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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**

Minutes of the Wednesday, May 7, 2014 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 231 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:

**COUNCIL MEMBERS PRESENT:**

Ronald Piester, Presiding  
Nicholas Altieri  
Michael Cambridge  
John Flanigan  
Robert Hankin  
Gary Higbee  
Paul Martin  
John Torpey  
William Tucker

**ALSO PRESENT:**

Michael G. Auerbach  
Joseph Ball, Esquire  
Mark Blanke  
Miriam McGiver

**Agenda Item 1 – Welcome**

Ronald Piester called the meeting to order and welcomed everyone. Mark Blanke took a roll call attendance and it was noted that a quorum was present. Ron noted that Maria Guizzotti the designee for Labor Department was no longer on the Council since she had retired.

At Ron's request Mark Blanke provide some information to the Council about this meeting. Mark noted that there were 5 speakers registered to address the Council and inquired whether there were any others present that would like to speak.

**Agenda Item 2 - Minutes of the February 27, 2013 Meeting**

Motion by John Flanigan to approve the minutes of the February 27, 2013 meeting, seconded by Nicholas Altieri, approved unanimously with one abstention.

### **Agenda Item 3 – Public Comment Period**

The first speaker was Julius Ballanco representing the IRC Fire Sprinkler Coalition who spoke in support of residential fire protection sprinklers. Robert Hankin questioned who the speaker represented and Julius Ballanco provided additional information and locations on the Internet which could provide additional information. Ron Piester indicated that staff would distribute this information to the Council.

The second speaker was Thomas J. Rinaldi a 45 year experienced veteran of the fire service and code enforcement community who spoke in support of residential fire protection sprinklers and provided examples of fire incidents which demonstrated the rationale for inclusion.

The third speaker was Lewis Dubuque, Executive Vice President of the New York State Builders Association. Lewis who spoke in opposition to the provisions regarding fire protection sprinklers in residential occupancies and countered some of the points made by the previous speakers.

### **Agenda Item 4 – Uniform Code and Residential Energy Code Update**

Ron Piester provided an overview and history of progress since the February 27, 2014 meeting. Mark Blanke elaborated upon the information received and noted that two memorandums had been provided to the Council which contained a summary of the material received and additional material received subsequent to the last meeting. Mark noted that James Morganson had provided a letter to the Council recommending updating to the 2015 International Code Council codes.

Ron Piester asked if there were any questions on this topic from the Council seeing none Ron introduced Donald McKulik.

Donald McKulik spoke on behalf of James Morganson. Don read a letter from James Morganson that will be provided to the Council.

John Torpey questioned the dates of the New York State Codes and how this impacted the Code Council. Both Ron Piester and Mark Blanke responded and provided an overview of the status of the codes and progress to date regarding rule making documents based upon the Council's direction utilizing the 2012 ICC codes as a basis. The issue of residential fire protection sprinklers and fire suppression systems at gasoline services stations are still under consideration.

Ron Piester added that with respect to the 2015 ICC Codes they are scheduled to be out at the beginning of June 2014. So moving to the 2015 has some potential benefits, but that there were a lot of things to consider before taking action.

John Torpey asked about the consequences of moving to the 2015 ICC Codes. Ron Piester responded that there are always consequences and that they need to be evaluated. Ron noted that it was not really skipping an edition, it is moving to the next evolution. The Codes are modified based upon the prior edition.

Nicholas Altieri asked if staff could provide the pros and cons of the options. Ron Piester felt that Nicholas' suggestion was good and that a review, not necessarily exhaustive, could be completed by staff. It was agreed that timing was important. Paul Martin noted that the impact of keeping current.

Gary Higbee asked what would happen to the current process and Ron Piester responded that staff would continue to develop the rule making based upon the Council's previous direction. If a shift was decided upon the materials developed would be useful regardless of which edition of the ICC was Gary Higbee wanted to see the process expedited so that we would not be using the 2006 ICC codes as a basis. Ron Piester agreed that this would be evaluated.

John Flanigan concurred with Nicholas Altieri and felt we should proceed with evaluation the 2015 ICC codes.

Mark Blanke asked for direction from the Council, he wanted to get a sense of what they had in mind. He used the example of what would happen to the 'New York State' enhancements. Mark felt that limiting the scenarios would be beneficial. Various options including technical subcommittees and others were discussed and considered. Mark noted that factors including publication methods.

Nicholas Altieri asked for three options to be presented: 1st no enhancements; 2nd staff involvement and 3rd subcommittee involvement. Ron Piester reminded the group that there were statutory requirements that were created through Article 18 of the Executive Law and that would have to be in any of the options. Ron added that the technical subcommittees were not specifically a statutory requirement, that they were constituted to assist the Code Council in their decision making. Ron noted that this would all be taken into account and that a schedule time line and assessment would be provided.

#### **Agenda Item 5 – Commercial Energy Code Update**

Mark Blanke provided an overview and update. Rulemaking documents have been completed a complete package was submitted to the Regulatory Review Unit on April 11, 2014. Once they respond we will move forward to issue a notice of proposed rulemaking which would start the 60 day comment period process, evaluate comments and allow the Council to act upon.

Ron Piester reminded the Council that the Commercial Energy Code update was driven by requirements from the United States Department of Energy that established benchmarks and dates that had to be complied. New York State had requested and been granted an extension to meet the requirements.

#### **Agenda Item 6 – Uniform Code Building Resilience Initiatives**

Mark Blanke provided an overview and update. Mark noted that previously it was decided that New York had been afflicted by some extreme weather as Ron Piester had mentioned at the previous meeting.

Ron Piester asked if there was any further discussion and hearing none moved to the next agenda item.

#### **Agenda Item 7 – Electronic Monitoring for Fire Extinguishers**

Mark Blanke provided an overview and history of the proposal. Mark noted that information had been received from Frank McGarry. Mark also noted that he had received information from James Tidwell opposing the proposal but noted that staff had not been able to address.

Frank McGarry spoke in favor of the proposal that he and James Burns had submitted to the Council. Frank elaborated upon the numerous topics and concerns that had been raised on a point by point basis and offered his cooperation in addressing any concerns. Frank noted that there were additional issues regarding accessibility.

Ron Piester noted that if there was any future correspondence it should be sent to the Code Council official business address at 99 Washington Avenue, Albany, New York. Ron asked if there were any further issues or concerns.

John Torpey asked what had to occur to move this proposal forward. Ron noted that the first thing would be for the Council to establish direction and then staff would begin to develop material for presentation to the Code Council. John continued how much more information would be required. Mark Blanke responded that there were many things to consider and that it was up to the Council

Robert Hankin noted that the first thing was for the Council to decide what they wanted to do and Ron Piester agreed.

Ron Piester noted that staff would review the recent information and this would be presented at the next meeting for the Council to make decisions.

Nicholas Altieri asked if this proposal had been submitted to the ICC. Nick also wanted to know that the unique circumstances in New York State that would warrant consideration. Mark noted that he had investigated and that he did not believe it was submitted to the ICC. Ron Piester noted that these issues would be considered and included in the report for the next meeting.

### **Agenda Item 8 – Future Meetings**

#### **Future Meetings**

Mark Blanke noted that the Code Council meetings were currently scheduled for August 20<sup>th</sup>, and November 18<sup>th</sup>.

### **Agenda Item 9 - Other Business**

Ron Piester commented about the last meeting and the procedures that were established, specifically a deadline for public submission of materials prior to a meeting. There is now a referenced time line at the end of the Agenda. For this meeting this was reduced to 3 business days but the goal is going to be in receipt 5 business days to be properly presented to the Council

Robert Hankin asked about those that wanted to speak should also be subject to similar time lines. Ron Piester noted that this was already addressed. Robert Hankin felt it was appropriate to allow adequate time for those on the other side to be able to consider their actions. Ron Piester noted that it is all tied into the posting of the agenda and other considerations. Ron said that there would be recommendations presented at the next meeting.

Gary Higbee wanted to express his condolences to James Morgenstern and asked for the name of the speaker who challenged Julius Ballanco's comments and asked for his affiliation. Ron replied that it was Lewis Dubuque from the New York State Builder's Association. Ron said that this would be clarified for the record at the next meeting.

Robert Hankin asked about reviewing the code making process how it is developed under ICC and how the standards are established. He felt a public discussion was warranted. Robert felt if there were published materials they should be provided. Ron Piester agreed that it would be valuable and timely.

Robert Hankin asked about the Cost Benefit analysis and how this was impacted by the proposed Reference Standards. Joseph Ball noted that the Reference Standards that are adopted should be subject to the same analysis as the text of the publications. All parts should be subject to the same consideration of the State Administrative Procedures Act.

Joseph Ball acknowledged and thanked Richard DiGiovanna for his work with Joseph Hill on the Energy Code.

Ron Piester noted that if there was no objection he would send a letter to Jim Morganson on behalf of the Council expressing its condolences.

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.

Robert Hankin made motion to adjourn. John Flanigan seconded. The motion passed unanimously and the meeting adjourned at 11:35 a.m.