



NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF BUILDING STANDARDS AND CODES
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231

Phone : (518) 474-4073
www.dos.state.ny.us

Fax : (518) 486-4487
E-mail: info@dos.state.ny.us



**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 Thursday, January 15, 2015 meeting of the New York State Fire Prevention and Building Code Council commencing at 10:10 a.m., held at the Empire State Plaza Concourse Meeting Room 5.

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

COUNCIL MEMBERS PRESENT:

Ronald Piester, Presiding
John Flanigan
Shawn Hamlin
Judith Kennedy
Sue Mangold
Paul Martin
Joseph Sauerwein
William Tuyn
Keith Wen

ALSO PRESENT:

Joseph Ball
Mark Blanke
Miriam McGiver
Matthew Millea

Agenda Item 1 – Welcome.

Ronald Piester called the meeting to order and welcomed everyone. Mark Blanke took a roll call of attendance, and noted that a quorum was present. Ron introduced a new member to the Code Council: Sue Mangold, representing towns of New York State, is a Board Member of the Town of East Greenbush. Sue thanked him. Ron also introduced Matt Millea, who has spoken to the Code Council as Deputy Secretary of State, and now comes to us with a new position as Deputy Director of State Operations with the Governor's office. Matt Millea thanked him, and said he looks forward to continue working with code development from the Governor's office.

Ron asked for a motion to amend the agenda by adding to agenda item 5 to issues for discussion: stair geometry as item 5g and accessible parking spaces as item 5d, reordering other items accordingly. William Tuyn moved to amend the agenda as described, seconded by John Flanigan. The motion passed unanimously.

At Ron's request, Mark Blanke introduced the Agenda and briefly discussed documents that have been submitted to Code Council members for consideration before this meeting. Ron gave an overview of the proposed conduct of this meeting, which included limiting each speaker to three minutes to present comments, as over 60 individuals have asked to speak at this meeting. Ron thanked speakers for Agenda items 3, 5 and 6 for giving notice of intent to speak today.

Agenda Item 2 - Minutes of the November 18, 2014 meeting.

Ron introduced the minutes. Sue Mangold abstained as she was not present at the November 18 meeting. Ron stated that as we do not have a quorum voting, the motion does not pass. We will reintroduce the minutes at the next meeting.

Agenda Item 3 – Public comment.

Ron said that Agenda item 3, typically the time for public comment at our meetings, has been reserved for individuals that would like to make general comments regarding the Code Council's initiative to move forward in adopting the 2015 codes of the International Code Council, or ICC. This comment period is for speakers that do not have a specific comment on the items in Agenda Item No. 5 or No. 6 but wish to make more general comments. Mark Blanke introduced speakers who had signed up to address the Code Council with general comments.

The first speaker was Jerry Deluca, executive director of the State Association of Fire Chiefs and the chair of the Build Safe New York Alliance, who made the following comments: The Alliance members include insurers, architects, engineers, disability advocates, building officials, construction industry representatives, labor, manufacturers and members of the fire service. The Alliance members advocate updating to 2015 I-codes, as it prescribes up-to-date building methods and materials. It has provisions to construct a project such as a semiconductor research or production facility, to design so as to assist the elderly and disabled to remain in their homes throughout their lifetime, and to provide the minimum standard for safety. Any amendments to reduce safety would result in a standard that is less than the recognized minimum, and this applies in particular to an amendment to remove the requirement for residential sprinklers. The alliance members, even those not in support of maintaining the residential sprinkler requirements, are in support of the ICC process.

The next speaker, Dottie Harris, representing the ICC, made the following comments: ICC is a member-focused association dedicated to helping provide safe and sustainable construction through the development of codes and standards used in the design, build and compliance process. The I-Codes are revised and updated every three years by a national consensus process that strikes a balance between the latest technology and new building products and installation techniques, economics and cost of construction, ensuring public and first responder safety. Use of the most current I-Codes ensures high standards for safety, energy efficiency and sustainability, economic incentive and long-term resiliency of the built environment. Dottie recommends that NY work thru the ICC code development process instead of modifying the 2015 International Codes to suit New York.

The next speaker, Eric Carlson, representing the Empire State Forest Products Association, spoke about the importance of maintaining a NYS amendment that has benefited the part of the upstate economy dealing with lumber. NYS has allowed local lumber mills to self-certify the grade of lumber, subject to certain conditions and if approved by the local authority. There have been no problems since this was implemented, initially in 1986, revoked for a period, and continuously since 2003. There has been no incident of concern related to this practice, and the NYS amendment allowing self-certification is justified by the nature of the industry in NYS, and benefits the rural economy, small mill owners and the end-user.

The next speaker, Sam Francis, representing the American Wood Council, spoke regarding the sawn lumber amendment and the truss placarding rule. Regarding the truss placarding rule, the International Codes require protection of those kinds of members within a structure rather than the labeling of buildings with engineered lumber; that is a safer solution. The American Wood Council has no particular position on continuing the lumber grading exemption; every New England state and many mid-Atlantic states have a similar exemption, either in the codes or elsewhere. The exemption in NYS is broader in terms of use groups allowed, from residential through most commercial, and it is not specific to material harvested within the state.

The next speaker, Brent Cross, code official from Cayuga Heights, NY and representing the Southern Tier Building Officials Association, spoke with concerns about how the truss rule was implemented. The short period of time given to get up to speed from enactment to when this emergency rule applied has caused much confusion and frustration. Mr. Cross asked that for future rule adoption, code officials and other stakeholders be given more advance notice and time to get up to speed with the new requirements.

The next speaker was Tim DeRuyscher, principal and licensed professional fire protection engineer with GHD Consulting Services. Mr. DeRuyscher said that amendments to the I-codes could result a multitude of changes, nuances and special provisions. Use of such often results in confusion; difficulties due to unique codes; a lack of

understanding of special provisions; and it also provides difficulty in access to those special code provisions and unknown impacts. They are in support of 2015 I-Codes without changes wherever possible.

The next speaker introduced, Ed Cosato, yielded the floor, and was followed by Jeff Wilkenson, president of the New York State Fire Marshals and Inspectors Association, speaking about fire suppression systems for gas station. Mr. Wilkenson said that the NYS Fire Marshals have not taken a stand on this issue, but he would like to bring to the attention of the Code Council that if this provision is removed for new construction, the code council must consider the need to maintain or otherwise address existing systems that are in place.

Agenda Item 4 – Code Change Adoption: Sparkling Devices

Ron introduced the proposed emergency rule related to legislation that was enacted by the Legislature. The legislation went into effect on December 21, 2014, and compels the Code Council to adopt a rule creating specific requirements for sparkling devices. The Code Council is asked to adopt an emergency rule to the Uniform Code to add provisions relating to buildings and structures where sparkling devices are present, addressing the use of sparkling devices in buildings, the manufacturing and storage of sparkling devices, and the retail sales and display of sparkling devices. The Code Council is asked to adopt this emergency rule to be effective on filing of the Notice of Emergency Adoption; and to approve proposing this rule for permanent adoption. Permanent adoption would take place after the normal public comment period and public hearings. The emergency rule would be effective for 90 days, and in the meantime we would proceed with public hearings for a permanent rule.

Mayor Kennedy asked what exactly the legislation requires of the Code Council. Ron summarized that the legislation allows local jurisdictions - cities and counties - to legalize the use of sparkling devices by means of a local law. In areas of NYS where sparkling devices are legalized, the emergency rule would regulate the display and use of the sparkling devices in buildings.

As the Office of Fire Prevention and Control (OFPC) is also developing regulations that are related to this legislation, Ron asked Deputy State Fire Administrator Paul Martin to discuss the regulations. Paul explained that 'sparkling devices' per this legislation include cones and fountains that shoot sparks up to 40 feet in the air, more than just the childhood sparkler that comes to mind. We need to take action as a council because there was no provision in our code for these in buildings because previously they were banned in the NYS. The legislation mandates that the OFPC regulate vendors, and OFPC filed that emergency rule this week; it works hand in glove with this proposed emergency rule.

Ron apologized to the council for having to present this information at such a late date. We have a specific directive that has been created by this law; we have to create a regulation. He encouraged individuals with comments or concerns about the regulation to present them through the public comment process for the permanent rule.

Joe Ball read for consideration of the Code Council a draft resolution for the emergency rule, to move:

1. "That the Code Council find and determine that the amendment of the Uniform Code to be implemented by the adoption of the rule identified in Agenda Item 4 ('Code Change Adoption: Sparkling Devices') 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";
2. "That Mark Blanke be authorized to sign and deliver, on behalf of the Code Council and the Department of State, the State Environmental Quality Review Short Environmental Assessment Form, the State Environmental Quality Review Negative Declaration, the New York State Department of State Coastal Management Program Coastal Assessment Form, and the Certification of No Significant Coastal Impact";
3. "That the Code Council find and determine that adoption of the rule identified in Agenda Item 4 ('Code Change Adoption: Sparkling Devices') on an emergency basis, as authorized by Section 202 of the State Administrative Procedure Act, is required to preserve public safety by adding provisions to the Uniform Code relating to buildings and structures where sparkling devices will be manufactured, stored, sold and/or used, such provisions now being necessary in light of the amendment of Section 270.00 and 405.00 of the Penal Law to define the term 'fireworks' as including several categories of devices,

including sparkling devices, and to authorize any city or county outside New York City to legalize sparkling devices in such city or county”;

4. “That the Code Council find and determine that making this rule effective immediately upon the filing of the Notice of Emergency Adoption and Proposed Rulemaking is required to protect health, safety and security because Chapter 477 of the Laws of 2014 (the chapter law amending Sections 270.00 and 405.00 of the Penal Law) became effective on December 21, 2014, and cities and counties may begin to legalize sparkling devices at any time on or after such effective date”; and
5. “That the rule identified in agenda item 4 (“code change adoption: sparkling devices”) be adopted as an emergency rule, to be effective immediately upon the filing of the notice of emergency adoption and proposed rule making.”

John Flanigan moved to adopt this motion, seconded by Joseph Sauerwein. Mr. Tuyn asked if procedurally the assertions of compliance with other NYS regulations need to be adopted separately. Mr. Ball said that they do not. Mayor Kennedy asked for clarification of the emergency rule process, and opportunity for public comment and review during adoption of the permanent rule. Ron affirmed that the Code Council members would have opportunity to consider public comment during consideration of the permanent rule. The Code Council voted unanimously to adopt the emergency rule.

Agenda Item 5 – 5 Uniform Code Topics for Dialogue and Discussion Only

- a. Plumbing Fixture Maximum Water Flow Rate (WaterSense)**
- b. Sawn Lumber -- Grading Practices and Identification**
- c. Accessible Dwelling Units -- Type A vs. Type B**
- d. Accessible Parking Spaces**
- e. Gas Station -- Fire Suppression**
- f. Residential Sprinkler Systems**
- g. Stair Geometry**

Ron said that the meeting’s purpose is to allow for members of the public to present comments on these technical issues and then to present that information to the Code Council for discussion and action or direction from the Council at our February meeting. The Code Division will take written information for distribution to the Code Council members at a later time.

The meeting was arranged so that for each agenda item, the Code Council would hear first from speakers in favor of adopting the I-code language without amendment, followed by speakers in favor of a NYS modification.

Agenda item 5a. Plumbing Fixture Maximum Water Flow Rate (WaterSense)

Mark introduced this topic. The 2010 RCNYS limits the maximum water flow rater for certain plumbing fixtures. These same limits are in the 2015 I-codes. The National Resources Defense Council has proposed an amendment that would further reduce the maximum water flow rates to those recommended by the U.S. Environmental Protection Agency's WaterSense standards. These reductions would be:

- For lavatories, private lavatories, from 2.2 gallons per minute to 1.5 gallons per minute.
- For showerhead, it would reduce it from 2.5 gallons per minute to 2 gallons per minute.
- For water closet, it would be reduced from 1.6 gallons per minute to 1.3 gallons per minute.
- For urinals it would be reduced from 1 gallon per minute to 0.5 gallons per minute.

There was one speaker signed up to speak on this topic, Rich Schrader of the National Resources Defense Council speaking in favor of amending the I-codes. However, he had to leave so there were no speakers on this topic.

Ron said that in a previous meeting there was discussion regarding the Council's interest to submit to International Code Council provisions that are currently in our code that would not be in the 2015 International Codes, to vet those issues at the national level. Accordingly, for the WaterSense provisions, the Division of Building Standards and Codes has submitted a code change proposal to the ICC Group A cycle, and will pursue that at the national level on behalf of the Code Council.

Agenda item 5b. Sawn Lumber -- Grading Practices and Identification.

Mark introduced the item for discussion. Both the I-Codes and the 2010 NYS Uniform Codes require structural sawn lumber to be identified by the grade mark of a lumber grading or inspection agency. However NYS has added an opportunity for the Authority Having Jurisdiction (AHJ) to allow an exception under certain conditions, including that the producing mill shall provide the lumber directly to the ultimate consumer and shall certify in writing to the consumer that the quality and safe working stresses of such lumber are equal to or exceed No. 2 grade of the species under consideration. Also the building size for which the lumber is to be used is subject to certain limits.

There were no speakers signed up for this issue to speak in favor of adopting the 2015 I- Codes without modification. In favor of a modification, the first speaker was Eric Carlson, representing the Empire State Forest Products Association. Mr. Carlson said that since he had spoken during the time for general public comments, he would like to relinquish his time, while simply reiterating what he had said previously: that a qualified entity is providing certification, and that this has been in practice in NYS for decades without a problem.

The next speaker, Bruce Williamson, of the New York State Department of Environmental Conservation (DEC), bureau chief for private forestry in the Division of Lands and Forests at DEC. Mr. Williamson said that 30 years ago he had worked with group of stakeholders in Northern New York to put this amendment in place to support local forest products industries and local users of traditional lumber products. The DEC's interest is because it supports retention of forests and good forest management by providing markets and economic return for landowners, sawmills, and loggers who work in rural New York. It allows rural landowners to hold on to and manage forest land. Mr. Williamson emphasized that this does not allow use of ungraded lumber, but rather allows recognition of private certification of the grade. To support this, DEC sponsors training of code officials and sawmill industry personnel on how to determine grade of lumber and what it means.

Agenda item 5c. Accessible Dwelling Units.

Mark introduced the item for discussion. The Codes classify dwelling units and sleeping units for persons with disabilities as either Accessible, Type A or Type B units, where accessible units contain the most accessible design features and Type B units contain the least. In multifamily structures, the International Building Code (IBC) requires 2 percent of such units to comply with Type A design and requires all other units to be of Type B design. The 2010 Building Code of NYS (BCNYS) amends this so that no Type A units are required, but instead all units must comply with an enhanced Type B design that stipulates greater clear-width maneuvering clearances at the primary entrance door and most other doors within the unit, and a bathroom facility as is required in a Type A unit.

There were no speakers signed up today to speak in favor of adopting the 2015 I- Codes without modification. In favor of a modification, the first speaker was Sim Goldman, representing Disability Rights New York, who has been working at Disability Rights New York, formerly Disability Advocates, for over 20 years. His organization works with people unable to live in their own homes because they have developed a mobility impairment and the home is not inaccessible. Maintaining these enhancements for new construction keeps people in their houses rather than in institutions like nursing facilities. Regarding parking access aisles, people need to be able to lower their lifts to get in and out of vans, and an 8-foot aisle and proper signage is needed for that to happen.

The next speaker was Jean Grover, representing the Regional Center for Independent Living, who asked the Code Council to preserve two amendments to the Building Code, the one that provides for 32-inch doorways and the one that requires an 8-foot minimum access aisle for accessible parking spaces. One of the final frontiers to cross before reaching disability civil rights equality is the American home. As long as new construction is not built to be accessible, people with mobility disabilities cannot visit with friends, accompany their children to play dates in other children's homes, attend company parties - for example, at their boss's home. Thirty-two inches is the width of an average wheelchair, and the NYS amendment allows Ms. Grover's wheelchair access to all rooms. With regard to the 8-foot minimum parking aisles, again Ms. Grover needs them, and she expressed a concern that the 5-foot aisles are not wide enough to deploy the lift from her van and still have room to load and unload. Signs, as required in NYS but not in the 2015 I-codes, are also needed – if there is no sign, the parking strips are buried in winter so that people do not see the access aisles.

The next speaker, Frank Pennisi, representing the Southern Tier Independence Center, works to help people with disabilities live as independently as possible. He said that 'People with disabilities' is a minority group we can join at any time, by accident or aging. NYS needs more accessible housing. The biggest barrier to people moving back into the community is lack of accessible housing. The 32-inch-wide doorway has been the standard since the Architectural Barriers Act of 1968 as the minimum clear opening that people with wheelchairs can get through, and with knuckle room 36-inches is needed. This is essential, as is the 8-foot parking access aisle.

The next speaker was Dominic Marinelli, representing the United Spinal Association. He asks that the Council retain these enhancements. In addition to that 32-inch door clear width, NYS has a requirement for maneuvering clearance on the doors, the ability for an individual to stand clear of a door as they pull the door open if they're in a wheelchair. A Type A bathroom is more adaptable, and is based on an old standard, the 1986 ANSI standard. It is 54 square feet while a Type B bathroom is 46 square feet, and is not accessible or adaptable to become accessible.

The next speaker, Jensen Caraballo, representing the Center for Disability Rights, Inc., expressed that as a person with a disability, and a wheelchair user, having and keeping access to the community is vital. He said he has found himself in his wheelchair in front of doorways too narrow to fit through. He urged the Council to keep the amendments that allow for the integration, civil rights and freedom of people with disabilities.

The next speaker, Greg Jones, said he has worked with accessibility issues for 25 years in NYS as an attorney and consultant to state agencies, members of the Legislature, businesses, code officials and others. NYS code before adoption of the IBC in 2002 provided accessibility. It required dwelling units on the first floor of a multiple dwelling to be fully accessible, and in buildings with elevators all units were required to be fully accessible. Many New Yorkers cannot use or visit a dwelling unit without minimal accessibility features. The elimination of this NYS amendment seems contrary to the NYS Olmstead Plan. NYS has a grant program, Access Homes, to retrofit homes for accessibility; a retrofit costs significantly more than the cost to make new construction accessible or adaptable to become accessible. Regarding parking access aisles, the 8-foot access aisle requirement is needed.

The next speaker, Bruce Darling, representing the Center for Disability Rights, said that building code should provide people access to the community and their homes. Removing this amendment would discriminate against the people with disabilities. There are practical issues of having access, which we all need. He urged the Code Council to keep the NYS amendments that provide access to dwellings and parking.

The next speaker, Stephanie Woodward, represents the Center for Disability Rights. She asked that the Code Council not reduce the access for people with disabilities, who have been fighting for decades to get where they are today.

The next speaker, Adam Prizio, representing the Center for Disability Rights, said that new houses must be accessible as a matter of civil rights. The parking requirement for an 8-foot access aisle is vital, as is the vertical clearance on accessible parking. Demand is going to increase for accessible housing. The Governor's Olmstead Plan will reduce the nursing facility population by 10 percent; that is 1800 people per year for the next five years who are going to need accessible housing in their communities. It is vital that the Building Code provides for accessible housing.

The last speaker on this topic was Debbie Bonomo, a part of the Center for Disability Rights, who said she came to fight for access to doorways, to homes, for people to be able to visit friends and family, to be included in the community. The NYS Governor has supported the disabled, like her, with the NYS Olmstead plan.

Agenda item 5d. Accessible Parking Spaces.

Mark introduced the topic. The 2015 IBC and the 2010 BCNYS require accessible parking. The 2015 IBC requires a 5 foot access aisle adjacent to van parking spaces. Vans parking spaces are required to be 11 foot wide. New York State has an amendment that modifies that access aisle width from 5 feet to 8 feet, while van space are the same width as other parking spaces, eight feet wide. Adoption of the 2015 IBC without the amendment would reduce the required width of parking access aisles from 8 feet to 5 feet in New York State.

There were no speakers on this issue in favor of adopting the I-Codes without amendment.

The first speaker in favor of modifying the 2015 I-codes by maintaining the current NYS modification was Joe Reich, retired from work for the Advocate's Office in New York State. He first commented in the previous discussion on multiple dwellings, to clarify that it addresses apartment complexes and condos but not single-family homes. There have to be four dwellings or more before the accessibility provisions kick in for maneuvering clearances at doors and A-type bathrooms. Also, the IBC standard for multiple dwellings is pulled from the Fair Housing Amendment act of the late 1980s. Regarding handicapped parking, the goal when creating accessible features is something called the Universal Design, a design that anybody can use. Our current Building Code reached that goal with an 8-foot-wide space, an 8-foot-wide access aisle, and two cars or vans can share that same access aisle. The 2015 IBC uses a standard which is 30 years old, and provides only one in six handicap spaces to be van-accessible. He asked where to place the van space(s) if there are multiple primary entrances to different buildings. NYS's amendment requires a "No Parking Any Time" sign at the access aisle. Without that sign, a person can park there and not be ticketed. Apparently the 2015 IBC no longer incorporates that sign. He emphasized that the easier the design, the more enforcement happens. Eight foot parking, eight foot van access aisle is simple.

The next speaker, Mr. Prizio, who spoke on the previous topic, reiterated his comment about the importance of accessibility in helping people to live and participate in their communities. He urged the Code Council to retain the 8-foot aisle with clear signage.

The next speaker, Greg Jones, also spoke on the previous topic. He said that the parking aisle amendments in the NYS Building Code and in the Property Maintenance Code is a major concern for people with disabilities, a requirement currently in both the Vehicle and Traffic Law, Section 1203C, and the Property Maintenance Code. The 8-foot access aisle requirements in the Vehicle and Traffic Law have existed in statute since the mid-'80s, and it was amended several years ago to add the requirements for a "No Parking Any Time" sign in the access aisles. He urged the Code Council to retain the requirement for an 8-foot aisle with clear signage.

The next speaker was Bruce Darling, also spoke on the previous topic. He said that if a building is accessible and parking is not, it is not accessible. He said that the requirement in NYS gives you enough room so that you can get in and out of your vehicle, and it accommodates people who have larger equipment, more complex technology related to their vehicles, and who unload and load as a group. He appreciated the Code Council's support in the access that people with disabilities have in New York State.

Ron mentioned that, as the Code Council asked, on these two past issues, the sawn lumber issue and accessible parking space issue, the Code Division submitted code change proposals to the International Code Council code development process proposing essentially the modification that exists in our code now.

Agenda item 5e. Gas Station -- Fire Suppression at Gas Stations

The current Fire Code of New York State requires all new flammable motor fuel dispensing systems, gas stations, to be equipped with automatic fire extinguishing systems. This has been required in New York State since the Uniform Code became effective in 1984. The 2015 International Fire Code does not have a similar requirement.

Speaking in favor adoption of the 2015 Code without amendment regarding this issue was Jim Calvin, of the New York Association of Convenience Stores. He said his association cares about the safety of customers and employees. He stated that the dangers posed by common malfunctions in fire suppression systems outweigh the benefits. Reputable retailers have been sending letters telling the Council that they cannot recall their fire suppression systems activating for the purpose of quelling a gas pump fire, yet every year they experience multiple accidental discharge that are messy, costly and dangerous for both the gas station owner and the customer at the pump.

Twenty-one speakers signed up to speak in favor of modifying the 2015 by maintaining the current NYS requirements for this issue. The first 20, representing the New York State Association of Fire Equipment Companies, asked to have their speaking allowance used by Filippo Conte, to speak on behalf of them for 15 to 20 minutes. Mr. Conte made the following points:

- This should not be about costs, but about the safety of New Yorkers at gas stations where fires do occur;
- Over this past year his company responded to a dozen sites where fire suppression systems put out fires.
- The trend is to build large new stations with over ten pumps to replace small stores with one or two.
- Properly maintained by professional companies, most malfunctions would not occur.
- New York is a leader in high standards of safety, not only with codes but with driving laws and other things. The ICC missed an opportunity due to inclusive process with other states.
- Other states also require these systems, including for self-service stations in New Hampshire, Maine, Massachusetts, and Rhode Island. Most stations in NYS are self-service.
- Local tragedies have occurred in states that do not require this technology.
- Gas stations safety is improving, but fires still happen in spite of vapor recovery and shear valves.
- The chemical used in these systems, sodium bicarbonate, is safe and effective, creating a nuisance dust that does not cause environmental or health issues and prevents burns.
- Fire incident reports from the fire stations may not indicate whether a gas suppression system extinguished a fire. Mr. Conti showed a series of pictures of gas station fire in Saratoga County with an active suppression system; the fire incident report did not mention the gas suppression system.

The next speaker in favor of modifying the I-codes regarding this issue was William Barnes, representing the Westchester County Association of Fire Chiefs and the New York Association of Fire Equipment Distributors. He said that the fire service works for fire suppression, but also fire prevention and Fire Code compliance. Having a fire suppressed prior to the fire service arriving enhances firefighter safety and public safety. He asked the Code Council to keep this requirement in the Fire Code of NYS.

Agenda item 5. Residential Sprinkler Systems

Mark introduced this topic. The current Residential Code of NYS, the 2010 RCNYS, only requires automatic fire sprinkler systems in one- and two-family dwellings and townhouses having a height of three stories above grade. The 2015 IRC requires that an automatic sprinkler system be installed in all one- and two-family dwellings and all townhouses regardless of height.

Related to this topic is a current amendment in NYS that requires that every one- or two-family dwelling or townhouse have a plumbing system with plumbing fixtures. New York State has an amendment which provides an exception to the requirement for a plumbing system if a building is owner-occupied and if approved by the code enforcement official. This exception is used by groups such as Amish and for hunting camps. If a plumbing system is not required, it is very difficult to harmonize with the requirement for a residential sprinkler system.

The first speaker in favor of adopting the 2015 IRC without amendment with respect to this issue was Dominick Kasmauskas, representing the National Fire Sprinkler Association. Mr. Kasmauskas said that California is now in their fourth year of requiring fire sprinklers of new one- and two-family homes, and their November 2014 numbers show residential new construction (plus additions and alterations) up 13 percent from the same time last year. Many of the projects are single-family-home developments. The fire sprinkler requirement in California has not had an economic impact on the building industry.

The next speaker was Dan Gropper, representing The Phoenix Society. Mr. Gropper was in an apartment fire in December of 1999, which resulted in burns over 79% of his body, many surgeries and life altering injuries which included the amputation of his hands and of his legs below the knee. Mr. Gropper said that every day he wishes that it happened differently, and he believes a fire sprinkler to help combat the fire that night would have prevented or minimized his injuries. He urged the Code Council to vote to save lives.

The next speaker was Joshua Gropper also representing The Phoenix Society. He introduced himself as the previous speaker's brother and as an attorney who has devoted his career to representing people with serious injuries. He sees nothing as devastating as burn injuries, as burns do not heal on many levels. New Yorkers who will be in house fires could sustain catastrophic, life-changing injuries. He believes the main objection to the requirement of fire sprinklers is cost-based, while the average cost increase due to sprinklers, with average house size and price, is a few percentage points of the total cost. He urged the Code Council to favor safety over cost.

The next speaker was Donald Corkery, representing the NYS Association of Fire Chiefs. He stressed to the Code Council that about 2465 people lose their lives every year in residential fires in the USA. In New York between 2011 and 2014, about 482 people lost their lives in all types of fires in New York, two so far this year in 2015. Other states will follow the lead if NYS takes action to save lives.

The next speaker was Tom Rinaldi, Association of Fire Districts of the NYS. He told of a successful marketing strategy in which a builder sold every unit by highlighting safety measures like sprinklers and web-accessible cameras. The local authority allowed the builder cost saving trade-offs like increased hydrant spacing and reduced road access, which helped offset the cost. Sprinkler system installation required 20 hours per unit, with no notable coordination issues or problems. The one issue the builder had to address was to educate the homeowners to be careful inserting screws and nails into the walls so that the water lines were not punctured.

The next speaker was Joe Finnegan, representing the Fireman's Association of the NYS with approximately 90,000 volunteer firefighters across the state. Their concern is safety of the building occupant and the first responder. He stressed that today's construction uses lightweight construction materials, structurally sound and well-constructed, but behaving very differently when exposed to fire. The addition of residential sprinklers would give building occupants time to exit prior to flashover, which would result in less injury, fewer deaths, less fire damage, and greater first responder safety. His association urges the Code Council to adopt the 2015 version of the I-Codes without exclusion of residential sprinklers.

The next speaker was John Williams, NYS Building Officials Conference. He wanted to correct pervasive myths, and said that sprinklers rarely leak, that they cause much less damage than fires do; that they work within the parameters of typical home plumbing systems, and that they rarely need expensive backflow prevention.

The next speaker was John Caulfield, National Fire Protection Association (NFPA), there to express NFPA's strong support for the NYS Code Council to adopt the 2015 IRC with the requirement for residential fire sprinklers. Residential fires pose one of the biggest hazards to the safety of New Yorkers. Since 2011, 484 people in New York have died from fire. While smoke detectors are effective in reducing the number of fire deaths, approximately 60 percent of residential fire fatalities still occur in a residence without a working smoke detector. The impact of residential sprinklers on residential costs is nominal. NFPA estimated the average price per square foot at \$1.61 in 2008; it's since dropped to \$1.35.

The next speaker was Julius Ballanco, JB Engineering and Code Consulting, representing the IRC Fire Sprinkler Coalition. He highlighted the variability in what we pay for many things, like cars, kitchens and bathrooms and said that the cost of residential sprinklers also varies based on what is installed. No one complains about the cost of installing sprinklers in townhouses, because the trade-off of reduced construction requirements makes it less expensive to install sprinklers than not. In regions where the systems are mandated, the costs become lower as the market adjusts.

The next speaker was Tony Fleming, Metropolitan Fire Protection, a fire sprinkler contractor based out of Maryland. He said that like NYS, Maryland has major metropolitan areas, rural areas, recreational tourist areas, systems on wells with pump-in tanks, and systems on municipal water. In areas that require sprinklers, decided by county in Maryland, the cost goes down as competition kicks in after sprinklers are required. He feels it is not necessary to have commercial sprinkler installers, as regular plumbers can do the work. In his area, he has been told his price was too high when it came out to \$1.27 per square foot, which shows how low costs have become. He said contractors do not bid these jobs by square footage typically, as it depends more on the building design.

The next speaker was Joe Reich, retired from New York State Advocate for Persons with Disabilities. He said that residential sprinkler systems in single-family dwellings are a life safety measure particularly for people in wheelchairs, like him.

Speaking in favor of modification to the 2015 IRC requirements, the first speaker was Luke Michaels, of the Michaels Group, a home builder in the Albany/Saratoga/Warren County area. He described a family who built a home this past year in the Town of Moreau, a husband and wife 67 and 64 years old. They were both retired, and finally had enough money for a new home. It was not extravagant, and they could just afford with the maximum

VA loan for which they qualified. Mr. Michaels had a sprinkler system designed for the home, and the cost estimate showed it would have added \$9694 to the cost with a possible \$4200 more for water supply and pressure issues. He said that they could not afford this, and would have had to purchase a less safe existing home instead if a mandate were in place.

The next speaker was Dan Buuck, of the National Association of Home Builders, representing the NYS Builders Association. He stated that most states have rejected the requirement for fire sprinklers in single-family homes: Maryland allows local jurisdictions to opt out and many have, and more than 40 states have amended sprinklers from the code. He cited what he believes are the reasons for this: smoke alarms work, underfloor protection is in the code, new homes are safe, and the research bears this out. According to reports by NFPA, since 1980 the number of fires has dropped by 50 percent and fatalities by 52 percent, and the number of home fire fatalities has dropped by 65 percent from 1980 through 2011. This was during a time that smoke alarms were required in model codes and sprinklers for the most part were not. He said that the NFPA home smoke alarm report shows that the chance of surviving a residential fire when working smoke alarms are present is 99.45 percent, and the 2009 NFPA "U.S. Experience with Sprinklers" report estimates an 80 percent reduction in civilian deaths where sprinklers are present; together these would show that sprinklers increase the chance of survival from 99.45 percent with working smoke detectors to 99.89 percent with both smoke alarms and sprinklers. Underfloor protection, now required, adds 20 minutes to the structural performance of a floor constructed of lightweight engineered lumber. His next point was that newer homes are the safest. According to the NFPA, two of three leading causes of fires in homes are heating equipment and electrical equipment, safer in new homes, and many of these fires occur in the floor and wall cavities where residential sprinklers would not address the fire.

The next speaker was Lew Dubuque, of NYS Builders Association. He started by distributing a letter from Mr. Belmonte, who wanted to convey that he spoke again with the City of Saratoga, and was told again they are denying applications for fire sprinklers in the City of Saratoga because the infrastructure cannot handle it. Mr. Dubuque said he has given the Code Council real-life examples from members of his association of costs for residential sprinkler systems ranging from \$17,000 to \$31,000, including additional hidden costs such as those due to being on private water or living in cities with antiquated infrastructures. Superstorm Sandy caused about 1,000 homeowners to have their homes raised to three stories, and the homes now required sprinklers due to the degree of alteration. According to Newsday, homeowners were outraged until New York Rising, a state entity, agreed to cover costs that averaged \$15,000. New NYS legislation requires homebuilders to show prospective buyers the benefits and costs of installing fire sprinklers in their homes, which makes homebuilders the promoters of fire sprinklers in New York State and gives consumers choices. People are leaving New York because it is too expensive to live here. He urged the code council not to add this cost to a new home.

The next speaker was Phil LaRocque. He believes part of the deal when adopting model codes in 2002 was that NYS would delay implementation of the code to let other states be the guinea pigs; and that NYS would have aggressive subcommittees reviewing New York modifications. He believes it would be a big mistake for NYS to do away with the subcommittees. He expressed appreciation of the pro sprinkler view, and made the following points: the statistics do not work; residential fire fatalities occur in single-family and in multifamily homes that require sprinklers; a study by the New York State Builders Research Foundation showed that the average age of house with a fire fatality in New York State was built in 1941; private water supply costs average at least \$10,000. He suggested tradeoffs on land use planning, the roads, fire truck turnarounds, and other measures.

The last speaker on this topic was Mike Kelly, director of government affairs for the NYS Association of Realtors (NYSAR). He said while NYSAR does not dispute the benefits of a sprinkler system, the installation of sprinklers should be a consumer choice. Imposing a state mandate would unquestionably harm the NYS housing market. Due to new NYS legislation, today purchasers of new homes have an informed choice to opt for fire suppression sprinklers.

Agenda item 5g. Stair Geometry

Mark introduced the topic. The 2015 International Residential Code provides for stairs to have a maximum riser height of 7¾ inches and a minimum tread depth of 10 inches. For a long time, New York State has had an amendment that provides a stair riser height up to 8¼ inches and a minimum tread depth of 9 inches. It changes

the stair geometry and would make the stairway longer to provide the same floor-to-floor height arrangement in conventional construction.

There were no speakers in favor of adoption of the 2015 IRC without modification regarding stair geometry.

Scheduled to speak in favor of modification was John Hofelich. He was unable to attend, but asked to have written comment distributed.

The first speaker was Nancy Geer, the executive director of the New York Housing Association, a not-for-profit trade association for the modular and manufactured housing industry. Their position is to retain the current amendment, as the IRC proposed tread depth and riser length would increase the height and the length of a staircase significantly. She did not have specific data because this item was not on the distributed agenda; however she is aware that this would significantly increase the height and / or length of each section of the home. The NYS amendment helps facilitate modular homes and modular sections for townhouses or duplexes, and New York is the leading state for modular home placement of duplexes and townhouses in the country. She said that this is not a safety issue, and strongly encouraged the Code Council to retain the current NYS amendment.

Agenda Item 6a. Detached One- and Two-Family Dwellings or Townhouses --Air Leakage Test

Mark introduced the topic. The current Residential Code in New York State, 2010 RCNYS, requires building envelope air tightness of new construction to be verified by one of two options, either visual inspection at specified stages of construction or by conducting and passing a standardized test commonly known as the blower door test. When the blower door test option is used, the allowable air leakage is limited to 7 air changes per hour (7 ACH50). The 2015 International Residential Code does not offer both options but requires the blower door test to be used and sets the limit of air leakage at not to exceed 3 air changes per hour (3 ACH50).

One speaker signed up to speak on this topic in favor of modification of the 2015 IRC, Todd Stewart, Stewart Construction Company, representing the NYS Builders Association and over 2200 member companies and thousands of employees across the state. He strongly encouraged the use of technical subcommittees with builder representation, as the building industry implement codes, see what works in the field, educate the end-users and sell new homes in competition with the less efficient but less expensive existing housing. He said that the desired energy performance is provided by current requirements for air sealing and insulation and visually inspection by the code official. NYSERDA has proven that over the years with its blower door testing. He urged the Code Council to keep that as an optional path. If testing is mandated, he said that changing the requirement from 7 ACH50 to 3 ACH50 is an enormous leap, asked the Code Council to accept the technical subcommittee's recommendations of 5 ACH50 as a reasonable next step. Only two states have adopted the 3 ACH50 requirement; nine other states that have adopted the 2012 I-codes amended that limit to 5 ACH50. A second point, the energy code sets a scale of relative efficiency, the Energy Rating Index (ERI), with lower numbers more efficient. The average existing house has an ERI of 130. The 2010 NYS code yields around 87. The 2015 code mandates a rating of 54, a big change. The 2012 code was to adopt a 70 ERI, and he encouraged the Council to adopt 70 as a reasonable next step.

Agenda item 6b. Residential Groups (R2, R3, R4) -- Air Leakage and Sampling Protocol

Mark introduced this agenda item, with one correction to the agenda. The R1 residences are not included as the International Energy Conservation Code (IECC) only applies in this case to R2, R3 and R4 residences. The 2010 Energy Conservation Construction Code in NYS (ECCCNYS) allows two options to verify air tightness, the visual inspection or the blower door test. When using the blower door test, air leakage is limited to 7 ACH50. The 2015 IECC requires the blower door test and limits the air leakage rate to no more than 3 ACH50.

The first speaker in favor of adopting the I-Codes without amendment was Darren Port, building energy codes manager for Northeast Energy Efficiency Partnerships (NEEP). NEEP serves the Northeast and Mid-Atlantic to accelerate energy efficiency in the building sector through public policy, program strategies and education. NEEP supports NYS's effort to save money and energy by adopting the 2015 IECC with amendment with respect to this issue, preserving the diagnostic testing and the ERI limits as prescribed by the code. Evidence from other states and towns throughout the country and the Northeast show this is doable. NEEP is here to assist the Council to answer any questions, and in training and technical assistance needed.

The next speaker, Eric Lacey, Responsible Energy Codes Alliance, a national organization that promotes the adoption of the latest energy provisions in the I-codes. Regarding both agenda items 6a and 6b, they promote adoption of the 2015 I-codes without weakening amendments. Mandatory air leakage testing is needed for the effectiveness and the efficiency of the code. The U.S. Department of Energy found that an update from the 2010 Energy Code in NYS to the 2012 edition, very similar to the 2015 IECC, would yield near 27 percent in energy cost savings, and would provide payback in about 3.2 years. A lot of those savings come from the air tightness. Most states are moving toward a mandatory blower door test in every home. It is hard to tell what the air leakage is by visual inspection. The 2015 IECC will be good for people and businesses. The 2015 IECC allows some additional flexibility over the 2012 IECC. The ERI is another compliance option, and his organization would recommend that New York keep the ERI language that is in the 2015 IECC.

The next speaker was Stephen Rosario, American Chemistry Council, representing the chemical and plastics industry. His industry is very supportive of increasing energy efficiency in buildings, supports the comments of the two previous speakers, and would like to thank the Code Council for the work it has done and is continuing.

Speaking now in favor of modification to the 2015 IECC, the first speaker was Sean Maxwell of Steven Winter Associates. He spoke with regards to multifamily buildings. His background of testing and research for the Department of Energy on air-flow patterns in multifamily buildings has shown that the 2015 IECC language regarding air leakage testing is appropriate for single-family homes but is not practical for multifamily buildings. He suggested an alternate test protocol for multifamily tests that tests single apartments at a time, a test easily implemented statewide and used by the following nationally used standards: NYSERDA, for its Multifamily Performance Program; the EPA's Energy Star for Multifamily High-Rise Program; LEED for Homes Mid-Rise Program; ASHRAE 62-2013 for its air tightness standard.

The next speaker was James Moriarty, quality assurance manager at Sustainable Comfort, which supports NYS affordable housing meeting optional energy standards like Energy Star Version 3 and New York Energy Star Homes. Sustainable Comfort supports mandatory air leakage testing, and use of compartmentalization in multifamily as the best way to ensure flows and good energy performance in affordable housing. Using the ERI metric the previous speaker recommended, 99 percent of their tests met that standard after rigorous inspection and testing from professionals in the field. Those same multifamily homes tested on a basis of 3 ACH50 without compartmentalization, 4 percent of them would pass.

The last speaker on this topic was Phil LaRocque, who said he has verified over 300 residential units, both single and multifamily. Of these about 80 percent of residential units attain 3 ACH50 or below. As the two prior speakers said, compartmentalization is needed for multifamily units, because the ACH numbers will not work in multifamily. He believes it will require a lot of training and transition will be needed to get the typical builder and designer up to speed on the requirement for 3 ACH50. He recommends that code officials have third party testers conduct and verify the blower door test.

This concluded the discussion. Ron asked members of the Council to submit any questions regarding testimony herein to Mark or Miriam, so we can do the necessary research to get the information or answers for the February agenda package.

Agenda Item 7 - Future meetings.

Mark Blanke announced that he sent the Code Council members a meeting schedule for 2015, with the dates of February 11th, May 6th, August 12th and November 19th.

Agenda Item 8 - 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 2:10 PM.

DRAFT