and that require more discussion and a decisions by the Code Council, including residential sprinkler systems, fire suppression at gas stations, and possibly other issues identified in public comments. Also the Code Council may wish to discuss exemptions currently in place for owner-occupied homes with respect to plumbing, heating and electricity, which are sometimes granted for Amish dwellings and hunting camps, and which may need to harmonize with requirements for residential sprinkler systems. Other possible items include stair geometry, handicap parking, accessible dwellings, lumber grading certificates from lumber mills and air leakage testing. Mark and Ron invited the Code Council members determine other topics on which further discussion is needed, and to contact Mark or Miriam about these by December 11<sup>th</sup> which may lead to having a special meeting of the Code Council to discuss these topics, in the week of January 12<sup>th</sup>. Mayor Kennedy suggested that she would like to meet with stakeholders in her area to gain there input, and Ron suggested that, if she thinks it would be helpful, staff from the Division of Building Standards and Codes could attend such a meeting to provide additional commentary and explanation.

Ron indicated that the Department of State will post on its website the editions of the 2015 I-Codes intended to be adopted and other documents as discussed that present the changes from the current NYS codes.

**Agenda Item 8 - Future meetings.**

Mark Blanke announced that he sent the Code Council members a meeting schedule for 2015, with the dates of February 11<sup>th</sup>, May 6<sup>th</sup>, August 12<sup>th</sup> and November 19<sup>th</sup>. He asked that Code Council members keep in mind the possibility of a special meeting in the week of January 12<sup>th</sup>, 2015, which may be scheduled to discuss potential NYS amendments to the 2015 I-codes. Ron said that he thinks it is reasonable to expect the meeting will be needed.

**Agenda Item 9 - Other Business.**

Mark Blanke reminded those attending about the need for speakers to complete the Notices of Appearance and for those seeking continuing education credits to complete the sign-in sheet.

The meeting adjourned at 12:02 PM.

Record of the meeting prepared by: Miriam McGiver, PE, Senior Building Construction Engineer, Division of Building Standards and Codes, Code Development Unit