

*SOUTH CAROLINA BUILDING CODES COUNCIL*  
**Synergy Business Park, Kingstree Building**  
**110 Centerview Drive, Kingstree Building, Room 108**  
**Columbia, South Carolina 29210**  
**Minutes**

**Wednesday, August 25, 2010**

**10:30 a.m.**

**Called To Order:**

Chairman Frank Hodge called the meeting to order at 10:30 a.m. Other members participating in the meeting included Greg Parsons, Vice Chairman; Thomas Brock; Frank Hill; Van McAlister; John Reich; Lloyd Schumann; Richard Sandler; Gable Stubbs; John White; and Lee Jedziniak.

Staff members participating during the meeting included: Sharon Dantzler, Assistant Deputy General Counsel; Lillia Ann Gray, Office of General Council; Gary Wiggins, Administrator, Jennie Meade, Program Coordinator; Angela Scott, Administrative Assistant; and Charlie Ido, Investigations.

Others present participating during the meeting included: Vaughn Wicker; Mike Lowman; Ray Hoshall; Clark Frady; Buddy Skinner; Donny Phipps; Tom Scholtens; John Wasson; Gary Bass; Donald Bravo; T. Lee Cave; Melissa Hopkins; Phil Elliott; Ken Kerber; Ward Braswell; Rick Hallman; Billy Sawyer; John England; Edye Graves; Chris Lee; Michael Smith; Bruce Boulineau; Rich Palmer; Sondra Senn; David Blackwell; John Wangles; Michael Smith; Patrick Brown; and Michelle Hawkins.

Chairman Hodge announced that public notice of this meeting was properly posted at the Building Codes Council office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with § 30-4-80 of the South Carolina Freedom of Information Act.

**Approval of Agenda:**

**MOTION:**

Mr. Parsons made a motion to approve the August 25, 2010, agenda. Mr. Sandler seconded the motion, which carried unanimously.

**Approval of Minutes - Wednesday, May 26, 2010 Meeting:**

**MOTION**

Mr. Parsons made a motion to approve the May 26, 2010 minutes with the following change under Old Business, last paragraph. "Mrs. Dantzler advised that the new language state that Council shall promulgate as Regulations in accordance to the procedures and requirements contained in the Administrative Procedures Act." Mr. Sandler seconded the motion, which carried unanimously

**Approval/Disapproval of Absent Members:**

Chris Cullum received excused absences.

**Chairman's Remarks:**

Chairman Hodge stated that Council needed to setup policies on what constitutes an excused and unexcused absence. Council decided to table this matter until the November 17, 2010, meeting.

Chairman Hodge stated that it is imperative for Council to have adequate seating space for Council meetings. Mr. Reich stated that he and staff have discussed purchasing the portable Granicus equipment.

**Administrator's Remarks for Information:**

Mr. Wiggins presented a copy of an article posted in the Associated Press regarding Open Meeting Violation.

**Office of Investigations and Enforcement (OIE):**

Mr. Ido reported that Office of Investigation and Enforcement gave a presentation at the BOASC meeting in May 2010, and they have been asked to give the presentation to Coastal Code meeting on December 6<sup>th</sup> – 7<sup>th</sup>. He reported that a representative from the Heating and Air Association would be speaking to the investigative staff of Office of Investigation and Enforcement on September 7, 2010.



**2009 Code Implementation:**

Mr. Wiggins presented Council with a copy of the Statutory Amendment and informed them that Council has to establish a implementation date. The 2009 implementation date was January 1, 2011, however that date is no longer valid. Attached is a copy of Exhibit 1 explaining the Implantation of the 2009 International Code Series and it is made a part of the minutes.

During a very active discussion, Mr. Sendler made a motion that the South Carolina Building Code Council submit the 2009 IRC, IBC, IPC, IMC, IFGC, and the IFC and all approved modifications, with deletion of any provision of or amendment to any of these codes that would mandate the installation of an automatic fire sprinkler system in one family or two family dwellings, to be compliant with South Carolina law to the general assembly to be promulgated as regulation.

Mr. McAlister seconded the motion. During the discussion many other comments were stated and Mr. Parsons made a motion to amend Mr. Sendler's motion by removing "with deletion of any provision of or amendment to any of these codes that would mandate the installation of an automatic fire sprinkler system in one family or two family dwellings, to be compliant with South Carolina law." Mr. Reich seconded the motion, which carried with two nay votes, Mr. Sendler and Mr. McAlister. Chairman Hodge called for comments from the audience on the first motion. Mr. Mark Nix, Home Builders Association of South Carolina, stated that sprinklers are not a part of the amendment, and should not be added in the Code. John England, England Enterprise, stated whatever the General Assembly does with the sprinklers is going to affect the ISO ratings in the future. The vote was called, and the motion passed with two nay votes, Mr. Reich and Mr. Parsons.

**Consideration For Statutory Change (IGCC):**

Chairman Hodge stated that he asked for the Consideration for Statutory Change (IGCC) to be placed on the agenda for discussion. He stated the International Code Council promulgated the code and it should be listed as a document that local jurisdictions can adopt if they chose to.

Mr. Wiggins presented the Council with proposed language for a statutory amendment to Section §6-9-60. Attached is a copy of the proposed amendment and it is made a part of the minutes.

Keith Sanders, American Institute of Architect (AIA), and John Wasson, City of Greenville spoke in favor of the proposed amendment.

It was the conscious of Council to table this matter until the next Council meeting.

**Public Comments:**

Mr. Reich stated that the State Fire Marshal's Office have fire statistics posted on the website.

**Date of Next Meeting:**

Thursday, October 14, 2010, Administrative Hearing and Wednesday, November 17, 2010, Board Meeting

**Adjournment:**

Mr. Parsons made a motion that the meeting be adjourned. Mr. Reich seconded the motion, which carried unanimously. The August 25, 2010, meeting was adjourned at 12:31 p.m.

# EXHIBIT 1

## Report of the Continuing Education Committee

### Committee Members

Ward Braswell, Building Official, City of Newberry;  
John England, CEO, England Enterprises;  
Clark Frady, Building Official, Forest Acres;  
Doug Smits, Building Official, Town of Moncks Corner;  
Vaughn Wicker, Vice President, Government Affairs, ICC;

At its last meeting, the Council requested staff to form a committee to review the current procedures for approving courses for continuing education and recommend changes, if any.

The Committee met August 9, 2010 to consider two specific topics and any other issues it deemed appropriate. As a result, the following recommendations were made.

### Topic – Value of Course to Registrants

The committee considered the question of the educational value of course information that is not potentially useable on a day to day basis. The conclusion was that the relevance to good construction practice and the applicable code should be the determining factor, and not the usability on a day to day basis. It was agreed that exposure to all code approved systems, components and procedures broadens the overall knowledge and capability of the registrant.

### Recommendations

\* Code enforcement officers be given continuing education credit for courses approved for special inspectors.

Reason: to provide a better range of knowledge of the components, systems, inspection procedures and reporting process involved in enforcement of Chapter 17 of the IBC, in order to provide better review and approval of submitted reports.

\* Approved courses should be directly related to the codes adopted by the BCC and used by local jurisdictions. There may be special exceptions to this guideline such as when the Council is starting to adopt a new code and education is necessary to help stakeholders participate in that process.

Reason: to reduce confusion concerning which codes are required to be used and to directly correlate the application of those codes to actual field use.

### Topic – Product Oriented Courses

The committee considered the potential influence of courses produced and provided by product or service representatives. The conclusion was that products used as visual aids and product specific written materials used by the course provider to illustrate code compliance as well as the display of company logos on educational slides or materials had little or no influence to registrants. It was agreed that promotion of a product or service, however, is not appropriate and should not be accepted for credit.

### Recommendation

Require all product or service representatives to provide a list of three competitors with web addresses on at least one slide and on handouts, which ever media is used in conjunction with the presentation.

Reason: To eliminate any misconception that the product or service offered by the course provider is the only product or service that is code compliant.

### **Topic – Adoption of the National Electrical Code**

During the meeting, the issue of course expiration was raised. Staff advised the committee that all courses expire at the end of each (two year) code enforcement officer registration cycle. Expired courses may be submitted for reapproval, if the material will still be applicable for the next two years.

The committee discussed the merits of changing the approval period to three years and having it coincide with the code adoption cycle. The benefits discussed included:

- \* Providing education for the specific codes in effect at the time of their use (three year code adoption cycle), rather than splitting the education between two editions of the codes for half of one registration cycle (one year);
- \* Better coordination of the education courses with the certification examinations; and,
- \* Extending the useable length of courses that have no changes in material.

The main concern, however, was that the BCC goes through two code change cycles every three years, with the NEC being out of sync with the I Codes by one year.

### **Recommendation**

Place the adoption of the National Electrical Code in the same cycle as the International Code Series.

Reason: To allow a logical basis to change the continuing education to coincide with the code adoption cycle rather than the registration cycle.

### **Staff Comments**

Staff endorses the recommendation to consolidate NEC and ICC code adoptions.

On the technical side:

- \* Only two statewide modifications to the NEC have ever been authorized by the BCC;
- \* No changes to the NEC are so critical that they could not wait one additional year for adoption (if so, a life safety code provision can be adopted as an emergency modification).

On the practical side consolidation will:

- \* Allow course providers to obtain course approval once within a three year code cycle, as opposed to twice within two, two year registration cycles with a one year new code overlap;
- \* Reduce staff course approval time by not approving the same course twice within one code cycle;
- \* Eliminate confusion concerning which edition of the NEC is applicable;
- \* Be more logical and easier for the industry to understand and follow.

## Exhibit 2

### Implementation of the 2009 International Code Series

On June 7, 2010, House Bill 4663 was signed into law by Governor Sanford. The amendment added Section 6-9-55, which changes the process for how the modifications are approved as regulations.

The recently amended statutory language states; "Section 6-9-55. (A) The council shall promulgate as regulations, in accordance with the procedure and requirements contained in Article 1, Chapter 23, Title 1, any provision of or amendment to any building code that would affect construction requirements for one-family or two-family dwellings. No building code provision that would otherwise become effective after the effective date of this section concerning construction requirements for one-family or two-family dwellings shall be enforced until the effective date of the regulations required to be promulgated by this section."

During the 2009 code adoption cycle, the BCC and staff strictly adhered to the tasks and time periods required by the statutory language in effect during the process. The last task in the process was to publish the modifications to the various codes as regulations in the State Register. For the 2006 and 2009 code adoption cycles, the regulations were permitted to go into affect without legislative review. Publication of the State Register with the 2009 modifications occurred May 27, 2010.

One of the tasks in the process is for the BCC to establish the date the new codes will be implemented. The date for implementation of the 2009 codes was established as January 1, 1011. That date, however, in no longer valid.

The requirement for a new date of implementation is based on the specific language of the amendment, which states; "**No building code provision that would otherwise become effective after the effective date of this section** concerning construction requirements for one-family or two-family dwellings **shall be enforced until the effective date of the regulations** required to be promulgated by this section." (emphasis added) The contention was that, although the process had concluded, the 2009 codes were not in effect (implemented) before the bill was signed into law, and were thus required to comply with the new regulatory process dictated by Article 1, Chapter 23, Title 1.

Under normal conditions, regulations not requiring legislative review are effective on the date they are published in the State Register. At a meeting with LLR attorneys, however, staff was informed that the new process dictated by the statutory amendment directly effected the effective date for the 2009 codes. It was pointed out that:

- \* As of June 7, 2010, regulations promulgated as a result of the code adoption process are required to have legislative review (the regulations are no longer exempt);
- \* The effective date of the 2009 regulations (code modifications approved by the BCC) was January 1, 2011, which is after the effective date of the statutory amendments; and,
- \* Since the 2009 codes were not implemented (made effective) prior to the regulations going into effect, the amended statutory language must now be followed.

The language that has the most impact on the 2009 code adoption process states: "**The council shall promulgate as regulations,** in accordance with the procedure and requirements contained in Article 1, Chapter 23, Title 1, **any provision of or amendment to any building code that would affect construction requirements for one-family or two-family dwellings.**" (emphasis added)

What that language means is, the 2009 modifications to the IRC approved by the Council, and any other provision of the IBC, IPC, IMC, IFGC, IFC and NEC that affect construction for one and two family dwellings, must be resubmitted in regulation format and approved by the legislature prior to implementation of the 2009 codes. That was not done during the recent process, which voids the January 1, 2011 implementation date established by the BCC. Since there are provisions that could affect one and two-family dwellings (R3 occupancy classification) in all of the ICC codes, those provisions must be identified and included with the modifications for public comments. The alternative would to promulgate the entire editions of the mandatory codes.

The required tasks that must be performed to complete the 2009 code adoption process are:

- \* Preparation of a Notice of Drafting for regulations to be published in the State Register;
- \* Wait a minimum of 30 days for comments;
- \* Following the receipt of comments, publish the text of the regulations (proposed code language that could affect one and two-family dwellings in each code or each of the codes themselves, along with the proposed modifications) with an explanation for each, along with a notice of public hearing before the Council to consider comments;
- \* Wait a minimum of 30 days;
- \* If, during the waiting period, a hearing is requested, the Council must conduct the hearing and consider action on all comments;
- \* Submit the final regulations to each house of the General Assembly.
- \* Wait for legislative action in the form of votes for approval or 120 days on the legislative calendar.

Staff is requesting guidance concerning the Council's desire to isolate the IBC, IPC, IMC, IFGC, IFC and NEC sections that affect construction for one and two family dwellings or submit each code in its entirety as regulations.