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**Commonwealth of Massachusetts
Division of Professional Licensure
Office of Public Safety and Inspections**

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CHARLES BORSTEL
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Board of Building Regulations and Standards (BFRS)

June 5, 2018 Regular Meeting
Division of Professional Licensure (DPL)
50 Maple Street in Milford

Chairman, John Couture, opened the regular meeting at approximately 1:09 p.m.

Chairman Couture took roll call as follows:

John Couture, Chair	✓ present <input type="checkbox"/> absent	Peter Ostroskey*	✓ present <input type="checkbox"/> absent
Kerry Dietz, Vice Chair	✓ present <input type="checkbox"/> absent	Michael McDowell	✓ present <input type="checkbox"/> absent
Richard Crowley, Second V. Chair	✓ present <input type="checkbox"/> absent	Susan Gleason	✓ present <input type="checkbox"/> absent
Kevin Gallagher	✓ present <input type="checkbox"/> absent	Lisa Davey	✓ present <input type="checkbox"/> absent
Cheryl Lavallee	<input type="checkbox"/> present ✓ absent	Steve Frederickson	✓ present <input type="checkbox"/> absent
Robert Anderson	✓ present <input type="checkbox"/> absent		

* Jen Hoyt (JH) participated as the designee for State Fire Marshal, Peter Ostroskey.

General notes on format of these minutes

- Votes are noted as **MOTION** by, seconded by, and whether it was a unanimous or split vote.
- Agenda topics as numbered may be in the same order as they appear on the meeting agenda.
- The meeting agenda is listed as **EXHIBIT A**; others are listed sequentially as addresses during the meeting.

1. **BFRS Minutes.** On a **MOTION** by Kerry Dietz seconded by Lisa Davey it was unanimously voted to approve the minutes (**EXHIBIT B**) for the May 8, 2018 Board of Building Regulations and Standards (BFRS) meeting as submitted.

2. **BOCC Minutes.** On a **MOTION** by Kerry Dietz seconded by Steve Frederickson it was unanimously voted to approve the minutes (**EXHIBIT C**) for the April 4, 2018 Building Official Certification Committee (BOCC) meeting as submitted.

The following is meant to provide a synopsis of board votes relating to proposals submitted during the May Public Hearing. It is not meant to be a verbatim account.

3. **Proposal Number 5-1-2018.** Consider adopting 2018 International Energy Conservation Code (IECC) & Discuss Stretch Energy Code Provisions.

Massachusetts General Law (MGL) c. 143, §94(o) establishes that the BBRS shall “*... adopt and fully integrate the latest International Energy Conservation Code as part of the state building code, together with any more stringent energy-efficiency provisions that the board, in consultation with the department of energy resources, concludes are warranted. The energy provisions of the state building code shall be updated within 1 year of any revision to the International Energy Conservation Code*”.

On a **MOTION** by Rich Crowley seconded by Jen Hoyt it was unanimously voted to table action on the adoption of the 2018 International Energy Conservation Code (ECC) to allow Office of Public Safety & Inspection (OPSI) staff time to confer with members of the Energy Advisory Committee (EAC) and Department of Energy Resources (DOER) on desired revisions.

4. **Proposal Number 5-2-2018.** Consider adopting Appendix Q of the 2018 International Residential Code pertaining to Tiny Houses.

A **MOTION** was made by Rich Crowley seconded by Kerry Dietz to approve the proposal in concept so that it may move through the Executive Order (EO) 562 and Building Code Coordinating Council (BCCC) processes to ensure the measure does not duplicate and\or conflict with other, existing regulations.

On discussion, Jen Hoyt raised concerns about fire protection and other issues that may conflict with fire code regulations and Kerry Dietz cautioned that there may be some concerns with regard to sanitary issues as well. Resultantly, the **MOTION** was modified and unanimously voted to table action on the proposal for 60 days to allow time for staff time to coordinate with others regarding possible conflicts and\or duplication and other possible concerns.

5. **Proposal Number 5-3-2018.** Consider adopting an amendment particular to Micro Units submitted by Mike DiMascio (**EXHIBIT D**).

On a **MOTION** by Jen Hoyt seconded by Kevin Gallagher it was unanimously voted to table action on the proposal for 60 days to allow time for further refinement and development.

On discussion, Kerry Dietz indicated that the proposal is not fully developed and therefore difficult to endorse. Additionally, unlike the tiny house amendment, this proposal has not been vetted through and coordinated with the International Code Council (ICC) process.

Jen Hoyt agreed that the proposal needs to be developed further and coordinated with other codes, such as Architectural Access Board and sanitary regulations.

6. **Proposal Number 5-4-2018.** Consider adopting 2015 International Solar Energy Provisions.

On a **MOTION** by Jen Hoyt seconded by Kevin Gallagher it was unanimously voted to table action on the proposal for 90 days to allow time for review by the *Solar Array Working Group* that was established earlier.

On discussion, Jen Hoyt raised fire service concerns about installation defined by the standard and Chairman Couture was wary about introducing another code standard into the mix. Steve Frederickson noted that the document really is not a code and ICC Representative, Dottie Harris, confirmed that the document simply extracts solar array energy conservation and related requirements from respective codes and places them in one standard for ease of use.

7. **Proposal Number 5-5-2018.** Consider updating NFPA 241 to the 2013 Edition to coincide with 527 CMR (*The Massachusetts Comprehensive Fire Safety Code*) and broaden the scope beyond standpipes.

On a MOTION by Rob Anderson seconded by Jen Hoyt it was unanimously voted to table action on the proposal for 90 days to allow time for further review.

On discussion, Jen revealed that there is a lot of discussion with regard to the appropriate understanding and enforcement of NFPA 241 and Board members should allow additional time for the *Construction Fire Safety Partnership* to complete its work.

8. **Proposal Number 5-6-2018.** Consider broadening the scope of NFPA 130 beyond Chapters 2, 3, 4, and 5.

On a MOTION by Rob Anderson seconded by Jen Hoyt it was unanimously voted to approve adoption of NFPA 130 in its entirety.

9. **Proposal Number 5-7-2018.** Consider developing a swimming pool installers license\certification based on the Association of Pool & Spa Professionals (APSP) standards.

On a MOTION by Rob Anderson seconded by Kerry Dietz it was unanimously voted to approve pursuit of appropriate licensing and\or certification for swimming pool installers based on a recognized, standard process.

On discussion, Rob Anderson explained that former members of the Board had discussed establishing a swimming pool installers license on numerous occasions, but could not agree on a method. The discussion has been resurrected due to pending legislation that would require the Board to develop standards for licensure. Chairman Couture noted that he has experienced numerous difficulties with installers in the past and believes that a meaningful license program can help resolve some lingering issues.

10. **Proposal Number 5-8-2018.** Consider adding the following paragraph as Section 105.3.1.1 for both the base and comparable residential code section (**EXHIBIT E**).

Proponent Chairman Couture, withdrew the proposal.

11. **Proposal Number 5-9-2018.** Consider deleting item number 2 under Section 2603.5.5 to coordinate with final amendments made to Sections 1403.5 and 1407.10.4 of the ninth edition code (**EXHIBIT F**).

On a MOTION by Kevin Gallagher seconded by Jen Hoyt it was voted in the majority to approve deleting item number 2 via emergency action. Rich Crowley abstained from the vote.

On discussion, OPSI Attorney, Charles Kilb, explained that an emergency action may be taken to avert a danger to public safety, health and\or welfare. If adopted by emergency measures, the change takes effect immediately and Board members would need to convene a public hearing within 90 days to affirm the action (*or not*).

Rich Crowley argued that this is being misidentified as a public safety issue; it is an energy conservation issue.

Jen Hoyt argued that empirical information developing from study of the Grenfell Tower Fire suggests that it is a fire safety concern that needs to be taken seriously. Additionally, changes related to this section are different from national standards that have not been vetted through the International Code Council. Rich argued that construction methods employed in Grenfell were completely different and we are mixing apples and oranges.

12. **Proposal Number 5-10-2018.** Consider amending Section R303.1, exception number 1. Submitted by Building Code Enforcement Official, Frank Ramsbottom (**EXHIBIT G**).

On a MOTION by Rob Anderson seconded by Kerry Dietz it was unanimously voted to approve the proposal as submitted, but staff is directed to ensure that the change does not pose any difficulty with mechanical code requirements.

13. **Proposal Number 5-11-2018.** Consider adding item number 9 under Section R105.3 stating that, if applicable, in accordance with MGL 149 Section 6 and 454 CMR 22.00, include the *Lead-Safe Renovation Contracting Licensees'* name and license number to Section R105.3 concerning information requested on a building permit application (**EXHIBIT H**).

On a MOTION by Mike McDowell seconded by Kerry Dietz it was unanimously voted to deny the proposal because it reached beyond jurisdictional bounds of a building inspector.

On discussion, proponent, Mike Flanagan, explained that the proposal is intended to function like Home Improvement Contractor (HIC) registration credentials that are checked at the permit application stage.

Audience members\building code enforcement officials, Robert Borden and William Horrocks, suggested the proposal causes building inspectors to deviate from their legal authority. Lead safe laws, they argued, are under the jurisdiction of others and should be enforced by others, not by building officials.

14. **Proposal Number 5-12-2018.** Consider amending Section N1103.6.2 and R403 to add reference to licensed sheet metal workers submitted by Cathy Flaherty (**EXHIBIT I**).
15. **Proposal Number 5-13-2018.** Consider amending Section N1103.3.3 and R403.3.3 to add reference to licensed sheet metal workers submitted by Cathy Flaherty (**EXHIBIT J**).

(Proposals 12 and 13 address essentially the same issue.)

On a MOTION by Mike McDowell seconded by Rich Crowley it was unanimously voted to approve both proposals 5-12-2018 and 5-13-2018 in concept, but directed staff to work with proponents, Energy Advisory Committee members and others, including legal counsel if necessary, to further refine requirements to determine a workable solution.

On discussion, Kerry Dietz and others were concerned that the measure allows sheet metal workers to test their own work. Typically and logically, testing is performed by others so that test results are not fabricated.

Proponent, Manny Chavez, argued inaccurate, fabricated test results would be considered fraudulent and action could be taken against a licensee for submitting such information.

Audience member, Ian Finlayson, suggested that standards should be developed for sheet metal workers to be deemed qualified and competent to perform system testing and agreed that more qualified system testers are needed.

16. **Proposal Number 5-14-2018.** Consider amending Section 101.5 of the base code and comparable section of the residential code by deleting the last sentence as well as the name and make-up of each committee (**EXHIBIT K**).

On a **MOTION** by Rob Anderson seconded by Rich Crowley it was unanimously voted to approve the proposal as submitted.

On discussion, Rob Anderson indicated that the proposal intends to remove committee make-up and membership from the body of the code so that public hearings are not necessary to make a change.

17. **Proposal Number 5-15-2018.** Consider deleting Sections AU103.7 and RB103.7 pertaining to electrical service reserved spaces in their entirety (**EXHIBIT L**).

On a **MOTION** by Rich Crowley seconded by Mike McDowell it was unanimously voted to approve the proposal as submitted.

18. **Tenth Edition 780 CMR.** Board members discussed direction of the next edition of the state building code (780 CMR); whether to pursue adoption of the family of 2018 I-Codes (*for which the Board has authority*) in order to be in sync with the Energy Conservation Code (IECC) or to wait for the 2021 I-Codes to advance to the tenth edition of 780 CMR. Mike McDowell proposed that we wait to transition to 2021 codes, other Board members expressed that we should progress to the 2018 codes. Rich Crowley advocated to wait for the 2021 codes and adopt them piecemeal as they became available.

Kerry Dietz indicated that registered design professionals are obligated to use contemporary building codes in the design of buildings and structures; to wait for the 2021 codes could pose difficulties. Jen Hoyt indicated that we should at least analyze changes between the 2015 and 2018 codes to determine whether or not it is feasible to advance to the 2018 codes in a reasonable time period.

Chairman Couture expressed some concern recognizing staff limitations, but agreed that we should request copies of the I-Code Transition Documents from the ICC to begin the review process.

Following discussion, on a **MOTION** by Kerry Dietz seconded by Jen Hoyt it was voted in the majority to move towards the adoption of the following 2018 I-Codes to comprise 780 CMR Tenth Edition with due haste in an attempt to implement within one-year.

- The International Building Code (IBC);
- International Residential Code (IRC);
- International Existing Building Code (IEBC);

- International Mechanical Code (IMC);
- International Energy Conservation Code (IECC);
- International Swimming Pool and Spa Code (ISPSC);
- Portions of the International Fire Code (IFC) as necessary.

Mike McDowell voted in opposition.

Staff was directed to request copies of referenced codes and commentaries to be used during the review process and to solicit review assistance through appropriate advisory committees.

19. **Windborne Debris & Impact Resistance Glazing.** Rob Anderson indicated that there is some ambiguity in the Residential Code with regard to the referenced topic and the manner in which it is determined whether or not impact resistant glazing is required under the code. Resultantly, an FAQ was drafted to walk through steps to demonstrate that impact resistant glazing is not required in any zone for structures designed and constructed under the residential code due to an amendment approved by Board members. However, this amendment was not approved for the base code and therefore impact resistant glazing is required in certain zones.

Following a brief discussion, on a **MOTION** by Rich Crowley seconded by Mike McDowell it was unanimously voted to approve the FAQ as written (**EXHIBIT M**).

20. **Floor Protection.** Rob Anderson indicated that there is some ambiguity in the Residential Code with regard to the referenced topic and the manner in which it is determined whether or not floor protection materials must be affixed directly to the underside of an I-joist for a remodeling project or if alternative methods are allowed. Resultantly, an FAQ was drafted to demonstrate that alternative methods are allowed.

Following a brief discussion, on a **MOTION** by Mike McDowell seconded by Kerry Dietz it was unanimously voted to delete the sketches (*and reference thereto*) appearing of page 2 of the FAQ, but otherwise approve as written (**EXHIBIT N**).

21. **Flood Resistant Construction.** Audience member\Department of Conservation and Recreation Representative, Eric Carlson, indicated that there is some ambiguity in the Residential Code with regard to the referenced topic and the manner in which it is determined whether or not additions to existing structures located in a floodplain are required to be elevated. Resultantly, an FAQ was drafted to provide guidance as to when structures need to be elevated.

In response to a question by Rich Crowley, Eric indicated that the FAQ does not have anything to do with *Coastal A* Zone requirements.

Following a brief discussion, on a **MOTION** by Mike McDowell seconded by Steve Frederickson it was unanimously voted approve the FAQ as written (**EXHIBIT O**).

22. **Substantial structural alterations.** A local engineer questioned whether or not a “*gut rehab*” should be considered a substantial alteration under the 2015 *International Existing Building Code* (IEBC). *Gut rehab* is not a defined term under the code.

Following a brief discussion, it was determined that the question should be reviewed by members of the Structural Advisory Committee (SAC).

23. **Life experience** for active construction professionals in lieu of completing the 12 CEU requirement. OPSI Program Coordinator, Kimberly Spencer, explained that she has been receiving several requests to approve life experiences in lieu of continuing education requirements.

Following a brief discussion, on a **MOTION** by Kerry Dietz seconded by Jen Hoyt it was unanimously voted to deny life experience in lieu of continuing education requirements for licensed construction supervisors.

24. **Continuing Education Waiver** to complete the classroom requirement for people on active military duty or for medical reasons. Program Coordinator, Kimberly Spencer, explained that she has been receiving several requests to waive in-class continuing education requirements due to medical and\or military issues.

Following a brief discussion, staff was directed to work with OPSI counsel to determine written policies for any deviation to face-time continuing education requirements.

25. **New Construction Supervisor Licenses.** On a **MOTION** by Kerry Dietz seconded by Steve Frederickson it was voted in the majority to approve 110 new construction supervisors licenses (CSLs) issued during the month of May, 2018.

Rich Crowley abstained from the vote explaining that he has been advised not to vote a license for any person whom he had as a student. Without knowing the names of all 110 applicants, he erred on the side of caution. Rich further explained that Board members could vote on a policy whereby he would not need to abstain from a vote. Rich asked for a policy to be drafted for review at the next meeting.

26. **Construction Supervisor License Requests.** On a **MOTION** by Rich Crowley seconded by Steve Frederickson it was unanimously voted to approve the following reinstatement requests.

- a.) Frank Baj CS-011406 (*Medical*)
- b.) Romero Wilson CS-087861 (*Medical*)

27. **Meeting Schedule.** Steve Frederickson requested regular meeting time to be switched from 1 p.m. to 10 a.m. Following a brief discussion, it was determined that regular meeting starting times would remain @ 1:00 p.m., but times could be altered to attend to longer meeting agendas as necessary.

28. **Adjourn.** On a **MOTION** by Steve Frederickson seconded by Jen Hoyt it was unanimously voted to adjourn the meeting @ 4:30 p.m.

EXHIBITS:

- A. Meeting Agenda.
- B. May 8, 2018 Board of Building Regulations and Standards (BBRS) meeting minutes.
- C. April 4, 2018 Building Official Certification Committee (BOCC) meeting minutes.
- D. Proposal Number 5-3-2018 pertaining to micro units.
- E. Proposal Number 5-8-2018 pertaining to Section 105.3.1.1
- F. Proposal Number 5-9-2018 pertaining to item number 2 under Section 2603.5.5.
- G. Proposal Number 5-10-2018 pertaining to Section R303.1, exception number 1.
- H. Proposal Number 5-11-2018 pertaining to item number 9, Section R105.3.
- I. Proposal Number 5-12-2018 pertaining to Sections N1103.6.2 and R403
- J. Proposal Number 5-13-2018 pertaining to Sections N1103.3.3 and R403.3.3
- K. Proposal Number 5-14-2018 pertaining to Section 101.5 of the base code and comparable section of the residential code.
- L. Proposal Number 5-15-2018 pertaining to Sections AU103.7 and RB103.7.
- M. Windborne Debris & Impact Resistance Glazing FAQ.
- N. Floor Protection FAQ.
- O. Flood Resistant Construction FAQ.