

**MINUTES OF THE BUILDING CODE COUNCIL  
DECEMBER 10, 2002  
RALEIGH, NORTH CAROLINA**

All Council members were present with the exception of Gary York.

THESE ARE SUMMARY MINUTES AND THE OFFICIAL MINUTES OF THIS MEETING ARE RECORDED ON TAPE. ANYONE DESIRING VERBATIM OR EXCERPTS FROM THESE TAPES SHOULD CONTACT THE ENGINEERING DIVISION, NC DEPARTMENT OF INSURANCE FOR INFORMATION ON REPRODUCTION COSTS.

Chairman Gardner announced that the March 10, 2002 Council meeting would be at 9:00 am, at the Wake County Commons located at 4011 Carya Drive, Raleigh, NC 27610. The work session is scheduled for March 10, 2002 at 9:00am at the same location, followed by the Public Hearing at 1:00pm March 11, 2002.

**ITEM 1 - APPROVAL OF MINUTES OF THE SEPTEMBER 11, 2002, BUILDING CODE COUNCIL MEETING.**

Dan Tingen made a motion to approve the minutes. Al Bass seconded the motion. The motion carried.

**ITEM 2 - REQUEST BY THE CITY OF ASHEVILLE FOR RENEWAL OF AUTHORITY TO REVIEW PLANS AND SPECIFICATIONS FOR BUILDINGS AS LISTED IN TABLE 502 OF THE NORTH CAROLINA ADMINISTRATION AND ENFORCEMENT REQUIREMENTS CODE.**

Al Bass made a motion to approve the renewal of Asheville's authority to review plans and specifications as listed in Table 502 of the Administration and Enforcement Requirements Code. Aubrey Smith seconded the motion. The motion carried.

**ITEM 3 - REQUEST BY MECKLENBURG COUNTY FOR RENEWAL OF AUTHORITY TO REVIEW PLANS AND SPECIFICATIONS FOR BUILDINGS AS LISTED IN TABLE 502 OF THE NORTH CAROLINA ADMINISTRATION AND ENFORCEMENT REQUIREMENTS CODE.**

Tom Avery made a motion to approve the renewal of Mecklenburg County's authority to review plans and specifications as listed in Table 502 of the Administration and Enforcement Requirements Code. Dan Murray seconded the motion. The motion carried.

**ITEM 4 - REQUEST BY THE TOWN OF FUQUAY-VARINA FOR AUTHORITY TO REVIEW PLANS AND SPECIFICATIONS FOR BUILDINGS AS LISTED IN TABLE 502 OF THE NORTH CAROLINA ADMINISTRATION AND ENFORCEMENT REQUIREMENTS CODE.**

Marshall Knight made a motion to approve Fuquay-Varina's authority to review plans and specifications as listed in Table 502 of the Administration and Enforcement Requirements Code. Richard Strickland seconded the motion. The motion carried.

**ITEM 4a - REQUEST BY THE CITY OF RALEIGH FOR RENEWAL OF AUTHORITY TO REVIEW PLANS AND SPECIFICATIONS FOR BUILDINGS AS LISTED IN TABLE 502 OF THE NORTH CAROLINA ADMINISTRATION AND ENFORCEMENT REQUIREMENTS CODE.**

Al Bass made a motion to approve Raleigh's authority to review plans and specifications as listed in Table 502 of the Administration and Enforcement Requirements Code. John Hitch seconded the motion. The motion carried.

**ITEM 5 - APPEAL BY J. PATRICK WHALEN, JR., OF PUBLIC INTEREST PROJECTS, INC. OF DECISION BY THE CITY OF ASHEVILLE BUILDING SAFETY DEPARTMENT CONCERNING THE ASHEVILLE HOTEL.**

Diane Miller, representing the Attorney General's office, provided introductory remarks about the appeal. Ms. Miller stated the appeal was requested by Patrick Whalen, representing Public Interest Projects. Mr. Whalen is appealing an interpretation given by Grover Sawyer, Deputy Commissioner, NC Dept. of Insurance, which related to certain requirements of the Asheville Inspection Department, easements agreements, a court order and the North Carolina Building Code. Ms. Miller stated that exiting for the Castanea Building is being provided through the Asheville Hotel owned by Public Interest Projects. Grover Sawyer's interpretation stated that a court order was being enforced in this case, and not the Building Code.

Mr. Whalen, addressed the Council concerning his appeal. Mr. Whalen stated Public Interest Projects owns the Asheville Hotel. Next to the Asheville Hotel is the Castanea Building. The Castanea Building is a land locked building. There is an easement agreement between the owners of the two properties.

Mr. Whalen stated he was not asking the Council to review the easement or the court proceedings concerning the Asheville Hotel. Mr. Whalen stated the Code Enforcement Official's determinations cause safety and liability issues for Public Interest Projects. Mr. Whalen stated he wants to know what the Building Code requires of him. He said he is being made responsible for providing code compliance for a neighboring property.

Mr. Whalen stated he had two questions for the Council. First, how the building code applies to his building and how the code applies to the neighboring building. Secondly, is he required to provide safety features for exiting for a neighboring building that are not required for his own building.

Mr. Whalen stated the terms of the easement agreement do not specify that Public Interest Projects must provide a code compliant access for the Castanea Building. Mr. Whalen stated the Asheville Hotel complies with the code.

Grover Sawyer, Chief Engineer, NC Department of Insurance addressed the Council and stated that his position on this issue is that the courts will have to decide the matter. Mr. Sawyer stated that adequate exits for the Castanea Building must be provided; how the exiting is provided will be for the courts to determine. Mr. Sawyer stated that when he received the

appeal and realized that exiting for one building is being provided through another building, it was clear the appeal concerned a situation that is not covered by the code. Mr. Sawyer stated that since that matter was in the court system, the courts should make the decisions.

Terry Summey with the Asheville Inspections Department answered questions from the Council. Mr. Ed Bleynat, representing the owners of the Castanea Building, also addressed the Council and reviewed the chronology of the case.

Tom Turner made a motion to affirm the City of Asheville's decision and Grover Sawyer's interpretation. Marshal Knight seconded the motion. Aubrey Smith made a substitute motion that the Building Code Council affirms Mr. Sawyer's decision only. Dan Tingen seconded the motion. The motion carried.

**ITEM 5a – APPEAL BY GILBERT STANLEY OF INTERPRETATION BY GROVER SAWYER THAT USE OF PAINT FOR VAPOR RETARDER IS AN ALTERNATE METHOD AND MATERIAL**

Diane Miller, representing the Attorney General's office, made introductory remarks about the appeal. Ms. Miller stated this is the second appeal that Mr. Stanley has brought before the Council. At the last Council meeting Grover Sawyer, Chief Engineer, Department of Insurance, was directed to write a second interpretation letter specifically addressing the use of paint in lieu of a vapor retarder for work constructed under the North Carolina Residential Code. Mr. Sawyer's letter states that the use of paint in lieu of a vapor retarder is considered an alternate material and is approved at the sole discretion of the local code enforcement official. Mr. Stanley is appealing the interpretation of Mr. Sawyer.

Mr. Stanley addressed the Council stating he has previously provided material to the Council showing why he thinks the paint currently being used does not meet the Code. Mr. Stanley stated his appeal is based on the language in the statute that says any decision of a local code enforcement official may be appealed to the Building Code Council. Mr. Stanley reviewed the test data provided by the Department of Insurance. Mr. Stanley stated that someone from the Manufactured Housing Division testified that the paint meets the code. Mr. Stanley stated he is asking the Building Code Council to say the paint does not meet the code.

Grover Sawyer addressed the Council and stated that the statute concerning appeals states unless otherwise provided by law, decisions of inspectors concerning the state building code shall be brought to the Commissioner of Insurance. The use of alternate methods and materials are for items that are not covered by the code. The North Carolina Administrative and Enforcement Requirements Code states that the use of alternate materials is at the sole discretion of the local code enforcement official and therefore, is not appealed to the Commissioner of Insurance or the Building Code Council. Mr. Sawyer stated that substantial evidence had not been submitted to confirm that there is any problem with the use of the product and the test data showed the product meets the criteria set forth in the code.

Dan Tingen made a motion to support the interpretation of Grover Sawyer. Tom Turner seconded the motion. The motion carried.

Dan Tingen made a motion that Mr. Sawyer investigate and report to the Council about any potential problems with Manufactured Housing Division's approvals of alternate methods or any problems with PFS. Grover Sawyer stated he does not have the authority to investigate

another Division of state government. Mr. Sawyer stated the appropriate person to conduct an investigation would be Tim Bradley.

Chairman Gardner stated this matter is referred to the Administrative Committee for further study.

**ITEM 6 - REQUEST BY THE CITY OF ASHEVILLE FOR APPROVAL OF CHAPTER 6 OF THE FIRE PREVENTION CODE.**

Richard Strickland made a motion to approve Chapter 6 of the City of Asheville's City Code. Tom Turner seconded the motion. The motion carried.

**PETITIONS FOR RULEMAKING**

The Secretary received the petitions listed below for rulemaking. The Council voted to grant or deny the petitions. Petitions that were granted may proceed through the rulemaking process. The Council will give no further consideration to petitions that were denied. The Council may send any petition to the appropriate committee for review. Committee meetings are scheduled for June 9, 2002, if needed. The public hearing for petitions granted at the December meeting will be held on June 10, 2003.

**ITEM 7 - PROPOSAL BY DANNY HAIR TO ADD NEW SECTION 104.1 TO THE NORTH CAROLINA ADMINISTRATION AND ENFORCEMENT REQUIREMENTS CODE AS FOLLOWS:**

**104.1 Technical Codes.** The applicable provisions of the technical codes shall be those in effect at the time the permit application is received and accepted.

Danny Hair addressed the Council stating he is an Electrical Inspector with the City of Raleigh. Mr. Hair stated it is difficult for architects and engineers to make the transition to a new code. The Code read "the applicable provisions of the technical codes shall be those in effect at the time the permit is issued." Mr. Hair stated his proposal states "the code in effect that the permit application is received and accepted."

Grover Sawyer spoke against the proposal. Mr. Sawyer stated the law implies that permits are issued for compliance with the Codes in effect at the time the permit is issued. Mr. Sawyer stated each jurisdiction may look at individual projects and approve projects under the 1999 codes.

Jim Bartl, Mecklenberg County Inspection Department, stated their office set a cut off date by which permit applications must be received in order to use the 1999 code. Mr. Bartl stated the problem with setting the cut off date as the time the permit is accepted is that it may be six months after the permit application has been received before the permit is issued.

Diane Miller with the Attorney General's office reminded the Council that any action on this matter would not be effective this year. This proposal could only affect the next code cycle in

2006. Ms. Miller said there might be two issues to address: (1) future code cycles affected by this proposal, and (2) an informal interpretation by Grover Sawyer giving guidance for permits issued currently.

Richard Strickland made a motion to deny the petition. Dan Tingen seconded the motion. The motion carried.

**ITEM 8 - PROPOSAL BY LON MCSWAIN OF THE NC BUILDING INSPECTORS ASSOCIATION TO REVISE THE NORTH CAROLINA BUILDING AND FIRE PREVENTION CODE SECTIONS 903.3.1.1 AS FOLLOWS:**

**903.3.1.1 NFPA 13 sprinkler systems.** Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Section 903.3.1.1.1. ~~903.3.1.2, 903.3.1.3.~~

Lon McSwain with the NC Building Inspectors Association stated that the proposed change is for clarification, and has already been approved by ICC.

Al Bass made a motion to approve the proposal. Richard Strickland seconded the motion. The motion carried.

**ITEM 8a - PROPOSAL BY SIEGFRIED W. VALENTIN TO REVISE THE HEADING ON PAGE 9R OF THE NORTH CAROLINA RESIDENTIAL CODE TO READ AS FOLLOWS:**

**REPORT ON METHODS OF DOCUMENTING COMPLIANCE OF WINDOWS, DOORS, WOOD STRUCTURAL PANELS AND SHUTTER ELEMENTS TO VOLUME VII REQUIREMENTS**

Staff asked for clarification about Mr. Valentin's proposal. Staff stated there is no page 9R in the current version of the Residential Code. Marshall Knight stated that Mr. Valentin's proposal to require dp ratings be provided for plywood and shutters is contrary to the wind borne debris provisions approved by the Council. Chairman Gardner suggested that Mr. Valentin resubmit his proposal and propose specific changes to the Code.

John Hitch made a motion to deny the proposal. Dan Tingen seconded the motion. The motion carried.

**ITEM 9 -DISCUSSION WITH PFS ABOUT TESTING CRITERIA FOR PAINT APPROVED AS ALTERNATE MATERIAL IN LIEU OF VAPOR RETARDERS.**

John Rothman, PE with PFS addressed the Council. Rothman stated that the vapor barrier paints were developed because modular manufacturers were having problems installing continuous vapor barriers in walls of homes during the production process. In production, walls are built from the inside out, instead of the outside in. There are 3 ASTM standards used when testing the paint. In addition, a scrubbability test was conducted. The flame spread and smoke density requirements in the code do not apply to the paint. The documentation about the testing was submitted to DOI. PFS inspects the plants to make sure the plants are using

the products approved. This product was first approved 1981 and is used extensively in other states.

Mr. Rothman answered questions from the Council. There was no further action taken by the Council.

## **ITEM 10 - COMMITTEE REPORTS**

### **BUILDING CODE COUNCIL COMMITTEES**

- 1. BUILDING CODE COMMITTEE. (No report)**
- 2. RESIDENTIAL CODE COMMITTEE.** Chairman Tingen stated the committee has received recommendations from the Moisture Ad Hoc Committee. The Committee has asked staff to develop code language to address the concerns the Moisture Ad Hoc Committee identified. These proposals will be brought to the Council when ready.
- 3. ELECTRICAL CODE COMMITTEE. (No report)**
- 4. ADMINISTRATION CODE COMMITTEE.** Chairman Gardner said the Administration Committee met and recommended that Grover Sawyer write a memo stating the Building Code Council does not require signatures on permit applications, and that the information contained in the Appendix is only a suggestion and not a requirement. Staff will develop a resolution for the BCC to approve at the next meeting. The resolution will encourage licensing boards to give continuing education credit for participation in the activities of the Building Code Council. Tom Turner made a motion that Grover Sawyer write a memo stating signatures are not required on permit applications. Brad Lail seconded the motion. The motion carried.
- 5. STRUCTURAL COMMITTEE. (No report)**
- 6. MECHANICAL CODE COMMITTEE. (No report)**
- 7. -FIRE PREVENTION CODE COMMITTEE.** Chairman Richard Strickland stated that the new code changed the definition of assembly occupancy. In accordance with the fire inspection schedule, this change increases drastically the number of fire inspections required for small restaurants. The Fire Prevention Committee recommends that buildings built under the old code would continue to be inspected as Group B occupancies, and the schedule set forth for B occupancies. The fire service code revision committee will be recommending changes to the minimum inspection schedule to alleviate this problem.
- 8. ENERGY COMMITTEE. (No report)**

## **AD HOC COMMITTEES**

**9. MOISTURE AD HOC COMMITTEE. See residential committee report.**

**10. PLUMBING AD HOC COMMITTEE.** Chairman Bass stated the committee has completed its work. The committee has produced a new fixture table. Marshall Knight stated he wanted the Council to move forward with the approval process for the adoption of the fixture table. Ms. Miller stated the fixture table could be approved as a petition for rulemaking. The mechanical committee will review the table before the next Council meeting. Aubrey Smith made a motion to approve the petition. Marshall Knight seconded the motion. The motion carried.

**11. INTERNATIONAL EXISTING BUILDING CODE.** Chairman Hitch reports that the final version of the International Existing Building Code will not be available until the end of February. The committee membership has been determined, and the committee will begin meeting as soon as the books are available.

## **COMMENTARY COMMITTEES**

**12. BUILDING CODE COMMENTARY COMMITTEE – VOLUME 1** Chairman Aubrey Smith stated the committee has completed its work and is waiting for a draft of the final version to review.

**13. BUILDING CODE COMMENTARY COMMITTEE – VOLUME 2.** – Chairman Tom Avery stated the committee has one more meeting before completing its work.

**14. FIRE PREVENTION COMMENTARY COMMITTEE. (Chapter 9)** - Chairman Richard Strickland stated the committee has starting reviewing the 2002 supplement to the 2000 IFC. The committee will begin work on the commentary as soon as it is available.

## **CODE AD HOC COMMITTEES**

**15. BUILDING CODE AD HOC COMMITTEE REVIEWING 2002 SUPPLEMENT.**  
Chairman Aubrey Smith stated the committee has started working on the supplement.

**16. FIRE PREVENTION AD HOC COMMITTEE REVIEWING 2002 SUPPLEMENT.**  
Chairman Richard Strickland reported the committee has starting work on the supplement and will continue to meet.

## **ITEM 11 – UPDATE BY STAFF ON STATUS OF PETITIONS APPROVED BY COUNCIL AT THE SEPTEMBER MEETING.**

Staff reported the petitions sent to the Rules Review Commission were approved without comment.

## **ITEM 12- OTHER ITEMS**

### **Accessibility Code Update**

Laurel Wright addressed the Council, updating the Council on the status of the NC Accessibility Code certification and changes to the ANSI standard. Ms. Wright stated the 2003 International Building Code and the 2003 ANSI A117.1 Standard are expected to be available in March. The Council confirmed their earlier decision to begin working on adopting the accessibility requirements in the 2003 International Building Code. Tom Turner stated he hopes the Building Code Council will begin reviewing the 2003 International Building Code as soon as it is available. Chairman Gardner stated the Accessibility Ad Hoc Committee will begin work as soon as the 2003 International Building Code is available.

### **Existing Building Code Update**

Barry Gupton addressed the Council and stated that Chapters 5 and 6 of the Existing Building Code refer to compliance with Chapter 34 the 1999 version of North Carolina Building Code, which will no longer be in effect after December 31, 2002. In order to clarify the situation for designers and inspector through out the state, Grover Sawyer stated the Council should direct Mr. Sawyer to issue a memorandum that states Chapters 5 and 6 of the Existing Building Code expire at the end of 2002, and that Chapter 34 of the 2002 NC Building code will replace Chapters 5 and 6. Tom Turner made a motion to approve sending the memo. Richard Strickland approved the motion. The motion carried.

There being no further business, the meeting was adjourned.

Sincerely,

Wanda D. Edwards, PE  
Secretary