

BEFORE THE
SOUTH CAROLINA BUILDING CODES COUNCIL

TRANSCRIPT OF MEETING

Columbia, South Carolina

August 24, 2011

Commencing at 10:38 A.M.

COURT REPORTER: Janice B. Dunkin

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APPEARANCES :

Board Members:

Greg Parsons, Chairman
Curtis Rye
Henry Drury
Lee Jedziniak
John White
Richard Sandler
Thomas Brock
Frank Hill
Lloyd Schumann
Susan Herdina
Dean Wilson
Darbis Briggman
Adolf Zubia
Chris Cullum
Gable Stubbs

Dean Grigg, Advice Attorney
Gary Wiggins, Administrator
Jennie Meade

Speakers:

Todd Bond
Robert Harkins
Chris Mathis
John Wasson
Andy Barber
Mark Nix
John Minick
Joe McCray
Willie Singleton
Vaughn Wicker

1 MR. PARSONS: Call the meeting to
2 order. The public notice of this meeting
3 was properly posted at the Building Codes
4 Council Office, Synergy Business Park,
5 Kingstree Building and provided to all
6 requesting persons, organizations, and
7 news media in compliance with Section 30-
8 4-80 of the South Carolina Freedom of
9 Information Act. Okay, do I have a
10 Motion to approve the agenda?

11 ZUBIA: So moved.

12 MR. CULLUM: Second.

13 MR. PARSONS: Okay. Agenda is
14 approved. We are looking for a Motion
15 now to approve the meeting minutes from
16 our last meeting.

17 MR. LLOYD: So moved.

18 MR. ZUBIA: Second.

19 MR. PARSONS: And we have a ---

20 MS. MEADE: I need a show of hands
21 on that last Motion, please.

22 MR. WIGGINS: We need to be able to
23 determine who made the Motion and Second.

24 MR. PARSONS: Okay. So, please, we
25 have a new court reporter that's not

1 familiar with our -- and we have several
2 new members. So, if you would, when you
3 make Motions.

4 MR. ZUBIA: The first Motion was by
5 Adolph.

6 MR. CULLUM: And the Second was by
7 Chris Cullum.

8 MR. PARSONS: Okay. Do we have any
9 additions to the meeting minutes or
10 addendums to the previous meeting
11 minutes? Okay. If there is no
12 objection, then we will approve the
13 meeting minutes.

14 MR. ZUBIA: Mr. Chair?

15 MR. PARSONS: Yes, sir.

16 MR. ZUBIA: A point of
17 clarification, we don't vote on it?

18 MR. PARSONS: well, if there's no
19 objection, there's no reason to vote, but
20 we can vote on it. Do I have in favor of
21 the approval of the meeting minutes from
22 the previous meeting? Any opposed?
23 Thank you.

24 (Whereupon, a vote was taken and the
25 Motion was carried unanimously)

1 MR. PARSONS: All right. Do we have
2 any absent members, all members, a full
3 slate, okay.

4 MR. SENDLER: Mr. Chair?

5 MR. PARSONS: Yes, sir.

6 MR. SENDLER: Point of order, why
7 don't we just for the record, why don't
8 we vote on the approval of the agenda?

9 MR. PARSONS: All right. We will
10 back up. We've got a Motion on the
11 floor. There was no objection, but we'll
12 vote on approval of the agenda.

13 (Whereupon, a vote was taken and the
14 Motion was carried unanimously)

15 MR. PARSONS: Approval or
16 disapproval of any absent members, we
17 don't have any, but -- so we can dispense
18 with that item. The Chairman's remarks,
19 I've got no remarks this morning. We are
20 having -- we are going to have a
21 presentation of certificates for the two
22 members that have rotated off of the
23 Council, Frank Hodge and Van McAlister.
24 We have set up a table over here. Frank
25 and Van, the Governor has given us a

1 Certificate of Appreciation to be
2 presented to Frank and Van, and I got a
3 couple of frames that they can put in
4 there, put their Certificate of
5 Appreciation in, and I thought it would
6 be nice if some of Frank and Van's
7 friends, and some of the members that
8 have served with Frank and Van on the
9 Council, and some of the regular
10 attendees could go ahead and sign the
11 matting around the council that is over
12 here on this table. You can come up
13 after the meeting and sign that, and that
14 will be put together with their
15 certificate as kind of an appreciation
16 for their service. I don't know if y'all
17 know, Frank, he was appointed to the
18 Council in 1991, and has served twenty-
19 one years, and that's -- if he was a
20 police officer, he would be -- he would
21 be eligible for retirement. Governor
22 Hodges was Governor in 1991. I'm sorry,
23 not Governor Hodges, Governor Campbell
24 when Frank joined the Council, but I have
25 a trivia question, and there may be

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1 somebody in the audience that may know
2 this. Gary was unable to remember when
3 Frank was first elected Chairman of the
4 Council, but there was one person that
5 may be in the audience today that was
6 Chairman before Frank was elected, and
7 that was Mr. Vaughn Wicker.

8 MR. WICKER: Frank would have been
9 elected in 1994.

10 MR. PARSONS: 1994, okay.

11 MR. WICKER: At the November
12 meeting.

13 MR. PARSONS: Okay, and Van, he was
14 on the Council for -- since the late
15 '90s, late '90s, okay. Any
16 Administrator's remarks?

17 MR. WIGGINS: None today, Mr. Chair.

18 MR. PARSONS: Okay.

19 MR. WIGGINS: I'll let you off easy.

20 MR. PARSONS: Thank you, and we
21 would like to recognize the new members.
22 Susan, would you like to maybe tell us
23 what part of the State you hail from and
24 what you do for a living?

25 MS. HERDINA: Sure. Mr. Chairman,

1 Members of the Board, and Members of the
2 audience, my name is Susan Herdina, and I
3 live in Isle of Palms, South Carolina,
4 and I think thank goodness we will have
5 an Isle of Palms this weekend, because
6 Irene seems to be shifting to the
7 northeast, but I've lived there for a
8 number of years and married. I have one
9 daughter, and I am a City Attorney for
10 the City of Charleston and look forward
11 to being an active member of the Council.
12 Thank you very much.

13 MR. PARSONS: Thank you, Susan.
14 Darbis?

15 MR. BRIGGMAN: Darbis Briggman,
16 a Building Official for the City of North
17 Charleston. Has set -- been with the
18 City going on twenty years and have sat
19 on the other side of the podium, you
20 know, for almost twenty years. So, it is
21 going to be different sitting on this
22 side, and so I'm looking forward to it,
23 and it is also going to be, you know,
24 I've got some big shoes to fill, and
25 that's filling Frank's position. So, I'm

1 Looking forward to being on -- my
2 position the Board.

3 MR. PARSONS: Okay, Dean?

4 MR. WILSON: Dean Wilson, Vice
5 President of Operations for Mashburn
6 Construction Company here in Columbia,
7 South Carolina. Been in the business for
8 fifteen years, and looking forward to
9 serving on the Board from the general
10 contractor's side.

11 MR. PARSONS: Okay, and Curtis?

12 MR. RYE: Curt Rye, I live in the
13 City of Forest Acres. Actually, I'm here
14 as a municipal -- I think it's a
15 municipal seat, and I served on City
16 Council for fourteen years, and been
17 Mayor Pro Tem I think the last six or
18 eight, and I work with South Carolina
19 Electric and Gas as an operations
20 manager, and have been with them thirty
21 three years.

22 MR. PARSONS: Okay.

23 MR. SENDLER: Just a quick question.
24 I think I know three of the four. Can
25 you tell me what Susan Herdina, is she

1 the General Public Representative?

2 MR. PARSONS: Yes.

3 MR. HERDINA: Public member
4 position, yes, sir.

5 MR. PARSONS: Curtis, you are the
6 Municipal Member. Right? Darbis, you
7 are the CBO, the Code Official Member,
8 and Dean is the General Contractor
9 Member. Okay, recognition of our past
10 members, Frank Hodge and Van McAlister,
11 and we have our certificates, and I'm
12 going to place these certificates over
13 here next to this -- next to our frames,
14 and y'all can come on up and sign after
15 the meeting. Give them a little
16 something for twenty years worth of
17 service. We couldn't afford a gold
18 watch, but that's what we have.

19 MR. SENDLER: Remind them to sign
20 the frames not the certificate.

21 MS. MEADE: Mr. Chairman, would you
22 please remind everyone to speak up. Our
23 recording system that is set up on the
24 tables are not picking up. So, we need
25 to make certain that these can -- that we

1 can hear everyone.

2 MR. PARSONS: Okay. All right. I
3 guess y'all heard Jennie, right? We have
4 the Office of Investigation and
5 Enforcement.

6 MR. BOND: Hi, I'm Todd Bond. I'm
7 the new Chief Investigator with
8 responsibility for Building Codes Council
9 and Residential Builders Commission. For
10 the Staff report this month, through
11 August the 15th of this year we've
12 received a total of sixteen complaints.
13 Of those, three are currently active
14 investigations. Four have been closed.
15 Five were do not opens, and four are
16 currently pending a meeting of the
17 Investigative Review Committee. Of those
18 cases the oldest is a hundred and two
19 days old, and the newest is sixty-eight
20 days old.

21 MR. PARSONS: Any members of the
22 Council have questions for the Office of
23 Investigation? Any members of the
24 audience? I just have one question. Is
25 there anything that we can do here at the

1 Council level to assist you in your
2 efforts?

3 MR. BOND: Not that I'm aware of at
4 this time. I'm relative new to this as
5 you might know. So, I think things are
6 going pretty smoothly as they stand, but
7 I appreciate it.

8 MR. PARSONS: Okay. Thank you.

9 MR. BOND: Thank you, sir.

10 MR. PARSONS: Office of General
11 Counsel? Okay. We have no unfinished
12 business?

13 MR. WIGGINS: Not at this time, Mr.
14 Chairman.

15 MR. SENDLER: Mr. Chairman, I don't
16 know if it is old business or new
17 business, but since we are going to go to
18 the adoption of the 2012 Code, we had
19 left in abeyance, I think, the rescension
20 or whatever, rescinding the 2009 Code
21 Approval which we had submitted to the
22 Legislature or whatever. Do we need to
23 take action on that? I don't know if I
24 need to direct that question to you or
25 Gary, but make sure that we do whatever

1 we've got to do to get that stopped,
2 assuming we are going to go ahead and
3 adopt the 2012, start the process for the
4 adoption.

5 MR. PARSONS: Right. I think what
6 we did at our last Council meeting was to
7 follow the two paths in parallel, and you
8 are right when we adopt the new Code, I
9 say adopt, when we take action on the
10 2012, part of that process will be what
11 we do with that second parallel path that
12 we started down last Council meeting.

13 MR. WIGGINS: Mr. Chairman, what had
14 happened actually is the Legislature took
15 care of that issue for us. As our
16 Regulations were in process, they were
17 pulled by the Legislature and taken out
18 of the process, and that was permanent.
19 So, the issue for the 2009 Codes is a
20 dead issue. It has been aborted.

21 MR. SENDLER: Mr. Chair ---

22 MR. WIGGINS: There is no further
23 action of Council necessary.

24 MR. SENDLER: I would just like the
25 record to reflect that, please. I'd like

1 that in our minutes.

2 MR. PARSONS: All right. We have
3 the presentation of the 2012 I Codes and
4 the 2011 NEC.

5 MR. WIGGINS: Mr. Chairman and
6 Members of Council, it is that time
7 again. We have the 2011 NEC. We have
8 the 2012 additions of the I Codes. We
9 have both mandatory and the permissive
10 Codes here. If you would like, Mr.
11 Chairman, we could pass them around, or
12 if the members would just like to come up
13 here and look at them, peruse them, we
14 could certainly do that. What is your
15 pleasure?

16 MR. PARSONS: I'd like to pass them
17 around, and let at least everybody get
18 their hands on them one time. Now,
19 Gary, why don't you remind the Council
20 Members exactly which codes are the
21 permissive codes and which codes are
22 mandatory codes?

23 MR. WIGGINS: Okay, the permissive
24 codes are the codes that are allowed by
25 Statute to be adopted at the local level

1 without any involvement of the Building
2 Codes Council. They involve the property
3 maintenance code, the existing building
4 code, and swimming pool code. We have
5 one that's authorized by ICC. Did the
6 ICC ever finish with the ICC swimming
7 pool code, Vaughn?

8 MR. WICKER: It will be available
9 for 2012.

10 MR. WIGGINS: Okay.

11 MR. WICKER: March.

12 MR. WIGGINS: That will be one of
13 the 2012's. That will also be available
14 for the local jurisdictions to adopt.
15 Mandatory codes are the building, the
16 plumbing, the fuel gas, the mechanical,
17 the energy conservation, although that
18 code cannot be considered for adoption
19 purposes, because that's handled by the
20 State Energy Standards and the National
21 Electrical Code.

22 MR. HARKINS: Is the Fire Code in
23 there too?

24 MR. WIGGINS: Yeah. Fire Code is
25 included.

1 MR. PARSONS: And, again, for our
2 new members the mandatory codes are the
3 ones that we will be taking action on.
4 We will also be taking -- when we take
5 action on these, and they are adopted,
6 they are required to be implemented
7 across the State on all jurisdictions,
8 and the permissive codes are a series of
9 codes that the local jurisdictions may or
10 may not adopt at their level.

11 MR. SENDLER: Mr. Chairman, the Fire
12 Code, we don't regulate that or whatever,
13 do we? I thought the State Fire Marshall
14 did that.

15 MR. WIGGINS: The Fire Code is
16 actually in Section 6-9-50. It's one of
17 the mandatory codes that we adopted by
18 the Building Codes Council. What is
19 adopted by the Council is used at the
20 local level. So, the Fire Codes are in
21 that series of codes. Now, the State
22 Fire Marshall's Office does have the
23 authority by law to adopt the Fire Codes,
24 and other codes for that matter, for use
25 by the Fire Marshall's Office, but all

1 codes used by the local jurisdiction must
2 be adopted and administered by this
3 Council.

4 MR. SENDLER: So, what happens if
5 the State Fire Marshall adopts something
6 different than we do? What takes
7 precedence?

8 MR. WIGGINS: Well, whatever the
9 State Fire Marshall adopts takes
10 precedence for his office.

11 MR. SENDLER: What does that mean?

12 MR. WIGGINS: That means that he
13 cannot use that document. That's not
14 that document that is useable at local
15 level, it is usable by the State Fire
16 Marshall's Staff. The State Fire
17 Marshall is here. He might want to
18 comment on it.

19 MR. ZUBIA: Mr. Chair, you know, and
20 that has been an issue in the past, and I
21 believe I kind of touched on it at the
22 last Building Codes Council meeting. The
23 Fire Marshall's Office adopted the 2009
24 IFC in this last process, and it was, I
25 believe they were hoping that we would

1 have been in sync with the Building Codes
2 Council's adoption of the 2009 regiment
3 of Codes. So, we would not be in a
4 different edition from the locals, and we
5 would be working in unison with them. It
6 is our hope as we currently are -- have
7 the 2009 in place is to adopt the 2012 in
8 sync with this particular group so we
9 won't be adopting a separate code. As a
10 matter of fact, we are hoping to bring
11 recommendations to this particular group
12 that once they've passed here, we, at the
13 State Fire Marshall's Office, would adopt
14 the same modifications, or amendments, or
15 additions that we may get incorporated
16 here so we would be in as much unison as
17 we possibly can.

18 MR. SENDLER: Just so I understand,
19 when y'all adopt something, the State
20 Fire Marshall, let's say the IFC, you
21 adopt something, a modification, or
22 whatever, and if we don't do it for the
23 local level, where is what you adopted --
24 where do you enforce that or whatever?

25 In other words, who goes out and does the

1 inspections? I'm not that familiar with
2 the inspection process. If you are in
3 the City of Columbia, or the City of
4 Charleston, or somewhere, I presume they
5 would use whatever the Building Code
6 Council had approved, but maybe that's a
7 bad assumption. Do y'all do things like
8 -- where is what you adopt enforceable,
9 in schools, or something that we don't
10 control?

11 MR. ZUBIA: The vast majority of the
12 issues that we are doing right now won't
13 necessarily be in conflict with the local
14 jurisdictions, but there are provisions,
15 and I will tell you the ones that we see
16 problems with, and maybe that is what you
17 are getting at. There are some general
18 fire safety provision issues that we
19 always get questioned, because the
20 current edition, or how do you adopt it
21 in your current jurisdiction, the 2006
22 that the jurisdictions have called our
23 office and say, hey the 2009 has this
24 particular issue addressed better. Can
25 we enforce that? Most of the time I

1 think it would be less problematic if
2 they don't do that, but in all actuality
3 I believe it is applicable. Based on
4 State Law some of those Rules would be
5 applicable. The issue of specific
6 technical requirements in the code,
7 building code requirement issues, it
8 becomes a little bit more difficult to
9 address those based on the fact that our
10 codes, as you well know, are correlated
11 with the other -- the mechanical,
12 plumbing, and building, and at times it
13 has been used to their advantage to try
14 to push, I wouldn't say a more stringent
15 requirement, but a more updated
16 requirement, and we try to work with the
17 jurisdictions and try to do it in a way
18 that are not going to be adversely
19 received, even though sometimes you know
20 how that works. That always is if we
21 kind of change the rules as we go, and
22 that's why we are trying to do it to
23 where we are not out of sync with each
24 other.

25 MR. PARSONS: Are there any other

1 questions on the adoption, attempt to
2 adopt the 2011 (sic) I Codes from the
3 Council Members?

4 MR. BRIGGMAN: Mr. Chair?

5 MR. PARSONS: Yes?

6 MR. BRIGGMAN: Darbis Briggman, City
7 of North Charleston. One thing that I'd
8 like to make sure is that as we move
9 forward with the adoption of the 2012, is
10 keep in mind is that the jurisdictions
11 that went out -- a lot of jurisdictions
12 was hurt, you know, in their budget.
13 They went out, and they bought 2009 codes
14 itself. So, as we move forward on the
15 2012 is that the committees that puts
16 them together, is that we look at any
17 issues that may come up in the process of
18 adoption of the code itself, so that
19 those jurisdictions doesn't go out and
20 purchase all these code books that which
21 a lot of them have now and cannot use,
22 only for testing material only. So, it
23 is something that we definitely are going
24 to need to make sure that when we move
25 forward on 2012 is that if there is any

1 areas out there that really, you know, is
2 going to be an issue towards the 2012, we
3 need to make sure we get that, identify
4 it first, before those jurisdictions go
5 out and buy their code books themselves.

6 MR. PARSONS: Okay. Any comments or
7 questions by the members of the audience
8 on the 2012 I Codes? Please state your
9 name also.

10 MR. MATHIS: Good morning, Mr.
11 Chair, Members of the Council. My name
12 is Chris Mathis. I'm a building
13 scientist. I'm the luckiest guy you
14 know. I've gotten to work in buildings
15 and building performance for over thirty
16 years, and I rise today in support of
17 your action considering the 2012 family
18 of I Codes. I've had the -- the blessed
19 good fortune to serve four terms on the
20 ICC Committee that crafts the
21 International Energy Conservation Code,
22 and while I understand that you've got
23 permissive codes and mandatory codes, I
24 wanted to just spend a moment telling you
25 a little bit about the implications of

1 the 2012 Energy Conservation Code for the
2 State of South Carolina. We've been
3 involved in a project for the past six
4 months traveling across the State of
5 South Carolina training building
6 officials, builders, architects,
7 engineers, HVAC contractors and others on
8 the current provisions of the South
9 Carolina Energy Code. We've been doing
10 this under a grant from the US Department
11 of Energy and Pacific Northwest National
12 Lab, and I wanted to kind of tell you
13 what we found in the implications of the
14 current code. First of all, there is a
15 hunger for knowledge about improved
16 energy conservation and making our
17 buildings better. Secondly, we are all
18 faced, and every state in the Union is
19 faced, with this challenge of having
20 ninety percent compliance with an
21 improved code by 2017. So, there is this
22 kind of above the fold issue that is in
23 the paper every day on what are we going
24 to do about energy. I'm here to tell you
25 that the 2012 Energy Conservation Code is

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1 win, win, win for everybody in South
2 Carolina. The costs to adopt it are very
3 low. For a starter home we're talking
4 about numbers around twelve hundred
5 dollars. It immediately begins paying
6 for itself day one with about the cost to
7 a homeowner of about seven dollars a
8 month, and it saves about thirty to fifty
9 dollars a month depending on the size of
10 the home. It is going to put industry
11 across South Carolina back in business.
12 It's going to -- we are going to be
13 making insulation here in South Carolina.
14 We are going to be making windows --
15 better windows here, caulks and sealants
16 in our chemical industry that feed the
17 foam insulation industry and our HVAC
18 industry that is so desperately in need
19 of stimulus. We've prepared a series of
20 reports. We will be happy to provide
21 copies of those reports to Members of the
22 Council and any that are interested on
23 that topic, but I also wanted to say that
24 because we've been so close to this, we'd
25 like to volunteer to be an information

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1 resource and offer any additional
2 information that your Council Members may
3 have regarding the trainings that we've
4 been doing and the adoption of the Energy
5 Code and its implication. I guess the
6 last thing that I'd like to say, and I
7 won't take anymore of your time here,
8 when you do take action on these codes, I
9 want to strongly encourage that with
10 every vehicle available in the State of
11 South Carolina that we really focus on
12 training. This issue of compliance is
13 going to be a business. Our building
14 officials are hungry for the information.
15 Our builders are hungry for the
16 information. The designers and engineers
17 that are seeking building permits want to
18 know, tell us what the rules are. Once
19 we know what the rules are, then we can
20 do it. There are a lot of builders
21 across South Carolina and others that are
22 already building far better than the
23 minimum provisions of the 2012 Energy
24 Code. So, I believe this is a really
25 positive move for the State. I support

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1 all of the family of the 2012 I Codes,
2 and we look forward to being a resource
3 to help you. We will be happy to answer
4 any questions you may have at the time.

5 MR. SENDLER: These informational
6 reports you're talking -- are they
7 available on line?

8 MR. MATHIS: Yes. We will be able -
9 - we're going to put them on our website.
10 I think they are going to be available on
11 the State Energy Office's website, and we
12 can also just email to you. They are
13 public documents since they were
14 generated with public funds.

15 MR. PARSONS: If you would email
16 that to Gary?

17 MR. MATHIS: I'd be happy to.

18 MR. PARSONS: And Gary will be able
19 to disperse it to the Members of the
20 Council and other interested stake
21 holders. Gary, do you have a comment?

22 MR. WIGGINS: I do. I just want to
23 reiterate that although the International
24 Energy Conservation Code is a mandatory
25 code, it must be used in all

1 jurisdictions, that code is a 2006
2 edition. So, the 2012 Code is not up for
3 consideration. We had a piece of
4 legislation, the Energy Standard Act that
5 froze the 2006 in place, and the only
6 entity that can change that now is the
7 Legislature.

8 MR. MATHIS: I respect your opinion.
9 I believe that this Council can decide,
10 and has the latitude to decide what its -
11 - what its jurisdiction is on this issue,
12 and it very well may be that the
13 Legislature needs to act, but I believe
14 that this Council is responsible for the
15 codes in South Carolina, and can take
16 whatever action it feels appropriate.

17 MR. SCHUMANN: Sir?

18 MR. MATHIS: Yes, sir?

19 MR. SCHUMANN: How are the new
20 regulations coming out of the government
21 affecting you? There are so many of them
22 coming everyday. Are you keeping up with
23 all those?

24 MR. MATHIS: You know, as you all
25 are well aware, our codes exist in a

1 landscape of change, and we've gotten
2 fairly comfortable with this notion that
3 we're going to get improved codes about
4 every three years, and there are hundreds
5 and thousands of building officials
6 across the country that work on these
7 codes. So, anytime we feel like we are
8 kind of comfortable with business as
9 usual, we have to immediately kind of
10 realize that, wait a minute, business as
11 usual is going to change about every
12 three years. That's why the Building
13 Codes Council does what it does. The
14 good news is, things -- the improvements
15 and things in the arena of the Energy
16 Code, they are kind of old lessons. It
17 is not really anything all that different
18 or difficult. It is things that we are
19 employing every day. There is not any
20 one big secret magic bullet that does,
21 you know, all the solutions. It is a
22 little more insulation, a little better
23 windows, a little better air ceiling, a
24 little better duct ceiling and duct
25 insulation. It is really low technology

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1 things. The good news is for South
2 Carolina that most of that stuff is made
3 right here at home. So, we're really
4 talking about a win for everybody. We
5 have to stay on top of that change though
6 all the time.

7 MR. PARSONS: Thank you.

8 MR. MATHIS: Thank you very much.

9 MR. PARSONS: Any other comments or
10 questions from members of the audience on
11 the 2012 I Codes?

12 MR. ZUBIA: Mr. Chairman, it's
13 Adolf, and I guess not that he was
14 arguing with you, Gary, but do we have a
15 role on the energy issues, a
16 recommendation to the Legislature? If
17 not us, then who?

18 MR. WIGGINS: Well, anybody can
19 recommend to the Legislature through
20 either a Bill or just contact with
21 legislators themselves, but the fact is,
22 the energy standard is law, and when that
23 2006 International Energy Conservation
24 Code was named as the energy standard,
25 that was done by law. So, consequently I

1 think it is more than my opinion that
2 Legislature has to change it, but that's
3 a legal issue, and we can certainly get
4 legal advice on it.

5 MR. ZUBIA: Mr. Chairman, if I may,
6 I know anybody can just recommend to the
7 Legislature, and that's what scares me,
8 and the fact is we together we make up a
9 pretty good base of knowledge and
10 expertise, and that's why I would think
11 it would be advantageous maybe in
12 conjunction with what do now to
13 potentially review that for future
14 recommendation, or maybe we can do that
15 out of cycle if it doesn't matter. It's
16 something that is of significance that I
17 believe we should play a role in.

18 MR. PARSONS: Certainly, I
19 understand that, and what it would set up
20 is, just as we at the Council level, if
21 we undertook any action that was contrary
22 to the Statutes of the State, I suspect
23 it would be null and void. Is that
24 correct?

25 MR. GRIGG: (Affirmative gesture)

1 MR. PARSONS: Okay, so, and here we
2 have that, but I'm going to suggest that
3 Council consider maybe again, like we did
4 with the 2009 Code and the 2012 Code
5 during our last meeting, is follow
6 parallel paths on this issue
7 understanding that we've got the
8 potential of whatever action that we do
9 on the Energy Code being null and void.

10 MR. WIGGINS: Mr. Chairman, at this
11 point, I'd like to ask Council if it
12 desires for staff to go forward and start
13 the process for adoption of 2012.

14 MR. PARSONS: Okay. Do we have a
15 Motion for adopting the process?

16 MR. ZUBIA: So moved. It's Adolf.

17 MR. STUBBS: I'll second that.

18 MR. PARSONS: Okay.

19 MR. STUBBS: Can we amend that to
20 include the code that we just talked
21 about in that process?

22 MR. ZUBIA: The Energy Conservation
23 Code from the amendment, Mr. Chair?

24 MR. PARSONS: Well ---

25 MR. STUBBS: For review?

1 MR. WIGGINS: I think until we get
2 some legal advice on that I think we need
3 to leave the Energy Code alone. Don't
4 forget that once we finish the process at
5 Council level Staff has to compile all
6 these changes and send them to the
7 Legislature in a form of regulations. I
8 would feel very uncomfortable sending a
9 regulation to the Legislature
10 contradicting what it did in Statute.
11 So, I think we need to seek legal advice
12 on that first before we take a step to
13 even think about adopting the Energy
14 Code.

15 MR. PARSONS: Gable, are you
16 withdrawing your amendment?

17 MR. STUBBS: I withdraw it, but I'm
18 not -- my position is not to adopt it,
19 but to review it while we're reviewing
20 the other codes, since we will have these
21 open hearing, we might as well review it
22 at that point giving the public the
23 opportunity to comment on it so that we
24 don't have to go back and do it again.
25 So, whatever format of a Motion that

1 needs to be whether it be we go through
2 the adoption process for the other codes
3 and a review process for this code,
4 that's what I am trying to do is
5 streamline the process.

6 MR. PARSONS: well, then can we
7 break it up? Let me suggest that we
8 break it up into two different Motions.

9 MR. ZUBIA: Mr. Chairman, I'll do
10 so, but before I do I'll make a comment,
11 and Gary I'm not arguing, but I think any
12 and everything we present to the
13 Legislature may not be in line with their
14 thinking. It's all a recommendation on
15 our part, and they shouldn't, and I'll
16 say this, take offense with what we're
17 doing. We're looking out in the best
18 interest of the community of South
19 Carolina as a whole. So -- but, I'll be
20 happy to split that Motion, and say
21 number one, the first Motion by Adolf is
22 for us to advise staff to start the
23 process of adoption of 2012 Codes.

24 MR. PARSONS: With the exception of
25 the ---

1 MR. STUBBS: No, you don't have to
2 say anything ---

3 MR. ZUBIA: No, not right now. I'll
4 come back with a second Motion to
5 initiate the process separately and to
6 keep Gary out of political hot water on
7 the second.

8 MR. WIGGINS: That's not going to
9 happen.

10 MR. PARSONS: All right. Do we have
11 a ---

12 MR. STUBBS: I'll second that.

13 MR. PARSONS: Okay. So, the Motion
14 was that we -- that the Council directs
15 Staff to begin the adoption process of
16 all of the 2012 I Codes both mandatory
17 and permissive codes. All right, and we
18 have a second for that Motion by Gable.
19 All right, all in favor ---

20 MR. SENDLER: Mr. Chair, can we have
21 some discussion please?

22 MR. PARSONS: Yes, sir. I'm sorry
23 Richard.

24 MR. SENDLER: I'm going to vote
25 against this, and I'll tell you why.

1 Even though it sounds good, and the
2 gentleman, I forget his name, saying,
3 well, it is only a thousand or twelve
4 hundred dollars on a starter home. It is
5 almost impossible to get loans for people
6 buying starter homes as it is now. Most
7 of them you see sold are really lease to
8 purchase. They are really renting the
9 houses. I'm the proud owner of four
10 houses now that I'm renting, because you
11 can't -- I've sold all of them four or
12 five times. The problem is you can't get
13 people qualified now, and even though it
14 may pay for itself, and I don't doubt his
15 numbers, that may be correct. Even
16 though it may pay for itself, and it only
17 cost them seven or eight dollars, and
18 they are going to save thirty dollars,
19 the problem is they can't qualify for the
20 initial loan, and when you start putting
21 a thousand or twelve hundred dollars on a
22 hundred thousand dollar house, which is
23 what a lot of the starter homes are now,
24 that disqualifies a lot of people from
25 purchasing it. So, it is not necessarily

1 doing the people a favor. Now, a lot of
2 the builders are already putting a lot of
3 this stuff in and building, like he
4 pointed out, above code requirements and
5 above the South Carolina requirements.
6 So, it should be, in my opinion, optional
7 to let people do that. If we start
8 mandating it, you are going to hurt the
9 people who can least afford it most.
10 People in the higher end houses are
11 already demanding these things, and you
12 can put them in there, because when you
13 add a thousand dollars to a two hundred
14 and fifty to five hundred thousand dollar
15 house, it doesn't make a lot of
16 difference, but when you do it to a
17 hundred thousand dollar house, it makes a
18 very big difference in whether or not
19 they can purchase a home or not. So,
20 there's more to it than just this one
21 problem of raising it up, because we
22 think we're going to save or net twenty
23 dollars or whatever a month.

24 MR. ZUBIA: Mr. Chairman, I guess
25 the point -- I'm not arguing, but the

1 Motion was for all the other codes. The
2 Energy Conservation Code was going to be
3 a second Motion at which point your
4 argument would have probably been more
5 valid at that point.

6 MR. SENDLER: I'm sorry. I thought
7 you included it in this -- this Motion.

8 MR. PARSONS: That was my
9 understanding of the Motion also. All
10 right. So, here we are at a point -- let
11 me clarify. Let me restate the Motion.
12 All right? The Motion is, is to adopt
13 the 2012 Mandatory I Codes with the
14 exception of the ICC Code, and all of the
15 permissive codes.

16 MR. STUBBS: Adoption process.

17 MR. ZUBIA: Mr. Chairman, that's
18 incorrect. It's the Energy Conservation
19 Code. You basically deleted all of the
20 codes we were going to review with that
21 Motion.

22 MR. STUBBS: IECC.

23 MR. PARSONS: IECC, I'm sorry. Now,
24 just to clarify that, I'd like to have
25 another second on that Motion.

1 MR. STUBBS: Okay. That is the
2 process of adoption, not adoption.

3 MR. PARSONS: That is correct.

4 MR. STUBBS: Let's clarify that. I
5 will second that Motion.

6 MR. PARSONS: All right. Any
7 discussion on the revised Motion? All
8 right. So, we are going to call for a
9 vote here on the adoption, the starting
10 the process of adoption for the Mandatory
11 and Permissive ICC Codes except for the
12 IECC.

13 (Whereupon, a vote was taken and the
14 Motion carried unanimously)

15 MR. ZUBIA: Mr. Chairman, before I
16 make a Motion, I want to ask direction
17 from Gary what kind of direction would
18 you be okay with now, and we will make
19 that a formal Motion, to ensure that we
20 include the IECC in this process as we
21 move forward? Not necessarily submitting
22 it for legislation for the Legislatures
23 to approve, but at least for now start it
24 as part of the process, and then we can
25 get ---

1 MR. WIGGINS: If we're submitting
2 the IECC for review and to look at it to
3 see if there are sections of it that the
4 Council feels uncomfortable with, I don't
5 have any particular problem with that,
6 but I do have a problem about going
7 through motions that are going to be
8 fruitless. If we spend time on the IECC
9 only to realize once the process is
10 finished, and we've reviewed the document
11 thoroughly, and we have suggestions, but
12 still cannot adopt the document, then we
13 have wasted a lot of time for nothing.
14 That's the only concern that I have.

15 MR. STUBBS: But isn't it our role
16 that this is a code that has been put
17 forward to us to at least be able to
18 speak intelligently to that code, and we
19 can't do that if we don't review the
20 code. I think it would be judicious on
21 our part and appropriate on our part to
22 review the code, ask for public comment
23 on the code, then if we elect to make
24 some kind of statement regarding that
25 code whether it be -- I don't know

1 politically what that would be. We've at
2 least taken the provisions to review it,
3 and I think it is most efficient to do
4 that. Why are we doing this other?
5 Because the public announcements, the
6 public opportunities will be the same.
7 We won't have to do it again, but at the
8 end of that process whether we've
9 determined we do not want to recommend
10 anything regarding that code, at least
11 we've made an educated decision regarding
12 that.

13 MR. WIGGINS: Mr. Chairman, I have
14 no problem with reviewing the code if
15 that is what Council wants to do.

16 MR. PARSONS: Any other comments by
17 the Council?

18 MR. JEDZINIAK: Gary, do you
19 remember why the Legislature froze the
20 code in 2006? What was there -- I'm sure
21 there was a political reason.

22 MR. WIGGINS: Well, what happened is
23 the energy standard was updated. It was
24 actually developed in 1976. It went into
25 effect in 1976 and referenced the old

1 CABO Model Energy Code, and appendix J of
2 the Standard Building Code, and it just
3 referenced documents that were no longer
4 in existence or possibly even could be
5 found for reference purposes. So,
6 consequently to bring that standard up to
7 date, the Legislature needed to look at a
8 document to use as the base document for
9 the State Energy Standard. Now, that's a
10 separate Statute unto itself, separate
11 law, separate agency. So, the obvious
12 document at the time was the 2006
13 International Energy Conservation Code,
14 because that is what we were moving to
15 anyway with the other family of I Codes.
16 So, when the Legislature adopted the
17 updated version, made all the amendments
18 to the Energy Standard, it included the
19 2006 IECC as the State Energy Standard,
20 and it is so named by name and also by
21 date. So, the issue becomes one of
22 jurisdictional authority.

23 MR. JEDZINIAK: So, at the time
24 there was no political reason. There was
25 logistical reasons. So, there would be

1 nothing to stop us from recommending a
2 statutory change, or an elimination in
3 the statute and incorporating this code
4 in with the other codes as a
5 recommendation?

6 MR. WIGGINS: There's nothing that
7 would stop any entity or individual from
8 recommending a change.

9 MR. JEDZINIAK: I understand that.

10 MR. WIGGINS: But that's what it
11 would take. It would take a statutory
12 change to either remove the date or to
13 update it.

14 MR. JEDZINIAK: But there is a
15 difference between a citizen recommending
16 a statutory change and the Building Codes
17 Council with the expertise on it
18 recommending a change in the statute in
19 the adoption of a code.

20 MR. WHITE: Mr. Chairman, Gary if
21 I'm remembering correctly part of the
22 inference behind the Legislature adopting
23 the 2006 Energy Code was a requirement of
24 the ARRA -- some of the ARRA funds that
25 related to energy conservation that were

1 coming into the State. For the State to
2 receive those, they had to update to 2006
3 Energy Code.

4 MR. WIGGINS: That was part of it,
5 definitely, definitely.

6 MR. PARSONS: Any other comments or
7 questions by the Council Members?

8 MR. ZUBIA: Mr. Chairman, I guess --
9 are you going to need a Motion, or are we
10 doing this informally? Because if
11 somebody is in opposition, I guess -- do
12 we need to make a Motion so we can hear
13 the opposition.

14 MR. PARSONS: Yeah. We -- I'd like
15 to hear from the members of the audience
16 if that's all right with you. Any
17 comments or questions from members of the
18 audience?

19 MR. WASSON: Mr. Chairman, John
20 Wasson, City of Greenville, President of
21 BOASC. A question for Gary, I guess, at
22 this point. I realize that this
23 Committee cannot adopt anything other
24 than the 2006, but what avenue do we
25 have? There's not a better avenue, in my

1 opinion, to go back through the
2 Legislature than to come from a Committee
3 like this. I'm not saying that you
4 should take this out of the hands of the
5 Legislature, but at least coming from
6 this Committee is something. I mean
7 there's a couple of things in the Energy
8 Code I would love to see changed. First
9 and foremost is vestibules. I don't know
10 how the rest of the people in this State
11 treat vestibules, but if you look at the
12 International Energy Conservation Code,
13 it says that a vestibule shall be
14 installed at every door opening to the
15 exterior of a building that opens into a
16 three thousand square foot space. The
17 only other way around that is to use
18 Chapter Four of the Code. Chapter Four
19 says it shall be designed in accordance
20 with the International 2006 International
21 Energy Conservation Code or ASHRAE 90.1.
22 ASHRAE 90.1 gives you an exception for
23 low rise buildings, building a low rise
24 based on the Energy Code or buildings
25 less than three stories in height for

1 vestibules. It kills us in the upper
2 part of the State. I'm sure it kills
3 anybody in this whole State to put a
4 vestibule in. TD Center, what used to be
5 our Carolina First Center in Greenville,
6 Gable is very familiar with it. Anybody
7 that's been to Greenville knows the
8 Carolina First Center. It eat us up. It
9 eat the City of Greenville alive for what
10 we had to spend for vestibules on those
11 doors. I mean you are talking about a
12 large complex that was built many years
13 ago that could not comply with ASHRAE
14 Energy -- or the ASHRAE 90.1. We had to
15 put vestibules up at every door. The
16 only exception to a vestibule is a
17 revolving door. A revolving door can
18 only serve an occupant load of fifty
19 persons. It cannot be used as a means of
20 egress for a person with accessibility
21 issues. So, I think that we need an
22 avenue. The building officials need an
23 avenue other than a personal opinion
24 going to a Legislature. We need an
25 avenue to express, you know, some

1 concerns we have with the Energy Code
2 whether it be in the 2006 or 2012
3 edition, and I don't know of a better
4 avenue than through this Council, and I
5 just wish you would, you know, take that
6 under consideration.

7 MR. PARSONS: Any other questions or
8 comments from members of the audience?

9 MR. BARBER: Good morning. My name
10 is Andy Barber from Charleston, South
11 Carolina. I'm here with the Residential
12 Home -- South Carolina Homebuilders
13 Association. I would like to comment.
14 The Senate Subcommittee has contacted the
15 South Carolina Homebuilders Association
16 in the last month. I moderated a meeting
17 last week with a member from the Senate
18 Subcommittee, with members of the
19 Manufactured Housing Association, from
20 the Mechanical Contractors Association,
21 and several other interested parties who
22 have been involved in Energy Conservation
23 Codes throughout the State. We are
24 currently looking at, and the Senate
25 Subcommittee has currently asked us to

1 review, the 2009 IECC. We went through
2 the code last week. We went through
3 several issues that each of these trade
4 organizations and speciality
5 organizations had in place. We came up
6 with a list of that, and I actually met
7 with Julian Barton this morning. We're
8 coming up with a draft document to send
9 back to these entities to start the
10 review process for 2009. We've been
11 asked to do that by the Senate
12 Subcommittee. So, I just want to let you
13 know that the ball is in play on the 2009
14 as it stands now, and we've been asked to
15 moderate as an association different
16 parts of that, and that process is active
17 now, and that process was brought to us
18 by the Senate Subcommittee that oversees
19 this regulation and Statute. So, I just
20 wanted to let you know that that is in
21 place right now. If you have any other
22 questions, you can contact myself or
23 Julian at the State HBA Office.

24 MR. PARSONS: Thank you, Andy. Yes?

25 MR. ZUBIA: And this make-up of the

1 Committee that you're working with, do
2 you know right off the top of your head?

3 MR. BARBER: It was -- there were --
4 I didn't bring the list of the people
5 with me. I know that there were
6 Manufactured -- there were
7 representatives from the Mechanical
8 Contractors Association of South
9 Carolina, the Manufactured Housing
10 Association of South Carolina. We had
11 two builders from the State, from across
12 the State. One out of, I believe,
13 Florence, one out of here in Columbia
14 that represented custom home building and
15 low volume home building, and myself and
16 Julian Barton from the State HBA Office,
17 and I can't think ---

18 MR. NIX: Coastal Conservation
19 League.

20 MR. BARBER: The Coastal
21 Conservation League has a presence in
22 this as well, and they have been working
23 on this with the Senate Subcommittee, and
24 actually came to us and asked us to be a
25 part of that, and we've begun the

1 moderation process. We went through the
2 significant changes between '06 and '09
3 and came up -- and much like we were
4 talking earlier, have come up with some
5 dollar values as to the cost of that, of
6 the cost of that code.

7 MR. ZUBIA: I'm looking for more of
8 a balanced committee. Sorry.

9 MR. NIX: We're not so far out of
10 balance right now, but we're probably ---

11 MR. ZUBIA: No, not you, I'm talking
12 about whether it be contractors, whether
13 it be building officials, those things.
14 I mean, what makes this Committee more
15 credible is its diversity and the fact
16 that it has got representation from all,
17 and that's all I'm looking for.
18 Especially ---

19 MR. BARBER: And we didn't set that
20 up. We were invited to be a part of this.
21 So, we accepted that invitation, and as
22 this carries forward I'm sure it is going
23 to get a little bit deeper. This process
24 is probably going to be a year long as it
25 is. So ---

1 MR. ZUBIA: You were asked to review
2 the 2009. Was there a reason why you
3 weren't asked to review the most current
4 code?

5 MR. BARBER: Not to my knowledge,
6 no.

7 MR. ZUBIA: Is that a possibility
8 that, and I'm not trying to maybe deflect
9 to them, but it would kind of nice if
10 somebody else works in addition to us to
11 have those recommendations, but that
12 might be something that you might want to
13 consider. I don't know if you have the
14 appropriate contacts in that -- for that
15 Subcommittee.

16 MR. BARBER: That would certainly be
17 something that if, you know, any
18 interested party wanted to be contacted the
19 Senate Subcommittee and ask that that be
20 done, like I said, we were invited into
21 this, and I don't have a problem with
22 that if that review would like to be
23 included in that. This gentleman, if you
24 would like to contact that committee, I
25 mean we can certainly -- you know, they

1 can certainly take that up with the
2 committee level.

3 MR. PARSONS: And we can certainly
4 do that if someone wants to make a Motion
5 for the Council to recommend either
6 asking that Subcommittee to take up
7 another item, or ask -- or maybe forming
8 a Committee of this particular Council, a
9 Subcommittee of this particular Council,
10 to look at that item. Those are
11 certainly all possibilities.

12 MR. ZUBIA: At this time, Mr.
13 Chairman, I don't think I -- we can make
14 a Motion to put them to work if they are
15 not a committee from this particular
16 group.

17 MR. PARSONS: It would be a
18 recommendation.

19 MR. ZUBIA: Yes, but my -- I guess
20 now I can see a little bit of what Gary
21 was eluding to, and I guess I understood
22 him right from the get go, but it would
23 be nice if the Senate Subcommittee, or
24 whatever group type that got you
25 involved, if they saw the big picture and

1 realized that maybe it should be the 2012
2 that they should be asking someone to
3 review. So, maybe that might be the
4 angle to pursue and ask that particular
5 group, or that particular entity, to see
6 if they can provide a direction.

7 MR. BARBER: And we could get you
8 the name of that Subcommittee
9 representative that was present at the
10 meeting. She would be the one that would
11 ---

12 MR. PARSONS: If you would, send
13 that to Gary, and Gary can distribute it
14 to all the Members of the Council.

15 MR. BARBER: Sure.

16 MR. STUBBS: I think it would be
17 appropriate that if we move forward with
18 a review of this as parallel to our
19 document for 2012, that will become
20 public knowledge. It would be something
21 that we can bring to their attention. It
22 might expedite their process or
23 supplement their process. It would have
24 the open and public information that
25 maybe their process does not have, and it

1 might lead them to come to the 2012
2 without us having ---

3 MR. PARSONS: Okay. Well, let me
4 just ask you, and I see we have more
5 members of the audience who are anxious
6 to educate us here, and if we -- and
7 we're going to have a time to make a
8 Motion and discuss the specific Motion,
9 but I think we've got a couple of more
10 members of the audience that are willing
11 to discuss this with us.

12 MR. BARBER: Thanks.

13 MR. PARSONS: Thank you. Any other
14 comments from the audience?

15 MR. MATHIS: Sure. Council, Chris
16 Mathis again. I think it would -- the
17 Council is really looking at, you know,
18 what can we recommend, what action we can
19 take, and I understand and respect the
20 fact that there are different people who
21 interpret Statute differently, and there
22 are those who interpret that particular
23 Statute as, oh, that Statute didn't mean
24 to nail down the 2006 IECC. It was the
25 only tool they had at the time, and there

1 was some bad language use that has been
2 interpreted to mean we are not going to
3 go any further, but I think that this
4 Council actually is the right body to
5 say, we will look at all of them, and we
6 actually think that this is within our
7 charging statement to act on behalf of
8 the citizens of South Carolina, and
9 whether or not there is going to be some
10 interpretive battle over statutory
11 language, you know, your General Council,
12 or the Attorney General's Office, or
13 somebody else will work that out. If
14 this group really says we want to look at
15 the family of 2012 I Codes together,
16 because they all go together, they -- in
17 the Building Code it says use the 2012
18 Energy Code. In the Residential Code it
19 refers to the Energy Code. There's
20 alternative paths that even building
21 inspectors are looking for. All of those
22 are linked. So, it is -- I think, the
23 action that you are looking for is let's
24 start the process of review. Let's
25 review all of them, and then let's make

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1 our Council's recommendation as what's
2 the best way to move forward on the whole
3 family of codes while other people are
4 trying to figure out all that
5 interpretive stuff on what the
6 Legislature meant, or intended to do, or
7 wished it had done, or needs to change,
8 or whatever. So, that would be my strong
9 recommendation to you, and as I said, we
10 certainly stand by to help out with the
11 review and assistance on all of that
12 family of codes.

13 MR. PARSONS: Thank you.

14 MR. MATHIS: Thank you.

15 MR. PARSONS: Any other comments
16 from the audience?

17 MR. SENDLER: Mr. Chairman?

18 MR. PARSONS: Yes, sir?

19 MR. SENDLER: I'd just like to
20 remind the people in the audience, as
21 well as the Members of this Council, in
22 my opinion one of the reasons we are
23 still in the 2006 Codes, this is a
24 Legislatively controlled State. The
25 Legislature decides what is going to go

1 on and not going to go on, and we as a
2 Council told them that we wanted to have
3 fire sprinklers, and they let us know
4 that is not what they wanted, and so they
5 passed the law the way they did, and we
6 ended up where we are. We don't need to
7 challenge them. If we want to do that,
8 just let's send it to them, and tell them
9 to look at the 2012 IECC. I personally
10 don't think they will have a problem with
11 it, but I don't think we need to try and
12 ram it down their throats.

13 MR. PARSONS: Okay.

14 MR. CULLUM: I question whether they
15 even realized that we wouldn't be
16 considering the IECC. I mean, it's
17 possible they are not even thinking that
18 we're not going to go through that
19 process, and we're assuming they are hell
20 bent on 2006. So, somehow that
21 discussion needs to happen.

22 MR. PARSONS: All right. Does
23 anyone care at this point to make a
24 Motion?

25 MR. ZUBIA: Mr. Chairman, not a

1 Motion but maybe a point, we're scheduled
2 to meet again in November.

3 MR. PARSONS: We are.

4 MR. ZUBIA: And maybe we can burden
5 Gary to see what he can solve behind the
6 scenes and maybe defer this to November,
7 because I believe we probably would have
8 ample time to address that particular
9 issue if it becomes the single issue we
10 haven't touched at that point or haven't
11 initiated any action on. Am I wrong in
12 that assumption, Mr. Wiggins?

13 MR. WIGGINS: No. I don't have any
14 problem with that. One thing I do want
15 to remind the Council is my hat -- my
16 rabbits are getting much smaller and
17 fewer, and it is difficult to pull those
18 rabbits out of the hat in some issues,
19 and I think that this may be one of those
20 issues, but I'll be happy to do research
21 and get with whatever interested parties
22 are going to be involved.

23 MR. ZUBIA: I think politically it
24 could smooth over a lot of things, and
25 then we would probably feel much more

1 comfortable moving forward in an
2 expeditious matter should we have to in
3 November, and one, partly everybody would
4 be kind of on board and singing off the
5 same sheet of music.

6 MR. STUBBS: Quick point of
7 clarification, but by November we've
8 already started the review process for
9 the other codes. Right? So, would we
10 then be bringing this back in? Why can
11 we not review this parallel on track that
12 we would make some recommendation
13 relative to that later?

14 MR. WIGGINS: Actually, we will be
15 within the six month comment period. If
16 we could get permission to start the
17 process, we will start it September 1st.
18 We then have six months from September
19 1st to request and get comments.

20 MR. STUBBS: Right. That means if
21 we do that, if we wait and hold on this
22 one -- one code, that's pushes it back
23 another month. Right? So, they then it
24 still has to have a six month process.
25 We will have not gone through the same

1 process with that one. So, if we want --
2 if we ultimately ended up wanting to
3 align all the codes, we couldn't do it,
4 because one didn't start until after the
5 others. Correct?

6 MR. WIGGINS: well, yeah,
7 technically, I guess you correct on that.

8 MR. STUBBS: So, I don't really
9 understand why we're reviewing it, not
10 saying we're adopting it, we're not
11 adopting it. We're not putting a
12 recommendation forward. We're not doing
13 anything but reviewing it at the same
14 time we are reviewing the other ones,
15 getting public comment at the same time
16 we are getting public comment. Then at
17 the end we can choose to ignore it. We
18 can choose to do whatever we choose to do
19 with it. Correct?

20 MR. WIGGINS: well, like I said
21 before, Mr. Chairman, I have no objection
22 for that. As for Staff, it is the route
23 of least resistance.

24 MR. STUBBS: Then I make a Motion
25 that we run a parallel track on this

1 Energy Conservation Code, 2012
2 International Energy Conservation Code
3 for review and public comment at the same
4 time we are doing the others.

5 MR. ZUBIA: Second.

6 MR. PARSONS: All right. Who
7 seconded that?

8 MR. ZUBIA: Adolf.

9 MR. PARSONS: Okay. I'm going to
10 restate that Motion. I'm going to
11 paraphrase it a little bit. What --
12 Gable, what you have made a Motion is
13 that the Council take the same -- direct
14 the Staff to take the same tasks that
15 they would have taken to the other codes
16 that we have directed the Staff with the
17 intent to adopt.

18 MR. WIGGINS: Let me make sure I
19 understand from the Staff's perspective.
20 On the first Motion we have the
21 Commercial Codes and the Residential
22 Codes going on a parallel track.

23 MR. PARSONS: The first Motion we
24 have the intend to adopt and the -- of
25 all of the codes.

1 MR. WIGGINS: But they are moving on
2 parallel track so the Commercial Codes
3 does not affect the Residential and vice
4 versa. Is that correct?

5 MR. PARSONS: All of the codes
6 except for IECC.

7 MR. WIGGINS: So, the Residential
8 Code now is going to be involved with the
9 Commercial Codes in a single track. The
10 IECC will be the only code on the
11 parallel track.

12 MR. PARSONS: That is correct.

13 MR. WIGGINS: Okay. I've got it

14 MR. PARSONS: Does everyone
15 understand the Motion?

16 MR. JEDZINIAK: I don't. I
17 understood yours. We are going to look
18 at it at on a parallel track. I think
19 you said we are going to look at it with
20 the intent to adopt it, and I would vote
21 no to that, but I would vote yes to the
22 original Motion.

23 MR. STUBBS: We need to say we're
24 implementing a process of adoption, not
25 saying we have an intent to adopt or we

1 are adopting. We are in process that
2 then ultimately will result in something.
3 We don't know what that is at this point.

4 MR. PARSONS: All right. Well, let
5 me ask the Mover to restate the Motion.

6 MR. STUBBS: My Motion is that we
7 put the IECC on a parallel review track
8 with the other 2012 Codes.

9 MR. ZUBIA: Second.

10 MR. PARSONS: Any discussion?

11 MR. SENDLER: I just want to make
12 sure all we are going to do is review it.

13 MR. STUBBS: That lets y'all make
14 public comment and gives anybody and
15 everybody the opportunity to comment on
16 it at any capacity they want.

17 MS. HERDINA: Mr. Chairman, I just
18 have one question, a question for the
19 Members of the Council. I'm in favor of
20 this, and I'm going to vote for it, but
21 to what extent would this potentially
22 delay our consideration and adoption of
23 the ones we know we're clearly charged
24 with the authority to look at and move
25 along the process? Having not been a

1 process before just a practical question.

2 MR. STUBBS: I'll speak for Gary.
3 It shouldn't be a problem, because we're
4 not doing anything but reviewing the
5 codes. We're not proposing. We are not
6 recommending.

7 MS. HERDINA: But again, as I
8 understand the Motion, and as I said I'm
9 going to vote for it. I think it makes
10 sense. We will be asking people to
11 comment on it. We will be potentially
12 having hearings on it. We will be making
13 recommendations on it.

14 MR. STUBBS: And at the end if we
15 choose to take some action on it, we've
16 done everything we need to do in order to
17 take that action and keep it on a
18 parallel track. If not, we will just let
19 it sit and let the Legislature do what
20 they will.

21 MS. HERDINA: Thank you.

22 MR. ZUBIA: It will be on the
23 record, and in the future, if it ever
24 gets reviewed, we already have done our
25 initial work. So, it is always going to

1 be positive down the road regardless of
2 what happens.

3 MR. PARSONS: Any other discussion
4 from the Council?

5 (Whereupon, a vote was taken and the
6 Motion carried unanimously)

7 MR. PARSONS: All right. Moving on.
8 Mr. Willie Singleton?

9 MR. WIGGINS: Yes. Mr. Chairman,
10 Staff got a letter from Mr. Willie
11 Singleton asking if he can address the
12 Council on a specific issue, and Mr.
13 Singleton is here.

14 MR. PARSONS: Okay. Mr. Singleton?

15 MR. MINICK: I have a point on this
16 last go around.

17 MR. PARSONS: Yes, sir?

18 MR. MINICK: You did not vote on the
19 2011 NEC.

20 MR. PARSONS: You are correct. We
21 did not vote on the 2011 NEC. Mr.
22 Singleton, can we hold you up one minute
23 here? All right. Anybody care to make a
24 Motion on the 2011 NEC, which is the
25 National Electrical Code, which is a

1 different series of codes?

2 MR. CULLUM: I'll do so. I make a
3 Motion that we also begin the review
4 process of the 2011 NEC Codes.

5 MR. BRIGGMAN: Second.

6 MR. PARSONS: And Darbis Briggman
7 seconded that. Any discussion?

8 MR. SENDLER: I just have a
9 question. We've always been out of sync
10 before with the codes. Is there
11 something changed now? We've always
12 wanted to get in sync. Has something
13 changed now, Gary or ---

14 MR. WIGGINS: Yes. Actually this
15 came before the Council several meetings
16 ago. It was requested that since we did
17 not adopt the 2009 Series that this would
18 be an opportune time to put the
19 Electrical Code in sync with the other
20 codes. So, we instead of going through
21 two adoption processes each two years in
22 a three year time period, we now are
23 going to do all of the codes within that
24 three year time period.

25 MR. PARSONS: Any other discussion?

1 Okay, all in favor of the adoption of the
2 2011 NEC?

3 MR. SCHUMANN: That's review, isn't
4 it? That's not adoption.

5 MR. WIGGINS: It's review.

6 MR. PARSONS: Intent to adopt.

7 MR. SCHUMANN: Okay. All right.

8 MR. PARSONS: Intend to adopt, thank
9 you. All in favor of the Council's
10 Motion in the intent to adopt the 2011
11 NEC.

12 MR. STUBBS: The Motion is to
13 review.

14 MR. PARSONS: We have to have an
15 intent to adopt before we review.

16 MR. WIGGINS: well, the State
17 Register will say intent to adopt, so
18 either will work.

19 MR. PARSONS: Any other discussion?
20 (Whereupon, a vote was taken and the
21 Motion was carried unanimously)

22 MR. PARSONS: Mr. Singleton?

23 MR. MCCRAY: Mr. Chairman, my name
24 is Joe McCray.

25 MR. PARSONS: Okay.

1 MR. MCCRAY: Willie Singleton and I
2 are partners, and I'd like to speak
3 instead of Mr. Singleton.

4 MR. PARSONS: All right.

5 MS. MEADE: Mr. McCray, if you would
6 please, speak louder. She cannot hear
7 you.

8 MR. MCCRAY: Okay. My name is Joe
9 McCray, and I'm speaking on an issue that
10 I'm not quite sure of exactly what to
11 say. We filed a complaint with the
12 Building Codes Council concerning a code
13 enforcement officer in Georgetown, and we
14 received, you know, things like, well,
15 she's not a building inspector. So,
16 therefore the Building Codes Council does
17 not regulate her, or what she is doing --
18 well, the Office of Investigation and
19 Enforcement wrote a letter and said, well
20 she did nothing wrong. We disagreed with
21 their position, and the only thing that
22 we can appeal is a decision ---

23 MR. GRIGG: Sir, could I get you to
24 hold on for a second.

25 MR. MCCRAY: Yes, sir.

1 MR. GRIGG: Sir, you said your name
2 is Mr. McCray?

3 MR. MCCRAY: Yes, sir.

4 MR. GRIGG: All right. I'm Dean
5 Grigg. I'm the Advice Counsel for the
6 Board.

7 MR. MCCRAY: Yes, sir.

8 MR. GRIGG: What I heard so far, and
9 I'm trying to figure out exactly what you
10 want to discuss with the Board. The
11 reason why I'm asking is what I've heard
12 so far is you started into the path of an
13 investigation that has been done by LLR.

14 MR. MCCRAY: Yes, sir.

15 MR. GRIGG: And information you had
16 submitted or Mr. Singleton had submitted
17 and information you got back from LLR as
18 part of that investigation. This Board
19 cannot hear that, in the potential that
20 it comes before them at a later date in
21 the form of some sort of hearing or some
22 other action that needs to be taken. So,
23 if you are here to discuss allegations
24 and an investigation that either has
25 taken place or may be in the process of

1 taking place, you can't discuss that with
2 them today. So, what exactly is it
3 you're trying -- you want to talk to them
4 about?

5 MR. MCCRAY: Quite simple. It is my
6 understanding that the Office of
7 Investigation and Enforcement has
8 determined that she has done nothing
9 wrong, and ---

10 MR. GRIGG: You can't -- that
11 conversation can't take place today.
12 That information would be submitted to
13 the Board by the IRC for them to take
14 under consideration. You can't taint the
15 Board by discussing the investigation or
16 the information that has just passed
17 between you and the investigators of LLR
18 with the Board at this point.

19 MR. MCCRAY: No ---

20 MR. GRIGG: You can't do that.

21 MR. MCCRAY: All I'm asking for the
22 Board is to give us a reason in writing
23 so we can appeal the decision.

24 MR. GRIGG: And the Board can't do
25 that today at this point. The Review

1 Committee, the IRC, will present their
2 results to the Board for consideration,
3 and my understanding is that is coming up
4 at an upcoming meeting. Is that correct?
5 I believe you said that was going to be
6 presented at the next ---

7 MR. WIGGINS: No. Actually that's
8 our next item.

9 MR. GRIGG: All right. Okay, it is
10 the very next item. Okay.

11 MR. MCCRAY: Okay.

12 MR. GRIGG: You can't discuss that
13 with them, and you can't discuss it with
14 them afterwards. What the IRC presents
15 to this Board, the Board will take under
16 consideration, and they will vote on it.
17 That case will then be, however it is
18 determined to go forward or not go
19 forward, that information, that result,
20 will be provided to you, but you can't
21 discuss with them the investigation, and
22 you can't ask them questions about their
23 decision on that. That will come from
24 the investigators. If you want something
25 in writing from these gentlemen, these

1 ladies and gentlemen, you won't get it.

2 MR. MCCRAY: Well, that was our
3 understanding. It will be nothing in
4 writing, or no decision made in writing,
5 and we have a problem with that.

6 MR. GRIGG: You will be told by the
7 investigators and by General Counsel of
8 LLR what the outcome of the decision is.
9 You will obviously hear it if you are
10 sitting here today, but they are not
11 going to provide you any further detail
12 on that. They can't.

13 MR. MCCRAY: Okay. It was our
14 understanding it was closed at this
15 point, and there will be no further
16 investigation of it.

17 MR. GRIGG: See, the Board doesn't
18 have -- I mean, the Board hasn't decided
19 that. Nothing has been decided on that.

20 MR. MCCRAY: Well, our folks were
21 told that. That's why we're here today.

22 MR. GRIGG: Well, okay. Well, I
23 would recommend that maybe if you want to
24 sit and continue to be present while they
25 address the next item on the issue, then

1 you may have your answer.

2 MR. MCCRAY: Okay.

3 MR. GRIGG: But the Board cannot get
4 into discussing an investigation that has
5 taken place with you. They can't do it
6 before the IRC review. They can't do it
7 after the IRC review. They can't get
8 into discussing with you the specifics of
9 an investigation, and that includes they
10 can't get into explaining to you why the
11 IRC has recommended what they are
12 recommending. They don't know yet.

13 MR. MCCRAY: All right. Okay.

14 MR. GRIGG: Thank you.

15 MR. PARSONS: All right. Any other
16 discussion on that item? All right.
17 Well, then let's move onto the
18 Recommendations of the Investigative
19 Review Committee, Mr. Wiggins?

20 MR. BOND: Okay.

21 MR. PARSONS: I'm sorry.

22 MR. BOND: The Investigative Review
23 Committee met on May the 23rd. They
24 heard six cases at that time. Five of
25 them have been recommended for dismissal,

1 one for dismissal with a letter of
2 caution. Any questions about any of
3 those?

4 MR. PARSONS: Any questions of the -
5 --

6 MR. BOND: And I will admit before
7 you ask me any questions, I know very
8 little in particular about these cases,
9 but I'll answer them to the best of my
10 knowledge.

11 MR. PARSONS: Council have any
12 questions of the speaker?

13 MS. HERDINA: Was one of the cases
14 that you heard the case that just came --
15 -

16 MR. BOND: I have no idea. I've got
17 ---

18 MR. GRIGG: And you can't ask that.
19 We aren't supposed to know that. I'm not
20 sure why he's -- I'm not sure about the
21 information that he's been given at this
22 point, but the Board cannot -- the Board
23 should have information that's been
24 provided to them at this point. They --
25 they -- we shouldn't have even gotten as

1 far as we got on that particular issue
2 basically.

3 MS. HERDINA: So, that ---

4 MR. PARSONS: And the information
5 that we got is contained in your Tab Two.

6 MS. HERDINA: So, for my
7 clarification purposes, what is our role
8 based upon this information that we have
9 in front of us which is pretty scanty.

10 MR. PARSONS: Gary, I'll let you
11 address that.

12 MR. WIGGINS: Okay. What you have
13 in front of you is what is called the
14 logic report from the Investigative
15 Review Committee. We have five items
16 that were recommended for dismissal. In
17 looking at the way this is laid out you
18 have a case number. The case number
19 identifies the individual. Any time we
20 have a case in which the IRC recommends a
21 dismissal, we cannot disclose the
22 individual's name. You have a case
23 number. If the Council wants to know, we
24 can get for the Council. We can provide
25 that information. We then have the date

1 received, the investigator, and the
2 description. If you see that all of
3 these were, when the initial complaint
4 came in, were requested to be
5 investigated based on misconduct of the
6 individual. Three of those items there
7 were no jurisdiction. Now, what that
8 means is that if the IRC and the -- well,
9 the investigator first does an
10 investigation and realizes that the
11 person that is involved in the complaint
12 does not have authority, is not licensed,
13 or is outside the jurisdiction of this
14 Council's registration program, then it
15 doesn't have jurisdiction to act on a
16 case. The other two, no violation. What
17 that means is that the investigator went
18 out, did an investigation, and could not
19 determine based upon the facts of the
20 case, the facts of the investigation I'll
21 say, that there was a violation. These
22 items are then submitted to the
23 Investigative Review Committee. That
24 Committee looks at each and every one of
25 them in detail and determines if the

1 investigation was done correctly first of
2 all, and if the opinion of the
3 investigator is correct. If it is not,
4 then the Investigative Review Committee
5 makes a different recommendation to the
6 Building Codes Council. If it is, then
7 the recommendation of the investigator
8 usually carries forth to the Council. In
9 this case -- and it is a decision of the
10 Investigative Review Committee, not just
11 the investigator himself. In this
12 particular case we have five cases that
13 were requested for dismissal. Now, this
14 Council can do anything it wants with
15 these cases. If you want to isolate a
16 case or several cases and hear them
17 separately, we can call for hearings, but
18 on cases where we do not have the
19 authority to act, no jurisdiction, or in
20 cases where there are no violations, that
21 could be a major waste of time and
22 expense. The last item that you have is
23 a letter of caution. What that means is
24 there was a charge of misconduct. The
25 investigation did discover an anomaly,

In re: SOUTH CAROLINA BUILDING CODES COUNCIL

1 but the anomaly was too minor for the
2 Council to actually to take any type of
3 licensing action against. So, the
4 recommendation is that the individual get
5 a letter of caution. Incidentally, this
6 is not the case that Mr. McCray was
7 referring to.

8 MS. HERDINA: I guess my question
9 is, what is the formal role of the
10 Building Codes Council? When I look at
11 this, is this for information only, or is
12 this a step in the appeals process in
13 which to affirm or reject what the IRC
14 has recommended? Wouldn't we need to
15 have some underlying facts?

16 MR. WIGGINS: That is entirely up to
17 the Council. Like I said, we can provide
18 the facts in any one or all of these
19 cases if you'd like.

20 MR. BOND: Limited facts, though.
21 Since the Council acts as both the Judge
22 and Jury in this, they can't really know
23 what has happened in the case until it is
24 presented to them as a Consent Agreement
25 or as a hearing. So, this is -- this

1 does keep you blocked to a certain
2 extent, but it is to protect the person
3 who is accused.

4 MS. HERDINA: Right, and again, my
5 only question is, if it is our role as
6 part of the appeal process how can we
7 make an informed decision to whether ---

8 MR. BOND: This isn't an appeal
9 really.

10 MS. HERDINA: Okay.

11 MR. BOND: This is not an appeal.
12 This is a presentation of the
13 investigation that has been done by my
14 investigator as reviewed by the
15 Investigative Review Committee. It is a
16 recommendation, and I believe Mr. Wiggins
17 sits on the Investigative Review
18 Committee, Staff Attorney, Chief
19 Investigator, and the investigator. Are
20 there any other members, Gary?

21 MR. WIGGINS: And we have a public
22 member.

23 MR. BOND: And a public member.
24 They review the evidence in total. So,
25 you are putting your faith in that

1 Investigative Review Committee and in
2 that public member ---

3 MS. HERDINA: Right.

4 MR. BOND: --- that they see the
5 facts, and that their recommendation is
6 an accurate one.

7 MS. HERDINA: So, why is it coming
8 to us? What is the point of it coming to
9 us?

10 MR. BOND: Because the Council is
11 charged with approving it or dismissing
12 it.

13 MR. SENDLER: Mr. Chairman?

14 MR. PARSONS: Yes?

15 MR. SENDLER: I've always sort of
16 treated this -- we hear from cases from
17 time to time by the way.

18 MS. HERDINA: Yes, sir.

19 MR. SENDLER: And we have hearings
20 and we discipline people. I've always
21 taken this to just be sort of for
22 information that this is what they've
23 been doing, but if somebody has a --
24 wants to appeal or disagrees with
25 whatever the IRC said, how does that come

1 back to us, or who do they appeal it to
2 like this individual?

3 MR. BOND: If ---

4 MR. SENDLER: Now, I'm not talking
5 about this particular case, but we
6 obviously have somebody that is not
7 happy. What is the process?

8 MR. BOND: If a case is dismissed,
9 there is really no appeal. Now, if they
10 present us with new evidence we might
11 reconsider opening that case, but if it
12 is dismissed for whatever reason, no
13 jurisdiction, we can't do anything. No
14 violation, it has been investigated and
15 found that nothing occurred has violated
16 the laws of the Building Codes Council,
17 or there is sometimes where we recommend
18 dismissal for insufficient evidence.
19 That means there was not the evidence
20 there to prove that there was a violation
21 of the ---

22 MR. SENDLER: And they can't appeal
23 that to LLR or to an Administrative Law
24 Judge, or something?

25 MR. BOND: No.

1 MR. PARSONS: Let me ask you a
2 question, and I don't know if this is ---

3 MR. BOND: And if I'm misstating
4 anything Gary, correct me.

5 MR. PARSONS: --- if this is going
6 to help clarify or not. These no
7 jurisdiction issues, isn't there a way to
8 funnel some of these or some items where
9 we don't have jurisdiction over to the
10 solicitor?

11 MR. BOND: If it rises to a level
12 where there is a violation of the
13 criminal law.

14 MR. PARSONS: Some one is out there
15 presenting themselves as a building
16 official, that who is not. We don't have
17 jurisdiction, but she's ---

18 MR. BOND: That's to be referred
19 over to the proper authorities.

20 MR. PARSONS: And the proper
21 authority would be the local solicitor?

22 MR. BOND: Yes, sir.

23 MR. WIGGINS: Actually, in cases
24 like that, we issue Cease and Desist
25 orders.

1 MR. BOND: Yeah.

2 MR. WIGGINS: So, we do have a
3 mechanism that we can use for somebody
4 who is impersonating a building official
5 or a registered person.

6 MR. PARSONS: And what if -- if that
7 is violated then it goes to the
8 solicitor.

9 MR. WIGGINS: Right. Now, the
10 option for the Council, and this might
11 get to the point that you are trying to
12 make, is that if you prefer you can hear
13 each one of these items in a hearing
14 setting. It is ---

15 MS. HERDINA: I'd get voted out of
16 the Council if that were the case.

17 MR. WIGGINS: But it is not unheard
18 of. Believe me.

19 MS. HERDINA: Let me ask you a
20 different question. would it possible,
21 and I don't want to create anymore work
22 for you, but would it be possible the
23 next time we do something like this, is
24 to have maybe just a short paragraph that
25 would summarize what each case was about,

1 and -- and we could take a look at that,
2 and then, you know, I would imagine
3 ninety-nine percent of the time or
4 ninety-five percent of the time, we would
5 look at it, and we would go, fine, looks
6 good. Let's move on. Is that an option?

7 MR. WIGGINS: I don't believe it is.

8 MR. BOND: Actually my office
9 produces that.

10 MR. WIGGINS: I'd like to defer to
11 Dean as soon as he gets back, but the
12 problem we have there is how much
13 information we can legally disclose
14 without tainting the Council, and that's
15 the whole -- the whole process we have is
16 to keep the Council from being tainted by
17 any bit of information, and that was the
18 very point Dean was making when Mr.
19 McCray started talking about ---

20 MR. SENDLER: So, what do you ---

21 MR. WIGGINS: --- the facts of the
22 case or any issue involving the case
23 unless it is in a hearing setting.

24 MR. SENDLER: So, what are you
25 asking us to do, Gary? Are you asking

1 them to bless all these things, and we
2 don't have a clue as to what it is except
3 it is Case Number 2010-22?

4 MR. WIGGINS: Yes.

5 MR. SENDLER: well, that doesn't
6 make any sense.

7 MR. WIGGINS: well, like I said, the
8 option is we can certainly set up
9 hearings, and I have no problem with
10 that.

11 MR. SENDLER: well, I hate to have
12 to hear all of them, but I don't see how
13 we can say we agree or disagree with
14 something when we don't have a clue what
15 it is.

16 MR. HILL: You are accepting the
17 information that is provided by the IRC.
18 We are trusting our people that they've
19 done their job, and that their
20 recommendation ---

21 MR. SENDLER: well, I don't trust
22 anybody. In God we trust.

23 MR. PARSONS: Let me try and clear
24 this up just a little bit, Gary. None of
25 these five cases are opposed. Right? I

1 mean, the IRC made their recommendations
2 and the person who is being investigated
3 essentially capitulated or agreed with
4 the IRC's recommendations, and this case
5 is now resolved. If it were not
6 resolved, then it would come forward for
7 a hearing. Is that -- my understanding,
8 is that correct?

9 MR. WIGGINS: No, the individual,
10 the, the Respondent, the person who was
11 the licensee does not know at this point
12 if this case has been resolved. So,
13 these cases that are before you, the
14 Respondents still are not aware of the
15 fact that the case is being either
16 recommended for dismissal, for letter of
17 caution, for memorandum of agreement, or
18 for any other including a public --
19 excuse me, a formal hearing. They would
20 not know until the item is actually
21 completed. The completion is when this
22 Council acts, and you've got to act on
23 each and every complaint that we bring
24 forward. So, whether it is a dismissal
25 based on all the evidence that was

1 presented by the investigator to the
2 Investigative Review Committee or whether
3 it is by a formal hearing, this Council
4 has to act on it. If you want more
5 names, we can supply the names of the
6 individuals to you if that's what you
7 want, but we've got to be very, very
8 careful about any other information that
9 could possibly taint a case in fact if it
10 has to go to a public hearing.

11 MR. PARSONS: And just by naming the
12 individuals, you are now putting in the
13 public record a complaint that has found
14 no jurisdiction.

15 MR. WIGGINS: Mr. Chair, that is
16 true.

17 MR JEDZINIAK: I'm just surprised
18 that there is a State Statute or State
19 Regulation out there that requires us to
20 act and issue some sort of final decision
21 without having any idea of what the facts
22 are or what the allegations are. I'd
23 like to know ---

24 MR. BOND: It would be good -- I'm
25 sorry. If it would be good if Dean were

1 here to explain this better, but it
2 really came from a ruling from the
3 Supreme Court or Administrative Law
4 Court.

5 MR JEDZINIAK: Wait, wait, wait.
6 Our Supreme Court said we had to vote
7 without knowing ---

8 MR. BOND: Not that you had to vote,
9 but that you could not act as Prosecutor
10 and Judge in an administrative ---

11 MR JEDZINIAK: Now, I'm not
12 comfortable with this whole process. I'd
13 like to maybe see what the law is and
14 what our requirements are.

15 MR. BOND: Dean really needs to
16 speak to the legal matters.

17 MR. CULLUM: My question kind of
18 along those lines, what is the Charter of
19 the IRC? where are the written
20 guidelines that describe the ---

21 MR. BOND: The IRC is a function of
22 the OIE, of the Office of Investigation
23 and Enforcement.

24 MR. PARSONS: well, me ask ---

25 MS. HERDINA: Could I make a

1 recommendation, maybe?

2 MR. PARSONS: We're going to have
3 some more discussion on this, but let me
4 ask you, what is the urgency of us taking
5 action on this today?

6 MR. BOND: That you don't meet again
7 for three months, and that this will
8 leave these people in limbo for that
9 length of time.

10 MR. BRIGGMAN: Mr. Chairman, I have
11 a question for the investigator.

12 MR. BOND: Yes, sir.

13 MR. BRIGGMAN: Say, on these items
14 itself is that the charge is one
15 individual received these letters back on
16 your findings.

17 MR. BOND: Yes, sir.

18 MR. BRIGGMAN: Once they receive
19 those, is it possible that say if they
20 are not satisfied that they can come back
21 and actually go before the Building Codes
22 Council?

23 MR. BOND: If they bring us new
24 evidence.

25 MR. BRIGGMAN: New evidence?

1 MR. BOND: Then we might consider
2 reopening the case.

3 MR. WIGGINS: Mr. Chairman, while we
4 are waiting for Dean to come back, let me
5 just give you a couple of examples of
6 what we deal with, with no jurisdiction
7 type items, and maybe it will give you a
8 clearer picture, and this does not
9 involve any of the cases. These are
10 examples that don't involve any of these
11 cases. We might get a complaint against
12 Joe the building official, and the
13 complaint might say that Joe was
14 negligent or displayed misconduct, and
15 the investigator goes out and make an
16 investigation and find out that Joe, the
17 building official, was not involved in
18 the case. That Tom, the building
19 inspector is the one that actually
20 created the problems. So, consequently,
21 that comes back, we review at the IRC,
22 and we say well, what is the situation.
23 The investigator says well I investigated
24 Joe. Joe was not associated with this
25 problem whatsoever. We don't have a

1 case. All right, clear cut no
2 jurisdiction. So, we write no
3 jurisdiction down, no ---

4 MR. PARSONS: That would be no
5 violation.

6 MR. WIGGINS: well, no violation.

7 MR. PARSONS: Right.

8 MR. WIGGINS: No violation. So,
9 consequently the Committee votes on it,
10 and that's the recommendation you get in
11 front of you. When we talk about these
12 issues, no jurisdiction, no violation,
13 these are very, very thoroughly thought
14 out. These are not things that come to
15 us and we have a case, but feel a little
16 bit queasy about the case, and we say
17 let's just dismiss it or recommend
18 dismissal. These are cases where we have
19 a clear cut issue of not having a
20 violation or not having jurisdiction.
21 I'll give you a jurisdiction issue. Say
22 we have a complaint against the city
23 clerk. Well, we don't license city
24 clerks. That's no jurisdiction. So,
25 after the investigation is made, the

1 investigator comes back, we sit in the
2 IRC Committee, and said, well, the city
3 clerk is the person that gave this
4 information. No jurisdiction, we can't
5 take action against it. What I'll do in
6 that case if it is an issue that involves
7 code enforcement is immediately issue a
8 Cease and Desist to the city clerk, and
9 say look you can't do that. Stop, and
10 don't do it again.

11 MR. SENDLER: But Gary if we had a
12 little synopsis of something then we
13 would maybe be able to say yes we agree
14 or disagree, but you're asking us to
15 adjudicate something in total darkness.
16 I mean, how can I say I agree with this
17 when I don't even have a clue as to what
18 is going on? I mean, this makes no sense
19 to me. I don't even believe our Supreme
20 Court would do that to us.

21 MR. BOND: First of all, may I ask
22 how has this been presented before?

23 MR. WIGGINS: The same way.

24 MR. BOND: Same way.

25 MR. SENDLER: They just told us this

1 was some information. We had all these
2 cases and all that. So, I just assumed,
3 well, they worked on these -- worked on
4 these six cases.

5 MR. BOND: This -- this is the first
6 one I've done. I don't even like the way
7 it looks myself. One of the first ---

8 MR. SENDLER: It doesn't ---

9 MR. BOND: We can work on how it is
10 presented to you. I think we can give a
11 little more information in the issue
12 description and possibly a little more
13 information in the IRC logic. I've --
14 that's-- I've done that with -- I've been
15 an investigator at LLR for thirteen
16 years. We've given more information than
17 this. I can see your point. We can't
18 give you a lot of information about the
19 cases, but if I -- I will certainly try
20 to work and make this a little better and
21 put it through the Advice Attorney first
22 so he can approve whether or not there is
23 too much information or too little
24 information, if that's acceptable.

25 MR. SENDLER: I'd like to give some

1 -- the Advice Attorney is coming back in.
2 Could we get some information from him on
3 this, his take on it?

4 MR. GRIGG: You're discussing the
5 IRC report.

6 MR. PARSONS: That's right, and
7 basically the Members of the Council are
8 uncomfortable with the sketchy and the
9 very brief information that is provided,
10 and there's some questions as to, you
11 know, what is it that Council is actually
12 being asked to do, and why are they being
13 asked to do -- to make a decision on such
14 limited information?

15 MR. GRIGG: And this is part of the
16 conversation I've just had out in the
17 hallway. So, for everybody's
18 information, if y'all can hear me, when a
19 case, any case, goes before the IRC, the
20 IRC with the prosecutors, with the
21 investigators, make a recommendation as
22 to how that case will proceed, whether
23 their recommendation is to dismiss or to
24 proceed with a formal hearing. Y'all
25 having trouble hearing me? Whatever the

1 case may be, they make that
2 recommendation, and then a report such as
3 what you've got in front of you is
4 presented for your Motion and vote to
5 either accept it or not accept it. You
6 can accept it in full. You can accept in
7 part, but legally speaking, and again
8 this is a conversation I just had in the
9 hallway, you aren't entitled at this
10 point. By law you can't have more
11 information than what you are getting. I
12 know that sounds tough.

13 MR. SENDLER: So, what are you
14 asking us to do?

15 MR. GRIGG: Every Board does what --
16 the IRC is in place for a reason. They
17 are there to vet through the cases, and
18 quite frankly you have to put some amount
19 of trust in their decision making. If
20 you don't think a case should be
21 dismissed, then you don't accept it. If
22 you don't think a case should go forward
23 based on what you have, then you don't
24 accept it, and I know your next question,
25 because I hear from every Board, and no

1 Boards are happy, but by law you can't be
2 tainted. If they start giving you out
3 information, names, places of events,
4 information that was collected in the
5 investigation, if they start giving y'all
6 that information every one of you are
7 tainted, and then you can't sit on any
8 potential proceeding that may take place
9 in the future on that case. So,
10 unfortunately, the information you can
11 have now is very limited. It's what you
12 see on this report. Based on that, you
13 have to make a determination in your own
14 mind the amount of trust, which frankly
15 is there for that very purpose, that is
16 given to the IRC that they have looked at
17 the investigation, their recommendation
18 has foundation and has support behind it,
19 and are you going to agree with that or
20 not.

21 MR. SENDLER: All right. Now, if we
22 say we agree, does the Complainant or the
23 Respondent, or whoever -- what recourse
24 does he have? Does he have an appeal
25 process to come before us for a hearing

1 or something, or is that the end of it?

2 MR. GRIGG: If the case is
3 dismissed?

4 MR. SENDLER: Yeah.

5 MR. GRIGG: That's the end of it.

6 MR. SENDLER: So, you're asking us
7 to adjudicate with no information.

8 MR. GRIGG: I'm not asking. No,
9 you're not adjudicating anything. Be
10 real careful about that. The case is not
11 before you. There is no formal
12 Complaint. There's nothing that is
13 within your jurisdiction at this point to
14 ---

15 MR. SENDLER: So, what are you
16 asking us to do?

17 MR. GRIGG: Well, I'm not asking you
18 to do anything.

19 MR. SENDLER: Well, what's the law
20 or somebody asking us to do?

21 MR. GRIGG: I don't have anything
22 with the Investigative Review Committee.
23 I am your attorney. I am as equally in
24 the dark as y'all are for the same
25 reason. I'm legally not allowed to

1 advise you on a case that I have
2 information about ahead of time. Y'all
3 aren't legally allowed to sit on a case
4 that y'all have information about ahead
5 of time. There is no formal Complaint
6 pending before this Board. There is
7 nothing within this Council's
8 jurisdiction. What this is is the first
9 step. This is the investigation process.
10 An initial complaint comes into the
11 agency. The investigators investigate
12 it. They take their results, they, and
13 the Members of the IRC, and the
14 prosecutors, review it all, much as a
15 Grand Jury would do in a criminal case,
16 and they decide, here's our
17 recommendation. It either goes forward
18 or it doesn't, and then y'all only say
19 at this point is, okay, we accept the
20 findings of the IRC or no, we don't.

21 MR JEDZINIAK: But we don't know
22 what the findings are.

23 MR. GRIGG: Their finding is what's
24 on ---

25 MR JEDZINIAK: So some ---

1 MR. GRIGG: By law that's all you
2 get right now. Whether you like it or
3 not, and I'm as much in the dark as y'all
4 are, but whether you like it not, that's
5 ---

6 MR JEDZINIAK: So, what are we
7 deciding?

8 MR. GRIGG: Simply whether to accept
9 what is on this piece of paper or not.

10 MR JEDZINIAK: Now, there's a
11 difference between accepting for
12 information purposes and making the final
13 decision, saying we agree that ---

14 MR. GRIGG: No. If you are
15 accepting the report, the recommendation
16 of the IRC, then you are accepting what
17 they have recommended.

18 MR JEDZINIAK: So, we are agreeing
19 with it?

20 MR. GRIGG: If you accept it, yes.

21 MR. CULLUM: We're not doing
22 anything yet. If a Motion gets made then
23 you will know what you are being asked to
24 do. Until a Motion comes up, I don't
25 know that there is any other

1 consideration. Now, I think it has
2 historically been someone will make a
3 Motion as to we accept this or not.

4 MR. GRIGG: As I said, there will
5 have to be a Motion as to whether to
6 accept it or not. Before this is
7 resolved today, there will have to be a
8 Motion whether you're going to accept
9 this report or not.

10 MR. CULLUM: Mr. Chairman, may I
11 make a Motion?

12 MR. PARSONS: Can I ask you to hold
13 that one more ---

14 MR. CULLUM: Sure.

15 MR. PARSONS: Just very briefly,
16 because I think there is one issue of our
17 discussion that we really haven't touched
18 on, and we have these first five, and the
19 investigation is to dismiss. So,
20 certainly you wouldn't expect the subject
21 of the investigation to object to that.
22 All right, but you may have the person
23 who initiated the complaint to have an
24 objection to that. Now, the person who
25 initiated the complaint can initiate a

1 new complaint. Is that correct?

2 MR. BOND: Yes, sir. Sure.

3 MR. PARSONS: They are not
4 constrained or eliminated in any way?

5 MR. BOND: They are not.

6 MR. PARSONS: Okay.

7 MR. GRIGG: But they cannot, and
8 again, this goes to our previous issue,
9 they cannot come before you today and ask
10 you to reconsider, or ask how to appeal,
11 or ask anything about the investigation,
12 because if you decide not to accept the
13 recommendation of the IRC, and it comes
14 before y'all for a hearing or a new
15 complaint, as Mr. Bond just said, because
16 there is nothing restricting them from
17 filing a new complaint, comes before you,
18 then every one of y'all are tainted and
19 you can't hear the case.

20 MR. PARSONS: Right.

21 MR. GRIGG: Because you just got
22 information from whomever regarding that
23 case here today.

24 MR. SENDLER: Well, in your absence
25 he said for someone to file a new

1 complaint or whatever, it is my
2 understanding was, they have to have
3 additional information.

4 MR. BOND: They would need new
5 evidence.

6 MR. GRIGG: I mean, they would need
7 something, but again that's the purpose
8 of them filing a complaint. The
9 investigator can't just make the
10 information up, and the Board can't just
11 make the information up. I mean, they've
12 got to have something that they can act
13 on, you know, that they can investigate
14 and find something to dig their claws
15 into that would warrant it going forward.
16 I don't know anything about any of these
17 cases. I'm not a part of the IRC, but my
18 guess is any case that is going to come
19 before you with the recommendation that
20 it be dismissed, that there just wasn't -
21 --

22 MR. SENDLER: All right, then ---

23 MR. GRIGG: --- information that
24 came out of it that they could proceed
25 on.

1 MR. SENDLER: would it be
2 appropriate for us to have an additional
3 column here or something that says either
4 the Complainant or the Respondent,
5 however we do it, either one of the
6 people, the person that was charged and
7 the person making the charge either
8 agrees or disagrees with this, and then
9 we could -- when we see there's a
10 disagreement ---

11 MR. GRIGG: No.

12 MR. SENDLER: Then we could have a
13 hearing?

14 MR. GRIGG: I mean, no, because,
15 again, you get into ---

16 MR. SENDLER: well, it sounds to me
17 like we're finding people -- we're
18 saying, okay, we bless this ---

19 MR. GRIGG: Because you're ---

20 MR. SENDLER: --- but we don't know
21 what is going on.

22 MR. GRIGG: --- trusting the
23 procedure that has been set in place for
24 the Board -- the IRC Committee. There's
25 no use in having it if you're not going

1 to trust what they do.

2 MR. PARSONS: All right. Now, but,
3 you know, we talked about the five that
4 were dismissed, but now we have the sixth
5 one which is a letter of caution where we
6 may have two unhappy parties. We may
7 have the party who is the subject of the
8 investigation who is unhappy with the
9 letter of caution, and then we have the
10 potential Complainant who is also unhappy
11 with a letter of caution.

12 MR. WIGGINS: Let me ask for a point
13 of clarification, Dean. It's my
14 understanding that once we receive the
15 complaint, the Complainant initiates the
16 complaint. If we believe there is merit
17 to the complaint, once we start the
18 investigation that complaint becomes
19 LLR's complaint.

20 MR. GRIGG: Yes.

21 MR. WIGGINS: And the Complainant --
22 the original Complainant is no longer the
23 Complainant. That person becomes a
24 potential witness.

25 MR. GRIGG: Absolutely, just ---

1 MR. WIGGINS: So, the Complainant is
2 not the person that lodged the complaint.
3 The Complainant is LLR's.

4 MR. GRIGG: Absolutely. That's
5 correct.

6 MR. WIGGINS: That's part of the
7 investigation. So, that Complainant,
8 that initial Complainant is set aside ---

9 MR. GRIGG: They decide whether ---

10 MR. WIGGINS: And then becomes a
11 witness. So, whether that witness is
12 satisfied or not becomes a moot point.
13 LLR is the Complainant.

14 MR. GRIGG: Absolutely. Good point.

15 MR. PARSONS: Okay. Any other
16 discussion?

17 MR. SCHUMANN: What's the next step
18 on these things if we should disapprove
19 of them? What happens?

20 MR. PARSONS: Well, I guess we're
21 going to make a Motion, I guess.

22 MR. SCHUMANN: I mean, if we should
23 disapprove, what happens then?

24 MR. WIGGINS: There are two options.
25 Either approve these, or they go to a

1 formal hearing.

2 MR. SCHUMANN: Okay.

3 MR. WIGGINS: Those are the only two
4 options that we have.

5 MR. SCHUMANN: Okay, formal hearing.

6 MS. HERDINA: Rick when you were
7 out, oh I'm sorry. Dean, when you were
8 out this gentleman suggested that he was
9 -- he has been an investigator in the
10 past, and that he has provided reports, I
11 think. I don't want to misstate this ---

12 MR. BOND: I have.

13 MS. HERDINA: --- to Boards that
14 have had a little bit more information
15 than we've got here.

16 MR. BOND: Something other than a
17 one word description of the issue.

18 MS. HERDINA: would it be possible
19 going forward to have a ---

20 MR. GRIGG: You can get something
21 basically to the extent of this matter
22 has been reviewed. The allegations was
23 such, finds that there is no merit or
24 there is no misconduct, or no violation,
25 or however it is worded. So, yes.

1 whether you want to do it in one or two
2 words or an eight or ten word sentence,
3 but you don't get anything other than --
4 or you should not be getting anything
5 other than that. You can't get into the
6 allegations was such. The investigator
7 went out and did this and this and this,
8 and you can't be given the names. You
9 can't get into places, and dates, and
10 stuff that would come in as evidence
11 during the hearing. So, whether it is
12 one or two words, or whether it is a
13 sentence, but the information is not
14 going to be much more. It should not be
15 much more, and, as your attorney, if I
16 saw one of these that had much more I
17 would stop it before it went anywhere.
18 The most it is probably going to say, and
19 I think Mr. Bond would agree with me, is
20 there is an allegation of such and such,
21 found no violation, recommend dismissal,
22 or recommend go forward, or whatever the
23 case is. I mean, you may get an extra
24 sentence or two, but you're not getting
25 much.

1 MR. BOND: Right.

2 MR. GRIGG: You're not getting what
3 these gentlemen are asking for that would
4 satisfy their concerns, because
5 unfortunately legally you can't at this
6 stage. You just -- you can't give all
7 the details of the matter right now.

8 MR. SENDLER: Let me another
9 question while we are on it. Could we
10 ask you which of these cases these
11 particular people are, you know ---

12 MR. GRIGG: No, absolutely not.

13 MR. SENDLER: So, we could say we
14 want to have a hearing on it?

15 MR. GRIGG: No, you can go based on
16 the number and information provided, but
17 you cannot know the specific person that
18 has that number at this stage, because
19 again, and part of that is, Gary just
20 made a good point, it's now LLR's
21 investigation, and they, if a formal
22 Complaint, comes out of the
23 investigation, it's LLR's formal
24 Complaint that will be coming to you
25 ultimately in the form of a hearing for

1 y'all to then have that hearing and
2 decide what should happen in regards to
3 that case. Until that you have no
4 jurisdiction or sanction or do otherwise,
5 because there is no formal Complaint that
6 has comes before you. All this is, is
7 the investigative stage. IRC is coming
8 to you and saying, we don't have enough
9 information to go forward, or we do, or
10 whatever their recommendation is.

11 MR. DRURY: Why do we have to
12 approve this measure when we have no
13 information? I mean, I would think that
14 there ---

15 MR. GRIGG: You're going to have to
16 talk to the Legislature on that, and it
17 is the way legislatively, the Practice
18 Acts, and the APA were set up. Now,
19 whether you personally agree with it or
20 not is a different matter, but it is the
21 way we believe the process has to go.

22 MR. HILL: Every other Board
23 operates in this manner. Correct?

24 MR. GRIGG: Yes, sir, and every
25 other Board has had to ask me the same

1 questions. So, you are not alone.

2 MR. PARSONS: All right, do we have
3 anything from the audience?

4 MR. WASSON: John Wasson. I guess
5 two questions. Mr. McCray brought this
6 up pertaining to his case, but in this
7 case particularly what we've about, if
8 these people have not been told, you
9 know, that they found guilty, or they,
10 you know, got a letter of dismissal or
11 whatever, how would he know -- how would
12 he know this? If this is just coming up,
13 how has he got this information before
14 you get it? First of all in my opinion,
15 he should not know that, and as a person
16 that knows somebody on the Committee, the
17 IRC Committee, I don't think ---

18 MR. PARSONS: Yeah, we do not need
19 to go down that road.

20 MR. GRIGG: Yeah. We're not going
21 to go down that road.

22 MR. HILL: But I'm just saying ---

23 MR. GRIGG: The only thing I can
24 answer to that, sir, and Mr. Bond may be
25 able to speak more on this, because,

1 again, as the Board's attorney, just like
2 they are, I'm not privy to what goes on
3 in IRC meetings, but when something,
4 whether it is going forward, or it's
5 dismissed, or whatever, the investigators
6 and General Council are in contact with
7 the people who contacted them with the
8 initial information. Now, whether that
9 is a letter or what, and exactly the
10 timing when that is sent out, I don't
11 know, because I don't do that, but my
12 point today is the Board doesn't need to
13 get into that either. So, that's
14 something that again, an initial
15 Complainant, whoever it may be, if they
16 want to stay up to speed and apprised of
17 what is going on with the allegations
18 that they submitted to LLR, they need to
19 speak with the investigator and with the
20 prosecuting attorneys that are involved
21 in it.

22 MR. WASSON: But if that letter is
23 sent to -- say if that letter is sent to
24 -- that letter, I mean, he would not know
25 anything about that until this Committee,

1 had met, would he not?

2 MR BOND: while the meeting was
3 going on, I wrote myself a note here to
4 check and see when these letters are
5 being sent out just to make sure.

6 MR. GRIGG: And, again, I don't know
7 the timing as to ---

8 MR. BOND: Because they are not
9 supposed to go out until after this
10 Council meets. They should not have gone
11 out. I'll be checking on that this
12 afternoon.

13 MR. PARSONS: Yes, sir?

14 MR. SINGLETON: My name is Willie
15 Singleton. I'm not going to say anything
16 about the case.

17 MR. PARSONS: All right.

18 MR. SINGLETON: But what it is I
19 wanted to come in, because, you know,
20 someone tells you that the person is
21 innocent even before the investigation is
22 done, you don't show up, but let me say
23 this. Be mindful when you vote on
24 something like this, because when someone
25 is ---

1 MR. GRIGG: Not ---

2 MR. SINGLETON: I'm not going to say
3 anything about the case.

4 MR. GRIGG: I know, but you cannot
5 get in the ---

6 MR. SINGLETON: I'm not going to say
7 anything about the case. I'm not even
8 talking about my case.

9 MR. GRIGG: Right, but you're asking
10 them to be mindful of certain information
11 before they vote, and you can't ---

12 MR. SINGLETON: Okay. Well, I won't
13 say that. I won't say that.

14 MR. GRIGG: You can't do that.

15 MR. SINGLETON: Right. I think that
16 since you all are over the head
17 investigator, that when a person makes a
18 complaint and specific laws are stated,
19 they should have to answer whether that
20 person is right or wrong.

21 MR. PARSONS: Is that it?

22 MR. SINGLETON: That's it. Thank
23 you.

24 MR. PARSONS: Thank you.

25 MR. GRIGG: And this -- I will make

1 that point just for clarification. There
2 is no jurisdiction of this Board over the
3 investigation or the investigator. This
4 Board does not power or jurisdiction over
5 the head investigator, over the
6 prosecutor, or over the investigation.

7 So ---

8 MR. SENDLER: So, we are asked to
9 bless their results, but in total
10 darkness.

11 MR. CULLUM: With full confidence of
12 the process.

13 MR. WIGGINS: Mr. Chairman, let me
14 make a recommendation. Let's set these
15 cases up for a hearing and let the
16 Council actually see what we're dealing
17 with when the IRC goes through these
18 cases. If it gets a feel for it, then
19 maybe they will have a better
20 understanding as to what the IRC actually
21 does.

22 MR. PARSONS: Mr. Chairman, before
23 we do that ---

24 MR. ZUBIA: Gary can't make a
25 Motion.

1 MR. WIGGINS: I know.

2 MR. ZUBIA: I'm just making sure.

3 MR. WIGGINS: I was just making a
4 recommendation.

5 MR. PARSONS: Let me just -- let me
6 try and help us through this just very
7 briefly before we hear any Motions. We
8 have the first five where the State is
9 the Complainant. The State says my
10 complaint is satisfied. Certainly, the
11 subject of the complaint would be
12 satisfied with the dismissal. You know,
13 we may want to, as a Council, separate
14 those two issues. It may -- may help us
15 narrow down the issues here. So, with
16 that, is there any more discussion or
17 comments by the Council?

18 MR. ZUBIA: Mr. Chairman, I,
19 briefly, if we don't have jurisdiction,
20 authority, or the right, but we have the
21 Statutory requirement to accept the
22 report, so be it. We need to stay at the
23 thirty thousand foot level. By no means
24 do I want to start dealing with day to
25 day minutia of what State employees are

1 doing, and based on maybe, I've got a
2 biased perspective, being a public safety
3 employee myself, I'm going to have to
4 trust the system. I trust the system to
5 be providing to us what needs to be done
6 in order for us to move forward. If not,
7 I can tell you, having to deal with
8 similar issues from my side, there is
9 always other legal recourse if this
10 process does not satisfy the needs of the
11 Complainants, and I'm happy with that,
12 but we need to understand our role and
13 stay at that thirty thousand foot level
14 where we need to, and not get down to
15 some scary other functions.

16 MR. PARSONS: All right, any other
17 comments?

18 MR. CULLUM: Can I make a Motion?

19 MR. PARSONS: well, let's -- go
20 ahead. Make a Motion.

21 MR. CULLUM: I move that we accept
22 the Building Codes Council's IRC
23 recommendations as presented in the
24 minutes before us.

25 MR. HILL: I'll second it.

1 MR. PARSONS: Any discussion on the
2 Motion?

3 (Whereupon, a vote was taken and the
4 Motion carried with eleven members
5 in favor and three opposed)

6 MR JEDZINIAK: Can I make a quick
7 comment?

8 MR. PARSONS: You certainly may.

9 MR JEDZINIAK: I just want to make
10 it clear that I'm not deciding that these
11 recommendations are right or wrong. I
12 just don't feel comfortable with the
13 process of having to make a decision
14 which affects somebody's career or
15 somebody's life without any other
16 information than this, and I would like
17 to look more into the process myself
18 before I feel comfortable.

19 MS. HERDINA: And I don't know if it
20 is a point, or a Motion, or whatever, but
21 just asking if Counsel could just look
22 into the extent to which legally we could
23 receive a little bit more information,
24 whether that be in public or Executive
25 Session, before we are asked to make a

1 decision on these, and, you know, you're
2 smiling. You've apparently looked at
3 this before, but I would appreciate it
4 before the next meeting you could look
5 into that. The investigator has
6 indicated there may be a little
7 additional information we could receive.
8 I think that that would -- that would be
9 helpful.

10 MR. SENDLER: What is it, The
11 Administrative Procedures Act where it
12 says this is what we got to do? I just
13 find this hard to believe. I don't have
14 no reason to disbelieve you, but I find
15 it hard to believe.

16 MR. PARSONS: I'm sure this has come
17 up many times before. I bet you've even
18 got a power point on that.

19 MR. WILSON: Mr. Chairman?

20 MR. PARSONS: Yes?

21 MR. WILSON: Is there room for the
22 three to voted no to sit on the IRC Board
23 with Mr. Wiggins?

24 MR. WIGGINS: No.

25 MR. WILSON: And they wouldn't be

1 able to vote in the issue if it comes
2 before the Board?

3 MR. PARSONS: It would take them out
4 of the pool to sit on the Council should
5 we get a full hearing.

6 MR. GRIGG: Well, Council Members,
7 Board Member, what have you are not
8 allowed to sit on the IRC anymore.

9 MR. WIGGINS: They are not even
10 allowed to be in the room.

11 MR. GRIGG: Not even allowed to be
12 in the room, not allowed -- again, it
13 comes into the legality of your being
14 asked at some point to decide the outcome
15 of a case, and we've got some people that
16 are concerned with deciding something
17 about somebody's livelihood at this
18 stance, think about all the lawsuits and
19 the legal repercussions that come into
20 play if you have prior knowledge of a
21 case, and you go into a case with that
22 information, and then the decision that
23 is made obviously is going to be
24 favorable for one party and not for the
25 other. There are going to be appeals.

1 There are going to be lawsuits. You just
2 legally cannot violate the constitutional
3 rights of either party or the due process
4 rights of either party to know
5 information ahead of time before you are
6 asked to decide a case.

7 MR. SENDLER: Let me ask you another
8 quick -- in the past, from time to time,
9 we do have hearings. What triggers a
10 hearing? What makes it come before us
11 and we have the hearing and actually
12 adjudicate something?

13 MR. GRIGG: Once an IRC
14 recommendation has been accepted or
15 approved by the Board to go forward, then
16 generally the way that works is a formal
17 Complaint would be issued the State's
18 attorneys, and then it would proceed to a
19 hearing that would ultimately come before
20 y'all where we are sitting here with
21 witnesses and exhibits and whatnot. The
22 next step up from the recommendation, if
23 the recommendation is accepted to go
24 forward, would be a formal Complaint
25 filed.

1 MR. PARSONS: Let me see if I
2 understand what you just said. So, on
3 this item that we have in front of us in
4 this Tab Two, we would have a third
5 category which says recommend a hearing.
6 Is that correct?

7 MR. BOND: Yes.

8 MR. GRIGG: I mean it would say --
9 go ahead.

10 MR. BOND: On the top any cases that
11 we recommended that we go forward with a
12 hearing.

13 MR. PARSONS: Yeah, right. Okay.
14 any other comments from the Council? Any
15 other comments from the public members?
16 Yes, Vaughn?

17 MR. WICKER: Mr. Chairman, Vaughn
18 Wicker with the International Code
19 Council. Having witnessed a few of these
20 things over the years, it might be a good
21 idea to work into a presentation before
22 Council an hour perhaps on Robert's Rules
23 of Orders for the Conduct of Meetings.
24 It might help speed up some of the
25 process.

1 MR. PARSONS: Thank you, Vaughn.
2 All right, any other comments from the
3 Council? All right. Our next date of a
4 hearing is October 6th, and that's when
5 we are going to have a hearing.

6 MR. WIGGINS: Two.

7 MR. PARSONS: All right. Now, let
8 me ask Gary ---

9 MS. MEADE: I believe we have two
10 hearings scheduled for that date, and we
11 will be in Kingstree Building, I believe
12 in 108.

13 MR. PARSONS: Now, did we, as a
14 Council, approve those items going to a
15 hearing?

16 MS. MEADE: Yes, sir.

17 MR. PARSONS: And we did that at the
18 last meeting?

19 MS. MEADE: The last Council meeting
20 I believe.

21 MR. PARSONS: And so, we're going to
22 have that. The date and time of the
23 hearing?

24 MS. MEADE: The date is on October
25 6th, I believe the meeting is at 10:30.

1 I'll get you confirmation of that.

2 MR. PARSONS: And the location is?

3 MS. MEADE: Kingstree Building in
4 108.

5 MR. PARSONS: 108, okay. All right,
6 and our next Council Meeting is November
7 15th, is that it or was it changed?

8 MS. MEADE: We had changed it to
9 November 15th.

10 MR. PARSONS: All right. So, we
11 have November 15th at 10:30 at the -- in
12 this auditorium. All right. No further
13 business, meeting is adjourned.

14 (Whereupon, the meeting was
15 adjourned at 12:32 p.m.)

CERTIFICATE OF REPORTER

I, Janice Dunkin, a Notary Public for the State of South Carolina, do hereby certify that I reported the foregoing proceedings at the time and place herein designated and that the foregoing pages, are a true, accurate and correct transcript of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, nor in anyway interested in the event of said cause.

In witness my hand and official seal this the 24th day of September, 2011, York, South Carolina, State of South Carolina.

Janice B. Dunkin

Janice Dunkin
Court Reporter/Notary Public

My Commission Expires:
9-7-2014

In re: SOUTH CAROLINA BUILDING CODES COUNCIL