

Transcript of the Testimony of  
**BUILDING CODES BOARD MEETING**

**Date:** February 22, 2012

CREEL COURT REPORTING, INC.  
Condensed Transcript and Word Index

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SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND  
REGULATION BEFORE THE BUILDING CODES COUNCIL

BOARD MEETING

\*\*\*\*\*

Wednesday, February 22, 2012

10:00 a.m. - 1:25 p.m.

The South Carolina Building Codes Council board meeting was taken at the South Carolina Fire Academy, Denny Auditorium, 141 Monticello Trail, Columbia, South Carolina, on the 22nd day of February, 2012 before Reba C. Hayes, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

BOARD MEMBERS:

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

ADVISING THE BOARD:

Sheridan Spoon, Esquire

Also Present:

Gary Wiggins, Administrator

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EXHIBITS

(No exhibits were marked during the hearing.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act, the Practice Act and Regulations of the Board.

1 STATEMENT OF PUBLIC NOTICE:

2 MR. CHAIRMAN: Public notice of this meeting was  
3 properly posted at the Building Codes Council  
4 offices, Synergy Park, Kingstree Building, and  
5 provided to all requesting persons,  
6 organizations and news media in compliance with  
7 Section 30-4-80 of the South Carolina Freedom  
8 of Information Act.

9 APPROVAL OF AGENDA:

10 MR. CHAIRMAN: You all have got your agenda in front  
11 of you. Do I hear a motion for the approval of  
12 the agenda?

13 MR. HILL: I so move.

14 MR. ZUBIA: Second.

15 MR. CHAIRMAN: All in favor?

16 (Ayes are heard)

17 MR. CHAIRMAN: Any opposed? The motion carries. On  
18 to the election of officers. I'll turn it over  
19 to Gary.

20 MR. WIGGINS: The first position for you to consider  
21 is the office of Chairman. Do I have any  
22 nominations?

23 MR. SENDLER: I'd like to place Greg Parsons in  
24 nomination to be Chairman.

25 MR. WHITE: Second.

1 MR. WIGGINS: We have a motion and a second. Are  
2 there any other nominations? Any other  
3 nominations? Any other nominations? We have  
4 a motion and a second for Mr. Parsons to be  
5 Chair. All in favor signify by saying aye.

6 (Ayes are heard)

7 MR. WIGGINS: Any opposed?

8 MR. CHAIRMAN: Thank you. I appreciate it. All  
9 right. Next we are going to elect the Vice  
10 Chairman. Do I have any nominations for Vice  
11 Chairman?

12 MR. HILL: Mr. Chairman, I nominate Chris Cullum.

13 MR. CHAIRMAN: We have a nomination of Chris Cullum.  
14 Any other nominations?

15 MR. BRIGGMAN: Chief Zubia.

16 MR. CHAIRMAN: Okay. Darbis, can you say that a  
17 little louder?

18 MR. BRIGGMAN: Chief Zubia.

19 MR. SENDLER: Mr. Chairman, do we need seconds for  
20 our nominations?

21 MR. CHAIRMAN: I didn't believe so but let's go  
22 ahead and ask for a second. First, for --

23 MR. WIGGINS: Our advice counsel says we don't.

24 MR. CHAIRMAN: All right. So we have -- any other  
25 nominations? Are there any other nominations?

1 Are there any other nominations? Okay. What  
2 we're going to do is, we have two nominations  
3 on the floor for Vice Chairman. We are going  
4 to do a written ballot. We're going to get  
5 some ballots and write one name. Pass those to  
6 staff and staff will then count the ballots and  
7 let us know who our Vice Chairman is.

8 (Off the Record)

9 MR. CHAIRMAN: Looks like Chris Cullum is our new  
10 Vice Chairman. Congratulations, Chris.

11 APPROVAL OF SEPTEMBER 21, 2011, MEETING MINUTES:

12 MR. CHAIRMAN: The next item on the agenda is the  
13 approval of the minutes. Do I have a motion  
14 for approval of the minutes?

15 MR. SENDLER: So move.

16 MR. CHAIRMAN: Do I have a second?

17 MR. HILL: Second.

18 MR. CHAIRMAN: I need a show of hands for Jennie to  
19 be able to --

20 MR. SENDLER: Richard Sandler made the motion.

21 MR. HILL: Frank Hill seconded.

22 MR. CHAIRMAN: All right. We have a motion. All in  
23 favor of approval of the minutes say aye.

24 (Ayes are heard)

25 MR. CHAIRMAN: Any opposed? The motion carries.



1 APPROVAL/DISAPPROVAL OF ABSENT MEMBERS:

2 MR. CHAIRMAN: Next on the agenda is

3 approval/disapproval of absent members.

4 MS. MEADE: Mr. Chairman, I did not hear back from  
5 Mr. Hill.

6 MR. CHAIRMAN: I'm sorry? What was that?

7 MS. MEADE: I did not hear back from Mr. Hill.

8 MR. CHAIRMAN: Okay. Tom Brock hasn't responded but  
9 Curtis Rye indicated that he had an unavoidable  
10 meeting he had to attend.

11 MS. MEADE: No, I've not had his response either. I  
12 do not have his either.

13 MR. CHAIRMAN: Well, he responded to me. I thought  
14 he copied you. So do I hear a motion for  
15 approval/disapproval of the two absent members,  
16 Curtis Rye and Tom Brock?

17 MR. SCHUMANN: I move for approval for the members  
18 to be absent.

19 MR. CHAIRMAN: Do I hear a second?

20 MR. CULLUM: Second.

21 MR. CHAIRMAN: Chris Cullum on second. Okay. All  
22 in favor of the motion say aye.

23 (Ayes are heard)

24 MR. CHAIRMAN: Any opposed? The motion carries.

25 CHAIRMAN'S REMARKS:

1 MR. CHAIRMAN: The next item is the Chairman's  
2 remarks. Thank y'all. I see the Chairman's  
3 job as not being the voice of the Council, but  
4 rather to facilitate the will of the Council  
5 through the collective voices of the members  
6 and if I'm not doing that, please let me know.  
7 All right.

8 ADMINISTRATOR'S REMARKS:

9 MR. CHAIRMAN: The next item is administrator's  
10 remarks.

11 MR. WIGGINS: Thank you, Mr. Chairman. The first  
12 item, about two or three weeks ago I sent out  
13 an email to all council members advising you  
14 that Ms. Lil Ann Gray is now a member of our  
15 staff, so at any point in time you're trying to  
16 reach me and you cannot, just ask for Lil Ann  
17 and she will take over, give you hopefully the  
18 correct answer.

19 MS. GRAY: Thank you. I look forward to working  
20 with all of you. Thank you.

21 MR. WIGGINS: Next item, I just want to remind  
22 everybody of the statement of economic  
23 interest. You got these and we probably beat  
24 it into your heads more than we should, but  
25 you've got to get these in by April 15th. If

1           not there will be dire consequences. If you  
2           have not already done it, please do it.

3       MR. SENDLER: Can we have until April the 17th?

4       MR. WIGGINS: You can if you want to but there is a  
5           \$100 fine that comes with it. You'll notice  
6           that you each have a copy of the 2011 NEC.  
7           This code change cycle is the first cycle we  
8           are actually incorporating, adopting into the  
9           adoption of the ??. So this is the first  
10          edition that we will incorporate in that cycle  
11          and the National Fire Protection Association  
12          found it in their hearts to donate a free copy.  
13          That's the only reason you're getting it. We  
14          certainly didn't buy it. So if there's any  
15          questions -- we will use this for the code  
16          hearings that will be coming up. So if there's  
17          any questions about the NEC, you can just give  
18          staff a call.

19       MR. SENDLER: Is this the latest edition or is there  
20          a 2012 already out?

21       MR. WIGGINS: No. They are on a three-year cycle,  
22          it's just that they're off cycle by one year.  
23          And the last item that I need to cover is the  
24          modular meeting. We have a request I think Mr.  
25          Parsons sent out, information to all members



1 MR. WIGGINS: Any opposed?

2 MS. HERDINA: Gary, I was wondering if when they  
3 come back, at the next meeting if they could  
4 brief the Council on what they learned there?

5 MR. WIGGINS: Yes, actually that's a requirement.

6 MS. HERDINA: Great.

7 MR. WIGGINS: Once you come back you do have to  
8 brief the Council and give the Council  
9 information as to what was gained.

10 OFFICE OF INVESTIGATIONS AND ENFORCEMENT:

11 MR. CHAIRMAN: Office of investigation and  
12 enforcement, Todd Bond.

13 MR. BOND: How are y'all doing? The investigative  
14 review committee met on February the 16th. We  
15 have two cases recommended for action. One I  
16 know is there for information purposes and was  
17 continued, 2011-9, dismissed, cease and desist;  
18 2011-21, formal complaint.

19 MR. CHAIRMAN: I guess at this time, after reviewing  
20 Tab 1, do members of the Council have any  
21 questions for Mr. Bond?

22 MR. SENDLER: I have a question. Obviously the one  
23 that was dismissed, cease and desist, and the  
24 other formal complaint. What does that mean?

25 MR. BOND: It will either come before you as a

1 consent agreement or as a hearing.

2 MR. SENDLER: Mr. Chairman, I move that we accept  
3 this as presented. Is that what we need?

4 MR. SPOON: What you want to do is -- I'm assuming  
5 that first one, Todd, did you say that one is  
6 --

7 MR. BOND: It's continued.

8 MR. SENDLER: It was continued.

9 MR. SPOON: With respect to these next two, you want  
10 to have a motion to approve the IRC  
11 recommendation on those.

12 MR. SENDLER: So move.

13 MR. WHITE: Second.

14 MR. CHAIRMAN: We have a motion on the floor. All  
15 in favor of the motion say aye.

16 (Ayes are heard)

17 MR. CHAIRMAN: Any opposed? The motion carries.

18 MR. BOND: I also have the case status report. So  
19 far this year we've received three complaints.  
20 One was opened for an active investigation for  
21 outside the jurisdiction. Currently there are  
22 two active cases, one carryover from last year  
23 and the one that was just recently received.

24 MR. CHAIRMAN: Any questions for Mr. Bond on this  
25 issue?

1 MR. ZUBIA: Mr. Chairman, just a question. I guess  
2 I'm back to the motion we just took and  
3 approved on accepting the two previous cases.  
4 But it doesn't make sense. Do we have an  
5 option to do anything other than accept,  
6 because if we don't --

7 MR. CHAIRMAN: Yes.

8 MR. ZUBIA: -- we do?

9 MR. CHAIRMAN: Yes, sir.

10 MR. SPOON: The IRC functions in an advisory  
11 capacity, so they review a completed  
12 investigation and they're making a recommended  
13 disposition of the case. A formal complaint,  
14 dismissal, letter of caution are the three  
15 categories. Now, recognizing that you don't  
16 have the complete investigation in front of you  
17 for obvious reasons, recognizing too that you  
18 appointed the IRC, people that you know and  
19 trust, to review the completed investigation;  
20 however we will get this IRC report. If it  
21 raises questions -- you will get not only the  
22 allegation but also the IRC logic. If it  
23 raises sort of questions, you're given a  
24 certain amount of latitude to ask questions  
25 about that investigation without getting into -

1 - without getting to the point where you know  
2 too much. Obviously that's an interesting line  
3 to try to draw but if on the face of the report  
4 it does not appear clear that this is what was  
5 alleged, this is what the facts of the  
6 investigation uncovered, and this is the IRC --  
7 if all that raises questions, you might ask a  
8 question or two and either then decide to  
9 accept that recommendation or have the logic  
10 verified, or ask a question to Mr. Bond about  
11 a particular case.

12 MR. CHAIRMAN: Sheridan, also if the Council does  
13 not accept the recommendation then that would  
14 be brought forth as a hearing to the full  
15 Council.

16 MR. SPOON: If you didn't want to have some  
17 additional information to where you could make  
18 the decision to accept it or not, I guess the  
19 scenario would be you felt like you had all the  
20 information you needed, the recommendation was  
21 for dismissal, let's say, and you didn't agree  
22 with that, yes, you could say formal complaint  
23 which would mean clearly that the litigation  
24 attorney would draft the formal complaint and  
25 bring it to you as a hearing, which before the



1 hearing might become a consent agreement.

2 MR. ZUBIA: Mr. Chairman, I got the clarification I  
3 needed. Thank you.

4 MR. CHAIRMAN: Any other questions of Mr. Bond? Mr.  
5 Bond, thank you so much.

6 MR. BOND: Thank you.

7 (Off the Record)

8 MR. CHAIRMAN: With the concurrence of the Council,  
9 we're going to modify our agreed-upon agenda.  
10 We're going to -- since Christa is delayed in  
11 getting here this morning, we're going to skip  
12 over her and go on to existing business, which  
13 is review of the 2012 IECC, unless I hear an  
14 objection from any of our members.

15 REVIEW OF 2012 IECC:

16 MR. CHAIRMAN: All right. Sensing no objection  
17 we're going to move on to the old business  
18 which is review of the 2012 IECC.

19 MR. WIGGINS: Thank you, Mr. Chairman. Several  
20 meetings back we agreed to start the process  
21 for 2012. I had recommended to Council that we  
22 leave out the 2012 IECC, Energy Conservation  
23 Code. At the time the Council had elected or  
24 actually had a motion and the full Council did  
25 elect to review the 2012 code for potential

1 code changes. I'm bringing the issue back up  
2 because at the time I advised Council that that  
3 would be a major waste of time, because we  
4 cannot adopt a code anyway. So the code study  
5 committee will be looking at a number of issues  
6 and wasting a fair amount of time trying to  
7 determine code modifications to a code that's  
8 not adoptable. If you recall that code is  
9 adopted strictly by the State Energy Standards  
10 and by a more recent piece of legislation. So  
11 consequently the code is not adoptable by the  
12 Council. I think it's a major waste of time to  
13 spend Council and the code study committee's  
14 resources on trying to review code amendments  
15 for code that you can't adopt. And to  
16 strengthen that position we currently have a  
17 piece of legislation that will adopt the 2009  
18 IECC as the State Energy Standard. Currently  
19 it's the 2006 but a piece of legislation will  
20 make it 2009. And again if that occurs and we  
21 think it will, then the only body that could  
22 change again would be the legislature and not  
23 the Council. So I'm asking Council to  
24 reconsider and take the 2012 IECC out of code  
25 adoption -- out of the code review process.

1 MR. CHAIRMAN: Any questions for Gary on this issue?

2 MR. SENDLER: I have a question. Wasn't there some  
3 agreement the legislature made with the federal  
4 people or something, some money they got  
5 somewhere along the line? Or am I not supposed  
6 to say that?

7 MR. WIGGINS: You can say that but it's not part of  
8 this issue.

9 MR. SENDLER: But that's a done deal already so we  
10 don't have any say-so.

11 MR. WIGGINS: Correct.

12 MR. SENDLER: Mr. Chairman, Richard Sendler. I  
13 would like to move that we not review the 2012  
14 IECC since I agree with Gary it would be a  
15 gross waste of time for this Council in this  
16 situation.

17 MR. CHAIRMAN: Second?

18 MR. DRURY: Second.

19 MR. CHAIRMAN: Henry Drury seconds. All in favor of  
20 --

21 MR. ZUBIA: Mr. Chairman, can we have a discussion?  
22 Can we have a friendly discussion at this time?

23 MR. CHAIRMAN: Sure.

24 MR. ZUBIA: This is Zubia again and I guess the  
25 question came back, who's providing the advice

1           on the 2009 modifications or comment? Is that  
2           left up to the lay person? There's no formal  
3           position by this group on the 2009 and do we  
4           not want to comment regarding those issues or  
5           do we stay completely out of the process? Some  
6           question because there's some subject-matter  
7           experts here that I think would be kind of --  
8           just a thought. It almost seems like you are  
9           completely -- and it doesn't make sense.

10          MR. WIGGINS: Okay. The 2009 code is being adopted  
11          by legislation so any modifications, anything  
12          that would affect the 2009 code has to be  
13          discussed at the House and Senate levels. So  
14          anybody who wants to offer any type of  
15          amendments or offer any type of testimony needs  
16          to be aware of when the issue is coming up and  
17          appear at the subcommittee. Not the full  
18          committee but the subcommittee hearings.  
19          That's where all the action is. Consequently  
20          there is a mechanism in place but it's not the  
21          Council. It's a legislative mechanism and  
22          that's what's got to be done. The whole  
23          purpose of this, if you recall, several years  
24          ago we had a change to the state energy  
25          standards and the state energy standards had

1           adopted the 2006 IECC as state law. That is  
2           the energy standard. Now, that being a piece  
3           of legislation that came after the legislation  
4           that authorized Building Codes Council to adopt  
5           the IECC became what is known as the latest  
6           expression of the legislature. The latest  
7           expression of the legislature trumps any time  
8           there is a conflict between two specific  
9           statutory sections. And that's the situation  
10          in this instance. At some point in time, the  
11          legislature may very well relinquish that  
12          authority back to the Council but until that  
13          time, we have got to yield to the legislative  
14          process. The IECC is in complete control of  
15          the House and Senate.

16       MR. SENDLER: Gary, do you by chance know where the  
17                   legislature is on it? I mean, have they  
18                   already had the subcommittee hearing or no?

19       MR. WIGGINS: I have not gotten any word on it.  
20                   We're usually notified. We keep a close watch  
21                   on the House and Senate and I haven't gotten  
22                   any indications. I think Mark's raising his  
23                   hand. He might have some information.

24       MR. WHITE: Gary, do you have the bill number?

25       MR. WIGGINS: I do but I don't have it with me.

1 MR. WHITE: Can you get that to us?

2 MR. WIGGINS: I can.

3 MR. CHAIRMAN: Mark, do you have some information  
4 for us?

5 MR. NIX: Mark Nix, Homebuilders Association. The  
6 bill has actually been in the subcommittee for  
7 over a year now. It's actually on the floor  
8 today, so more than likely it gets passed  
9 today, so today or tomorrow. Right now it's  
10 set for January 1st, 2013.

11 MR. CHAIRMAN: Vaughn, do you have some information  
12 for us?

13 MR. WICKER: Just follow up on what Mark said.  
14 There are two bills. There's a House bill and  
15 a Senate bill. Both have been through  
16 subcommittee and full committee already.

17 MR. CHAIRMAN: Thank you. Any other discussion on  
18 the 2012 IECC?

19 MR. SENDLER: Yeah. I'd like to add in the event  
20 for some reason we don't -- the new codes that  
21 we adopt for 2000 -- in January -- will that  
22 still go in effect? I guess it would.

23 MR. CHAIRMAN: Any other discussion? We have a  
24 motion on the floor. Richard, do you want to  
25 repeat your motion?

1 MR. SENDLER: No, I'm having a senior moment here.

2 I don't know what it was.

3 MR. CHAIRMAN: I think the motion was to adopt the  
4 staff recommendation to --

5 MR. SENDLER: Oh, I didn't know it was on the floor.

6 I thought we were just discussing it. Yeah.

7 I would like to move that we remove the review  
8 of the 2012 IECC which I think would be a waste  
9 of time since we have absolutely no power  
10 whatsoever to do anything.

11 MR. CHAIRMAN: And that motion was seconded. Any  
12 other discussion? Ready to vote? All in favor  
13 of the motion say aye.

14 (Ayes are heard)

15 MR. CHAIRMAN: Any opposed? The motion carries.

16 MR. SPOON: Just for clarification that is because  
17 that IECC is not enumerated in section 50.

18 MR. WIGGINS: It is in 6-9-50 but it was a piece of  
19 legislation that was passed just two years ago  
20 that placed the IECC directly in and actually  
21 between the energy standards, so section 6-10  
22 is the section.

23 BACKUP IRC INDUSTRY MEMBER:

24 MR. CHAIRMAN: All right. Moving on to the next  
25 item. We've got backup IRC industry member.

1 MR. WIGGINS: Mr. Chairman, we have one member of  
2 the IRC who attends the vast majority, but  
3 every now and then has a conflict and we asked  
4 that Council appoint a second member, a backup  
5 member, to the IRC. Consequently we did  
6 receive a name, a volunteer, Donny Phipps, a  
7 building official with Richland County. I ask  
8 that consideration is made that he be the  
9 person.

10 MR. CHAIRMAN: Okay. That's Donny Phipps, a  
11 building official with Richland County?

12 MR. WIGGINS: That is correct.

13 MR. CHAIRMAN: Okay. Some of you know Donny Phipps,  
14 some of you do not. I don't see him here in  
15 the audience today, but I'll be so bold to  
16 speak on his behalf. I think he's a fine  
17 fellow and would make a fine member of the  
18 Investigative Review Committee. Do we have a  
19 motion to identify a backup member of the  
20 Investigative Review Committee, industry  
21 member?

22 MR. HILL: I make a motion that we accept staff's  
23 recommendation.

24 MR. CHAIRMAN: We've got a motion by Frank Hill. Do  
25 we have a second?



1 MR. BRIGGMAN: Second.

2 MR. CHAIRMAN: Darbis Briggman seconds the motion.

3 Any discussion? All in favor of the motion say  
4 aye?

5 (Ayes are heard)

6 MR. CHAIRMAN: Any opposed? The motion carries.

7 SELECT STUDY COMMITTEES:

8 MR. CHAIRMAN: The next item we have is select study  
9 committee members and in the past what we've  
10 done is we've taken the numbers for each  
11 position and ranked them from highest to lowest  
12 and then add them all up. Jennie added up all  
13 the numbers and the one with the collectively  
14 highest rank which would be the lowest number  
15 score -- it's kind of like golf -- received the  
16 higher position and the individual with the  
17 second rank received the alternate member  
18 position. You received information -- the  
19 information packet via email on these  
20 individuals. I guess the first thing that we  
21 need to do as a Council is determine whether  
22 the selection process is suitable for  
23 identifying the committee study members. Do I  
24 hear a motion on our proposed process?

25 MR. CULLUM: I make a motion -- Chris Cullum -- that

1           we use this process as described.

2           MR. CHAIRMAN: Do I have a second?

3           MR. WHITE: Second.

4           MR. CHAIRMAN: Second by John White. Any  
5           discussion?

6           MR. DRURY: There's no one listed for --

7           MR. CHAIRMAN: Well, we don't have -- we don't have  
8           at least two for all of the positions and I  
9           imagine we could take any volunteers from the  
10          audience if we have any. We could draft some  
11          if we don't.

12          MR. HANCE: Can I offer a point of clarification on  
13          this?

14          MR. CHAIRMAN: Yes.

15          MR. HANCE: Under the residential category we're not  
16          required a licensed architect. It's listed  
17          now. Licensed architect listed but we're not  
18          going to require a license for that; correct?

19          MR. WIGGINS: Actually the residential committee --  
20          let me back up. The regulation calls for one  
21          committee. Okay? It does not call for two.  
22          It was requested that we actually develop a  
23          second committee, so the Council did in fact  
24          develop a second committee dealing strictly  
25          with residential. Now, the regulations



1           since we have adopted this as a Council policy,  
2           we ought to at least identify licensed  
3           architect or home designer on the form. We can  
4           certainly note it this time. But we would use  
5           that and put that in the template so that the  
6           next time this comes up, we can identify that  
7           as a licensed architect or home designer.

8           Okay. I guess the next process here is we're  
9           going to rank these individuals. Any Council  
10          members have any questions that they need to  
11          have answered in order to complete this form?

12         MR. ZUBIA: Mr. Chairman, we have five positions  
13          that we fill and we fill each one of those  
14          based on the membership requirements and then  
15          we pick five alternates. My question, I guess  
16          -- because I'm simple minded again -- code  
17          enforcement officer. Give you an example. I  
18          have two under that and then I have fire  
19          officials that comply with the code enforcement  
20          officials. How do we rank those four? I'm  
21          assuming those are the four that are eligible  
22          for those -- for that position; am I correct or  
23          am I wrong?

24         MR. CHAIRMAN: I believe that we have two positions  
25          for fire officials. All right? One has got to

1           be number one and one has got to be number two,  
2           so that's what we're asking. Check two  
3           positions for the commercial gas. We have two  
4           names. One is going to be number one and one  
5           is going to be number two.

6           MR. HANCE: Did you list out four, like you just  
7           said which of the -- aren't there five in the  
8           regulations? Could you list out what those  
9           five are for me please?

10          MR. WIGGINS: There's a code enforcement officer;  
11          licensed home builder; licensed general  
12          contractor; licensed architect; and licensed  
13          engineer. The others are special members and  
14          the difference is the core committee hears  
15          every issue of every code. The special members  
16          are pulled in when that specific code is being  
17          discussed. For instance, licensed commercial  
18          plumber will be called in when plumbing code  
19          issues are being discussed. Same thing for  
20          mechanical, electrical, and so on.

21          MR. HANCE: They're the special members?

22          MR. WIGGINS: Yes, they're the special members and  
23          they only are part of the committee when that  
24          code comes up.

25          MR. HANCE: So I think that means that the fire

1 officials at the bottom are considered special  
2 members?

3 MR. ZUBIA: Mr. Chairman, that's sort of my  
4 question. I'm not sure. I understand ranking  
5 but I'm not sure what happens after that.

6 MR. CHAIRMAN: Okay. The -- once the code study  
7 committee is in place, they will organize and  
8 hear the code -- proposed code modifications.  
9 All right? And depending on the subject of the  
10 proposed code modifications, that will  
11 determine whether the specialty members are  
12 brought in.

13 MR. SENDLER: Mr. Chairman.

14 MR. CHAIRMAN: Yes.

15 MR. SENDLER: One more question. Under licensed  
16 engineer one person appears in both categories.  
17 Would it be appropriate if I were to choose  
18 him, one in both of them? Do they meet at the  
19 same time? Would it be all right if I did  
20 that?

21 MR. CHAIRMAN: You can rank as you see fit. That's  
22 what the process is all about. And then find  
23 the highest ranked or the one with the lowest  
24 score and if he can't make a meeting or if he  
25 can't serve for whatever reason, that's what



1 MR. CHAIRMAN: That would be me.

2 MS. MEADE: One mark. So do you want me to go ahead  
3 with that information I have in my hand; is  
4 that correct?

5 MR. CHAIRMAN: Jennie, I wrote in -- are you talking  
6 about where I wrote in?

7 MS. MEADE: I have no names. I just want to get  
8 verification that if anyone wants theirs back  
9 for any reason, to change anything, for them to  
10 tell me.

11 MR. WIGGINS: Mr. Chairman, I can offer a suggestion  
12 that if staff gets a recommendation and they  
13 meet the qualifications, if Council will trust  
14 staff to go ahead and insert that one position  
15 we do not have volunteers for.

16 MR. CHAIRMAN: All right. Let's go ahead and take  
17 that up then. Do I have a motion on Gary's  
18 suggestion? The suggestion would be for the  
19 position that we have not identified a member  
20 at this meeting, would we turn essentially that  
21 decision over to staff if a volunteer comes  
22 forward?

23 MR. SCHUMANN: So move.

24 MR. CHAIRMAN: Okay. Do I have a second?

25 MR. WHITE: Second.



1 MR. CHAIRMAN: All right. John White seconded. Any  
2 discussion on Gary's suggestion?

3 MR. ZUBIA: Mr. Chairman, Zubia. I guess it opens  
4 it up for a bunch of different variables, so I  
5 guess I couldn't address them all. Just  
6 concerning, I guess, anybody and everybody  
7 could suggest to him and then he could make  
8 that call? Is that what's going to occur  
9 potentially?

10 MR. CHAIRMAN: On that one -- on the one member --  
11 not the one member, but the one position that  
12 we do not have an individual identified and  
13 this is going to be a specialty position. No.  
14 This is going to be core -- core on the  
15 commercial side. Do we as a Council want to  
16 retain that decision-making over that  
17 individual appointed, or do we want to  
18 essentially allow staff to make that decision  
19 for us?

20 MS. HERDINA: Do the rules address that issue? Does  
21 it require Council approval or can --

22 MR. SPOON: It does and that's the only thing I was  
23 going to suggest, is just a sort of distinction  
24 here. The motion itself (inaudible). I would  
25 suggest that that name be brought back to

1 Council and do that subject to final approval.

2 MR. BRIGGMAN: Mr. Chairman, question in regards to  
3 the dealing with the lack of time, if we're  
4 talking about the next meeting before we  
5 receive that information? The process itself,  
6 the process is going and what we need to do at  
7 this point, versus, you know, allowing you to  
8 make that decision. If it's only one person to  
9 go ahead and if it's more than one, I can see  
10 coming back. If it's just one because of the  
11 lack of time.

12 MR. WIGGINS: Well, the situation is as of March 1st  
13 we start the second six-month period of the  
14 process, the second six-month period of the  
15 hearing process, so consequently we've got to  
16 get all of the code amendments or the  
17 modifications, we've got to put them together,  
18 get them in some sensible form, get them to the  
19 code committee and get them back to Council  
20 within that six-month period. We will have one  
21 meeting in May and one meeting in August.  
22 August ends the period so if we do not have  
23 the process started prior to the very next  
24 meeting when you make the decision will be  
25 August and August -- the end of August actually

1 ends our second six-month period. So  
2 consequently you would have to have -- we would  
3 actually have to have the code committee meet  
4 and the Council meet after the August meeting  
5 by the end of August, so we're looking at a  
6 week, possibly less than a week to get the  
7 entire set of hearings out of the way. So if  
8 we don't have it before the Council by May,  
9 then we're really pushed for time.

10 MR. CULLUM: Chris Cullum, Mr. Chairman. I think  
11 we're just giving staff a chance to do  
12 something better than nothing, putting someone  
13 in that position rather than no one.

14 MR. WIGGINS: Well, we can go back to Sheridan and  
15 ask if Council does have the authority to  
16 delegate that responsibility?

17 MR. SPOON: That did occur to me and I completely  
18 agree and say that that's fine. I just wanted  
19 to make sure that you all (inaudible).

20 MR. SENDLER: Could we by email turn in a ballot or  
21 something?

22 MR. SPOON: As long as you publish the meeting you  
23 can do that.

24 MR. WIGGINS: One other point I'd like to make is we  
25 did advertise this position along with all the

1 others for six months. We sent out two  
2 industry-wide requests for members. You got  
3 zero. I don't think within the next two or  
4 three weeks we're going to get in a flood of  
5 names.

6 MR. ZUBIA: Mr. Chairman, Zubia again. I guess  
7 Darbis's question I believe is what he was  
8 getting at. We have our next meeting scheduled  
9 for May 23rd. The subcommittee may meet prior  
10 to that. So at that -- if that occurs that the  
11 first meeting is going to be May, then he needs  
12 that empowerment and we need to make sure that  
13 we get that person on board. I have no problem  
14 with that if that were to occur. And if we  
15 have an issue we can raise that opposition in  
16 the May meeting. But at least it gets the ball  
17 rolling.

18 MR. CHAIRMAN: All right. Any other discussion on  
19 the motion which is on the floor?

20 MS. HERDINA: I would agree that -- with a slight  
21 twist. I mean, after the fact approval as a  
22 back up.

23 MR. WIGGINS: Staff can certainly advise Council.  
24 We do have our conference call if we get names  
25 and so what those -- whose names those are and

1           what their qualifications are. So we can do  
2           that. But what I'm trying to do is keep from  
3           having to come back to a formal meeting to make  
4           that appointment.

5           MS. HERDINA: I say we just go ahead and give that  
6           authority and then just to make sure, just have  
7           formal approval at the May meeting.

8           MR. HANCE: Mr. Chairman, do we have the option of  
9           perhaps there are people in other categories  
10          that are highly recommended? Can they be a  
11          candidate for this category because it's  
12          licensed multi-family? Do they have to stay in  
13          the categories that they were proposed?

14          MR. WIGGINS: The only thing the regulation requires  
15          that they be licensed in that specific position  
16          so if they applied for a different category,  
17          but isn't licensed in that particular position.  
18          Bear in mind that we have to go through this  
19          statutory process and if everything falls into  
20          place perfectly between now and the end of our  
21          process, we'll be able to implement the code  
22          July 1st of 2013. Now, I want to stress if  
23          everything falls into place perfectly. We've  
24          got to go through the registration process and  
25          I've never been through a perfect process.

1           We're only going to have several weeks  
2           cushioning between having to implement on July  
3           13th -- July 1st, 2013 or January 1st, 2014.

4           MR. SENDLER: If you get somebody, get him to come  
5           in as an expert witness or whatever, but just  
6           don't vote with the committee and then you'll  
7           have his input -- his or her input and they  
8           won't -- will not have voted on the committee  
9           and they wouldn't affect anything. Is that  
10          okay?

11          MR. CHAIRMAN: That would be up to the committee.

12          MR. SPOON: It doesn't sound to me like you're going  
13          to be able to fill the position.

14          MR. SENDLER: Well, let's say that we get lucky and  
15          somebody calls here tomorrow and says I want to  
16          do that position. How can we accommodate that  
17          without bringing --

18          MR. CHAIRMAN: We've got a motion that --

19          MR. SPOON: The motion requires the delegation, if  
20          you want to call it that, to staff to go ahead  
21          and place that person on the committee and  
22          either have a meeting -- over the telephone  
23          meeting, called meeting, whatever -- do inform  
24          the Council of the selection and have them  
25          ratify it.

1 MR. CHAIRMAN: So we can do this one of two ways.

2 If we're going to ratify it there's no need to  
3 delegate to staff to make a decision. All  
4 right? That being the case the motion that's  
5 on the floor, I would think that the majority  
6 of the Council members would not approve that  
7 motion. So let's go ahead and take care of  
8 that business. All right. And once that's out  
9 of the way, then we can entertain that we have  
10 no one in that position at this point in time.  
11 If someone shows up in that position, Gary can  
12 send us the resume and we can do a -- either a  
13 telephone meeting or we can take care of that.  
14 All right. So to take care of the motion on  
15 the floor which was to delegate the Council's  
16 decision-making authority to staff, which I  
17 believe that several Council members may object  
18 to including our advice counsel, so I'm going  
19 to call at this time for a vote on that motion.  
20 Any in favor of the motion to delegate the  
21 Council's decision-making authority to staff  
22 say aye.

23 (Ayes are heard)

24 MR. CHAIRMAN: Those opposed to delegating the  
25 Council's decision-making authority to staff

1           say aye. Okay. So we have delegated our  
2           decision-making authority to the staff in spite  
3           of what advice counsel said.

4           MR. SPOON: I didn't -- I actually wasn't against  
5           it. I was just wanting to make sure that when  
6           a delegation is performing a task, when the  
7           selection is made the Council just needs to go  
8           ahead and ratify it.

9           MR. CHAIRMAN: The motion has carried.

10          MR. HILL: Mr. Chairman, which position is it?

11          MR. CHAIRMAN: It's the -- it's the residential  
12          multi-family builder on the commercial  
13          committee.

14          MEMBER OF AUDIENCE: That's not the problem. Our  
15          only issue with that was there's no such thing  
16          as a multi-family residential builder.

17          MEMBER OF AUDIENCE: Most hold both license.

18          MR. WIGGINS: Mr. Chairman, that was not -- this was  
19          intended to say it is a residential builder who  
20          specializes in multi-family construction, so  
21          it's someone who holds a residential license  
22          but does not do his or her primary work in  
23          single or two-family. The primary work is in  
24          multi-family up to 16 units. So we do have  
25          residential builders that concentrate --



1 MEMBER OF AUDIENCE: They hold a dual license.

2 MR. WIGGINS: This is not a commercial license.

3 This is strictly residential license.

4 MEMBER OF AUDIENCE: Either of the two names on  
5 here.

6 MR. ZUBIA: Mr. Chairman.

7 MR. CHAIRMAN: Yes.

8 MR. ZUBIA: Zubia again. With all due respect to  
9 the audience, my concern if we delegate this to  
10 staff and immediately run into (inaudible) and  
11 that's what I have a concern with. We're  
12 delegating that responsibility to staff and you  
13 can't throw it out there and have them start to  
14 lead. That's what gets us in trouble and as  
15 counsel advised, and I appreciate it, that may  
16 create problems in the future. My issue is  
17 keep it as clean as possible for the purpose of  
18 not having issues in the future.

19 MR. HILL: The recommendation was to ask Mark and  
20 see if they could submit somebody.

21 MR. CHAIRMAN: All right. Have we now beat that to  
22 death? Jennie, have you got some results for  
23 us?

24 MS. MEADE: Negative.

25 MR. CHAIRMAN: Not yet? Okay. Then let's move on.

1           Has Christa showed up yet? All right. Council  
2           will now recognize Christa Bell.

3           MS. BELL: Thank you, Mr. Chairman. I am Christa  
4           Bell, the office of general counsel for LLR and  
5           I have three consent agreements for you all to  
6           consider today.

7           MR. CHAIRMAN: Since this is a disciplinary hearing,  
8           Gary who is on IRC is going to remove himself  
9           from the Council. So Christa, why don't you  
10          kind of tell us about the process here first  
11          off before we get down to the subjects?

12          MS. BELL: Certainly. Today there are three matters  
13          before you for your consideration. All these  
14          cases went through the IRC process. The IRC  
15          made recommendations that are spelled out in  
16          the consent agreement and the findings of fact  
17          are ones that were presented to the IRC members  
18          at the time that they made the recommendation,  
19          and you all have obviously approved those. One  
20          of the cases you'll hear about was just  
21          approved by you all this morning. It just went  
22          to the IRC. The recommendation was for a  
23          consent agreement. You all approved those IRC  
24          recommendations and the respondent signed it  
25          over the -- well, actually Monday, so we'll

1 present that case to you as well.

2 IN THE MATTER OF EDDIE ALTMAN, OIE CASE #2010-21:

3 MS. BELL: The first one that you have before you is  
4 the case of Eddie Altman, and that's case  
5 number 2010-21. I will recite into the record  
6 the findings of fact. Not that you all can't  
7 read it obviously but just for the record.  
8 Number one, the respondent currently serves as  
9 the building official for Marion County, South  
10 Carolina and has held that position during all  
11 times relevant to this matter. The Council has  
12 jurisdiction over the respondent and the  
13 subject matter. The respondent admits that on  
14 or about August 26, 2009 a permit clerk in his  
15 office issued a building permit for residential  
16 renovations at a residence located in Mullins,  
17 South Carolina. Later that day the permit was  
18 changed to reflect that the type of improvement  
19 was not for a residential renovation, but  
20 rather construction of an unattached 30 by 60  
21 garage. The respondent admits that the permits  
22 were issued to a residential specialty  
23 contractor who at the time held a registration  
24 in carpentry, roofing and vinyl/aluminum  
25 siding. It was discovered initially by the

1 homeowner after the permits were issued and the  
2 construction began that the specialty  
3 contractor fabricated a separate document to  
4 present to Marion County in order to obtain the  
5 permit. The fabricated document did not detail  
6 as did the actual contract entered into with  
7 the homeowner the scope of the work the  
8 specialty contractor was actually going to  
9 perform which was outside his license  
10 classification, including a foundation being  
11 poured, electrical work being performed and the  
12 installation of ductwork for an A/C, all for  
13 the purpose of obtaining a permit for the  
14 project and continuing to deceive the homeowner  
15 about his actual credentials which would have  
16 legally disqualified him from the project. The  
17 residential specialty contractor in question  
18 has since permanently relinquished his license  
19 after disciplinary proceedings were initiated  
20 against him relating to misconduct associated  
21 with this project. Respondent admits that  
22 there have only been two documented inspections  
23 of the project in question. The first  
24 documented inspection was a footing inspection  
25 at which time all indications were that the

1 garage was being constructed as a post-frame  
2 building. The only other documented inspection  
3 by the respondent was on or about July of 2010  
4 when the building was totally erected. At the  
5 July 2010 inspection the respondent indicated  
6 that there were eleven residential building  
7 code violations, some of which were structural  
8 in nature, to include over-spanning of joints  
9 and rafters, improper installation of roof  
10 supports, no wind-bracing installed and no  
11 supports under spliced joists, and written  
12 notice to correct these violations were  
13 provided to the specialty contractor. The  
14 respondent admits that during the July 2010  
15 inspection, he failed to notice or cite that  
16 the building was not a pole-frame construction  
17 and thus the footings were not in compliance  
18 with Section R-403.1 of the 2006 IRC. And the  
19 respondent admits that subsequent to the July  
20 2010 inspection, he had at least one  
21 undocumented re-inspection and conversations  
22 with the specialty contractor and recommended  
23 certain methods of corrective action regarding  
24 the over-spanning of the ceiling joists which  
25 respondent found acceptable, although the

1 methods of correction are not currently code  
2 compliant. That is the basis for the consent  
3 agreement being drawn up in this matter and  
4 then based on that, the respondent is to pay a  
5 fine of \$500 to the Council, reduced to \$250 if  
6 paid within 30 days. And that is the basis for  
7 the consent order in case number 2010-21.

8 MR. CHAIRMAN: Okay. So what we have before the  
9 Council here is a decision whether the Council  
10 is going to accept this consent agreement or  
11 reject this consent agreement. Any questions  
12 of Christa?

13 MR. SPOON: Just for the record there are some  
14 questions for the record. Mr. Altman and his  
15 counsel have signed the consent agreement,  
16 although they're not here, and Ms. Bell can  
17 present evidence and should probably go ahead  
18 and make proffer of the evidence that they were  
19 aware of the hearing today. They were given  
20 notice but they are waiving --

21 MS. BELL: That is correct.

22 MR. SPOON: -- their right to appear.

23 MS. BELL: That is correct. I have met with the  
24 respondent and his attorney in Marion County  
25 and we've reviewed this matter. They were

1 notified of today's hearing and informed that  
2 they did not have to appear.

3 MR. CHAIRMAN: Any questions of Christa?

4 MR. SENDLER: Yeah. If you can't answer these  
5 questions, tell me. What is the maximum  
6 penalty that he could receive for this and also  
7 has the person that contracted to build this  
8 garage, has the garage been brought up to code  
9 at this time? Has somebody done that? Was he  
10 compensated for that? I mean, it seems to me  
11 like he's getting let off awful light.

12 MS. BELL: The maximum under the -- my understanding  
13 is the maximum penalty is \$500. There is still  
14 an open permit, it's my understanding. Of  
15 course, the contractor is no longer in the  
16 picture and corrections have not been made.

17 MR. SENDLER: What is the amount of the contract?

18 MS. BELL: I don't remember offhand. I think it was  
19 over \$5,000.

20 MR. CHAIRMAN: Any other questions of Christa?

21 MR. SCHUMANN: Has the owner bought into this  
22 agreement?

23 MS. BELL: Well, we don't get input since they're a  
24 witness. They're not really a part of that  
25 process. But once -- if Council does approve

1           this consent agreement, we will send a copy  
2           because it will be a public document.

3           MR. SENDLER: I don't know how the rest of the  
4           Council feels, but I feel this is a travesty.  
5           I mean, this is a gross violation of  
6           everything, it appears to me, and letting him  
7           off with a slap on the hand or a \$250 fine. He  
8           can come back and I guess reapply for a  
9           specialty license.

10          MS. BELL: It's two separate individuals. The  
11          specialty contractor --

12          MR. SENDLER: This is the building official?

13          MS. BELL: Correct. The specialty contractor, we  
14          did initiate action against him and  
15          (inaudible).

16          MR. SENDLER: This is the building official that  
17          gave him his permit?

18          MS. BELL: Correct.

19          MR. BRIGGMAN: Mr. Chairman, my only question is in  
20          regards -- not defending the building official,  
21          but going back in dealing with the permit tech  
22          and the thing of it is that State of South  
23          Carolina still has not recognized for  
24          continuing education for permit techs. But  
25          when a contractor comes into the office and one



1            thing we do we have to provide the contractor  
2            service. But the problems still around those  
3            issues are out there. Those young ladies and  
4            gentlemen are sitting behind the desk trying to  
5            pull that information from that contractor.  
6            They used to send out someone from the office  
7            to make the permit techs aware of the license  
8            classification. We don't even send that  
9            anymore so there is some things out there where  
10           building officials and in defense of permit  
11           techs who are on the front lines and yes, it's  
12           their responsibility to make sure that they get  
13           the necessary training, but the thing of it is  
14           sometimes those officials are not in that  
15           office so that permit tech behind the desk,  
16           they're at the mercy of that contractor when he  
17           comes in there, if he does not bring them in a  
18           copy of the contract itself. Until we do  
19           something to help the front line permit techs  
20           this type of situation is going to continue to  
21           happen, where the contractors come in and  
22           falsify information and they've got to do the  
23           best they can to try to obtain that information  
24           from the contractor performing the work.

25           MR. CHAIRMAN: Would you like that subject added to

1           the next meeting's agenda?

2           MR. BRIGGMAN: Yes.

3           MS. BELL: The crux of the basis for the consent  
4           agreement in this case is because one, there  
5           was the inspection done in July. That's where  
6           really the crux of this went to and then  
7           compounding it, he paid him -- it wasn't even  
8           recorded but having the kind of off the record  
9           special -- specialty contractor and the  
10          recommendations aren't fully compliant. So  
11          that's where the emphasis -- your point is well  
12          taken but that's where the emphasis of the  
13          consent agreement is.

14          MR. SPOON: Just as a procedural matter, since we  
15          keep talking about the IRC process. The IRC  
16          reviews the completed investigation and also  
17          might have something to say based on prior  
18          experience.

19          MS. BELL: I don't think it's out of line as far as  
20          --

21          MR. SPOON: There are some guidelines the IRC uses;  
22          right?

23          MS. BELL: Correct.

24          MR. CULLUM: Mr. Chairman.

25          MR. CHAIRMAN: Yes.

1 MR. CULLUM: May I make a motion?

2 MR. CHAIRMAN: Certainly.

3 MR. CULLUM: Chris Cullum. I make a motion that we  
4 accept the consent agreement presented by  
5 staff.

6 MR. CHAIRMAN: Do I have a second?

7 MR. WILSON: Second.

8 MR. CHAIRMAN: All right. Any discussion about the  
9 motion? All in favor of the motion say aye?

10 (Ayes are heard)

11 MR. CHAIRMAN: Any opposed? The motion carries.

12 Christa, are you going to give us the next one?

13 IN THE MATTER OF ROBERT D. SCOGGINS, CASE #2011-18:

14 MS. BELL: Yes. The next matter is Robert D.

15 Scoggins, case number 2011-18. This matter was  
16 also taken to the IRC and based on the  
17 investigation, this consent agreement was  
18 recommended and presented to you, of course not  
19 in detail, for approval some time ago. In this  
20 particular case the findings of fact are as  
21 follows: The respondent currently holds a  
22 combination building official certificate with  
23 the Council in South Carolina and is employed  
24 as a building inspector for the York County  
25 building department. Council has jurisdiction

1 over the respondent and the subject matter  
2 herein. The respondent admits that he  
3 inspected the initial complainant's new home  
4 prior to the issuance of the certificate of  
5 occupancy, which was signed on March 29, 2007.  
6 As part of the inspection process, respondent  
7 admits that he performed a complete rough-in  
8 inspection wherein the framing, sheathing,  
9 electrical, plumbing and heating is inspected  
10 prior to any drywall being installed. The  
11 respondent admits that during his inspection,  
12 he did not observe several broken, missing  
13 and/or incorrectly repaired trusses and that  
14 the roof over the garage was sagging in certain  
15 areas around the drip edge as a result of a  
16 segment of the sheathing not meeting the fascia  
17 board, thus allowing the roof shingles to sag  
18 downward in the void area. The respondent  
19 admits that the damaged and/or missing trusses  
20 as well as the sheathing problem around the  
21 drip edge should have been readily visible to  
22 the respondent at the time of his inspection  
23 and should have been identified in his CRIN  
24 inspection report. The respondent waives any  
25 further findings of fact in this matter. And

1           the sanction in this case is that the  
2           respondent shall issue a public reprimand; he  
3           shall pay a \$500 penalty to the Council,  
4           reduced to \$250 if paid within 30 days.

5           MR. CHAIRMAN: Any questions from the Council to  
6           Christa?

7           MS. HERDINA: I have one question. Is there --  
8           shouldn't there be a training component to this  
9           type of a case, or do you not have any  
10          authority to require that?

11          MS. BELL: I believe that is something that can be  
12          included. It's not part of the consent  
13          agreement in this case. You'll see in the next  
14          case that was a recommendation by the IRC.

15          MS. HERDINA: And I guess in this case it was  
16          decided not to include that?

17          MS. BELL: That is something, if you all think we  
18          need to include that more regularly, we can  
19          have it included.

20          MS. HERDINA: Again, I don't know all the facts of  
21          this, but it seems that it would be helpful if  
22          warranted to require some sort of remediation.

23          MR. CHAIRMAN: Certainly. You know, when any type  
24          of situation occurs like this you want to know  
25          where the failure occurred. Was it a

1 knowledge-based failure? Was it a failure to  
2 implement? Sending him to school isn't going  
3 to fix that problem. So we don't know what the  
4 problem was. All we know is this is the  
5 solution that is presented to us this day. We  
6 can either accept this, or we can say, you know  
7 what, this just doesn't look right on its face  
8 and therefore we're not going to accept this,  
9 and we will then later potentially have a  
10 hearing on a different consent agreement.

11 MS. BELL: And if it helps any, without seeming to  
12 stray from the consent agreement, the  
13 investigator in this case, Mr. Lowe, did meet  
14 and does meet with the respondents and anybody  
15 else that may be involved, and at that time,  
16 based on that it may have been more of a  
17 process error based in sheer volume than a  
18 knowledge-based issue. That's what was  
19 communicated to the IRC.

20 MR. SCHUMANN: Schumann. Is there anything being  
21 done to -- so that this won't happen again?

22 MS. BELL: It's my understanding at the time this  
23 was during the housing boom of 2007 and it may  
24 have been the way that the inspections were set  
25 up, the way it was presented but that still is

1 no excuse.

2 MR. SENDLER: What is the rhyme or reason for giving  
3 this 50% early-payment discount on a fine?  
4 That doesn't -- I don't get that if I pay my  
5 suppliers early. What's the rhyme or reason?

6 MS. BELL: It really -- there was a question by some  
7 of the respondents about the penalty.  
8 (Inaudible.) That's something again that we  
9 can -- we can modify.

10 MR. CHAIRMAN: Any other questions of Christa on  
11 this particular consent agreement?

12 MR. WILSON: Was the contractor implicated as well?  
13 Did y'all look at the contractor on this?

14 MS. BELL: I would want to say yes, but I don't know  
15 for sure.

16 MR. ZUBIA: Mr. Chairman, I move for approval of  
17 this consent agreement with Mr. Scoggins.

18 MR. CHAIRMAN: I have a motion for approval. Do I  
19 have a second?

20 MR. WILSON: Second.

21 MR. CHAIRMAN: Seconded. Any other discussion?

22 MR. SENDLER: Yeah. I would just like to get some  
23 feedback from the IRC, that I would like for  
24 them to in the future let us know why they --  
25 they think a \$500 fine is appropriate to reduce

1           it to 50% of that or whatever it is -- 30 days.

2           That's low to me.

3       MR. CHAIRMAN: We don't have to approve it.

4       MR. SENDLER: Well, I understand that but I think we

5           should give them some notice. Apparently

6           traditionally this is something they've done,

7           but if it's a \$500 fine, it ought to be a \$500

8           fine. I don't know anywhere else you get a

9           discount for paying early.

10       MR. ZUBIA: Mr. Chairman.

11       MR. CHAIRMAN: Yes.

12       MR. ZUBIA: I'll go back to your point if we didn't

13           accept it or didn't want to approve it, we

14           don't have to and not disagreeing with you but

15           -- and not that I have experience running court

16           -- court systems. They do it all the time on

17           traffic violations and a lot of other issues.

18           It's -- I wouldn't say -- normal practice but

19           in my opinion if the IRC has that discretion,

20           they should continue utilizing their best

21           judgment, and if we disagree with it at that

22           point then we should take the action we deem

23           necessary.

24       MR. CHAIRMAN: Basically I think the fine is --

25       MR. SENDLER: It does to me too.



1 MR. CHAIRMAN: We have a motion and a second on the  
2 floor. All in favor of the motion say aye.

3 (Ayes are heard)

4 MR. CHAIRMAN: Any opposed? The motion carries.  
5 The last one, Christa?

6 IN THE MATTER OF BRYAN SMITH, CASE #2011-21:

7 MS. BELL: The last item that is before you today  
8 for consideration by way of a consent agreement  
9 is the case of Bryan Smith, and that's case  
10 number 2011-21. In this particular case the  
11 findings of fact are as follows: The  
12 respondent currently holds a CBO certificate  
13 with the Council in South Carolina and is  
14 employed as the building official of the City  
15 of North Augusta. Council has jurisdiction  
16 over the respondent and the subject matter  
17 herein. The respondent admits that until  
18 approximately September of 2011 he was under  
19 the erroneous assumption that individuals who  
20 held a valid South Carolina Municipal  
21 Association card were lawfully able to obtain  
22 building permits and perform contracting work  
23 in North Augusta, even if the individuals did  
24 not hold the required state license. The  
25 respondent admits that he is now aware that at

1 least since 2005 a state license is required by  
2 either the South Carolina Residential Builders  
3 Commission or the South Carolina Contractors  
4 Licensing Board to engage in contracting, and  
5 a South Carolina Municipal Association card  
6 cannot be substituted for these licensure  
7 requirements. Respondent admits that he became  
8 aware of his erroneous belief after the South  
9 Carolina Department of Labor, Licensing and  
10 Regulation received a complaint from a member  
11 of the public alleging an individual performed  
12 substandard contracting work on his or her  
13 property, and through that investigation it was  
14 revealed that the individual did not possess  
15 the required state license but was able to  
16 obtain a permit in Respondent's jurisdiction by  
17 virtue of his municipal association card. The  
18 respondent admits that he relied in part on the  
19 then-existing City of North Augusta's  
20 ordinances which provided that one way  
21 individuals could perform contracting work and  
22 secure permits for said projects in North  
23 Augusta was by possessing a South Carolina  
24 Municipal Cardm and that that could be used in  
25 lieu of state licensure. Respondent admits

1           that it is his responsibility as a licensee  
2           with the Council to be knowledgeable of the  
3           laws and regulations that govern his practice  
4           as a building official in this state.  
5           Respondent also admits that he now realizes  
6           that this was not an obscure area of the state  
7           law and that the state law has been in  
8           existence for several years, and he should have  
9           been aware of the state licensing requirement.  
10          The respondent admits that once he was notified  
11          about the matter by an LLR investigator, he  
12          closed out all the open permits in his  
13          jurisdiction which were obtained without the  
14          required licensure and he also notified city  
15          council that the city's existing ordinance in  
16          this regard was contrary to state law. Since  
17          that time the ordinance in question was  
18          repealed and the current city ordinance  
19          regarding the requirement of a state license to  
20          obtain permits and engage in contracting in the  
21          state is no longer in conflict with state  
22          licensing laws. The respondent waives any  
23          further findings of fact with respect to this  
24          matter. And then again with this particular  
25          respondent it is a public reprimand and the

1           \$500 reduced to \$250 if paid within 30 days.

2           MR. CHAIRMAN: Do you have any questions for Ms.  
3           Bell?

4           MS. BELL: Oh, I'm sorry. There was one other  
5           requirement. That -- that the respondent  
6           complete a -- complete a course in  
7           administration. Let me see. Mr. Wiggins was  
8           going to be instrumental in helping to provide  
9           some other information to respondent if needed  
10          as far as the course that would satisfy that.

11          MR. SPOON: Is that part of the sanction you're  
12          talking about, Christa, where he has to take a  
13          class?

14          MS. BELL: Uh-huh (affirmative response).

15          MR. SPOON: That's not in the document that Council  
16          has.

17          MS. BELL: Oh, my goodness. That is my oversight.

18          MR. SPOON: It's your understanding that with  
19          respect to the third consent agreement, there  
20          is an additional requirement of training that  
21          will be acceptable. If Council were to accept  
22          -- in their discretion of course -- accept the  
23          consent agreement and having made that  
24          modification to the document provide a signed  
25          copy of the consent agreement with the training

1 requirement in there?

2 MS. BELL: (Nods head affirmatively.)

3 MR. CHAIRMAN: Tell us about that training.

4 MS. BELL: There was some discussion about what  
5 would be appropriate and whether there is  
6 anything that's currently available.

7 MR. CHAIRMAN: So it's not specific? It hasn't been  
8 specified?

9 MS. BELL: It was administration and Mr. Wiggins, I  
10 know there was some discussion about a one or  
11 two-hour course that may be pertinent and  
12 helpful in this regard.

13 MR. WIGGINS: Mr. Chairman, it would be an  
14 administrative course that's already approved  
15 by the Council as part of the continuing  
16 education at this point.

17 MR. CHAIRMAN: And so the course is specified?

18 MR. WIGGINS: Yes. It has to be approved by the --

19 MR. CHAIRMAN: And it has to be performed within a  
20 certain time period?

21 MR. WIGGINS: Well, any time between now and the  
22 next re-licensing cycle.

23 MR. CHAIRMAN: I'm sorry?

24 MR. WIGGINS: Any time between now and the next re-  
25 licensing cycle. It will be additional time

1           for the continuing education.

2           MR. SENDLER: I have a two-part question. One, what  
3           is the South Carolina Municipal Association  
4           card and did they in fact -- the City of North  
5           Augusta -- did they have a city ordinance that  
6           said it was okay if you have a card to issue a  
7           permit?

8           MS. BELL: It was -- it gave, like, a -- you could  
9           have this ordinance or this and the Municipal  
10          Association card was one of the things you  
11          could have.

12          MR. SENDLER: What is that?

13          MS. BELL: It's something through the Association of  
14          Counties that -- Mr. Wiggins may be a little  
15          more familiar with it. But apparently before  
16          all the state licensing requirements came in,  
17          various jurisdictions gave recognition to  
18          national cards that journeymen used to show  
19          levels of competence. It was a way that they  
20          were sure (inaudible). It would have exams and  
21          then they would vary between jurisdictions for  
22          these various disciplines. So the Municipal  
23          Association came up with one unified exam that  
24          would be recognized by the jurisdictions as  
25          uniform and if you had this card and it was

1           addressed in the ordinance (inaudible).

2           MR. CHAIRMAN: It was primarily for the trades --

3           MS. BELL: It was --

4           MR. CHAIRMAN: -- as opposed to a --

5           MR. SENDLER: That's in violation of state law, is  
6           it not?

7           MR. CHAIRMAN: That's what he's being fined for.

8           MR. CULLUM: The trade association existed to help  
9           the contractors get licensed in the past, but  
10          that's as we know been changed, the way that  
11          works. It was a holdover in that town.

12          MR. WILSON: North Augusta has removed this from --

13          MS. BELL: We -- as part of the IRC process  
14          (inaudible).

15          MR. CHAIRMAN: Any other questions?

16          MR. SCHUMANN: I move that we approve the consent  
17          agreement.

18          MR. CHAIRMAN: Do we have a second?

19          MR. SENDLER: With modifications.

20          MR. CULLUM: I second.

21          MR. CHAIRMAN: Chris Cullum seconds.

22          MR. ZUBIA: Further discussion, Mr. Chairman. Just  
23          a question. Since he was the CBO and that in  
24          itself carries training requirements to begin  
25          with, training him for a couple of hours, I

1 think the training received on this issue  
2 adequate as far as I'm concerned. My question,  
3 Mr. Chairman, is not related to this and may be  
4 not even appropriate at this time. How many  
5 other potential issues like this do we have in  
6 the state? And the reason I ask is my office  
7 has dealt with existing -- or does inspections  
8 that are not compliant and legislators are  
9 always hounding on me, how this could have ever  
10 happened in the past. My concern is if this  
11 happened in North Augusta, where else in South  
12 Carolina could this be occurring? There have  
13 been some issues since I've been here.

14 MR. CHAIRMAN: We've got a motion on the floor. Any  
15 discussion? All in favor of the motion say  
16 aye.

17 (Ayes are heard)

18 MR. CHAIRMAN: Any opposed? The motion carries.  
19 Thank you.

20 MS. BELL: Thank you all.

21 (Application Hearing was taken at this time and is  
22 contained in a separate transcript.)

23 (Whereupon, an application hearing was conducted and  
24 the following portion of the Board Meeting took place  
25 during the application hearing before the Chairman



1 announced that the Council was out of Executive  
2 Session, and said portion was later requested to be  
3 included in and made a part of the Board's Public  
4 Session.)

5 MR. CHAIRMAN: While we wait for all of our members  
6 to come back, I want to announce the results of  
7 our voting. For the residential code study  
8 committee, the code enforcement officer is Mr.  
9 Brashear; the alternate is Mike Smith. The  
10 licensed homebuilder, one or two family, the  
11 member -- I'm sorry. Under the code  
12 enforcement officer, the member is Mike Smith.  
13 The alternate is Mr. Brashear. For the  
14 licensed homebuilder, member is Mike Lowman and  
15 the alternate is Mr. Owens. For the licensed  
16 GC one and two family, the member is Mr. Womick  
17 and the alternate is also Mr. Owens. For the  
18 home designer the member is Mike Bostic and  
19 there is no alternate. For the licensed  
20 engineer residential is Mr. Jesse Burke, no  
21 alternate. Licensed residential plumber is  
22 Gibbs, alternate Ball. Licensed residential  
23 mechanical member is Mr. Pardee, alternate is  
24 Mr. Edwards. Licensed electrical member is Mr.  
25 Grow, alternate is Burkett. Residential gas

1 member is Mulligan, alternate is Abernathy.  
2 And the fire official, Porter is the member and  
3 Mr. Hoshall is the alternate. On the  
4 commercial side the code enforcement officer,  
5 Mr. Yingling is the member, Mr. Klein is the  
6 alternate. We don't have a licensed  
7 homebuilder on that committee. We have a  
8 licensed GC which is Mr. Ramsey as the member,  
9 no alternate. Licensed architect is Mr.  
10 Hallasy, no alternate. Licensed engineer is  
11 Mr. Burke and the alternate is Mr. Knight.  
12 Commercial plumber, Powers, alternate is  
13 Brewer. Commercial mechanical member is  
14 Laquiere, alternate is Waldrop. Electrical,  
15 Poplin is the member and Richardson is the  
16 alternate. For gas, the member is Abernathy  
17 and the alternate is Waldrop and the fire  
18 official, Porter is the member, Hoshall is the  
19 alternate.

20 MR. SPOON: Just for the purpose of the court  
21 reporter, the record or transcript and things  
22 like that, I would like to -- and I'm not sure  
23 how this is done -- but I would like the record  
24 to show that the Board was in public session  
25 when the names of the code study committee

1           members were announced. That information is  
2           public and should be made available to the  
3           public as part of the transcript. So madame  
4           court reporter, I don't know how you do that,  
5           but I just want to put it on the record, and I  
6           think that is the consensus of the Council.

7           MR. CHAIRMAN: And I would like the results of our  
8           voting to be made part of the record and part  
9           of the transcript. All right. Any public  
10          comments?

11          MR. SENDLER: Mr. Chairman, before you do that, how  
12          soon will we publish the notice? Can we get a  
13          copy of that in the next few days in an email?

14          MR. CHAIRMAN: Certainly. Jennie, can we do that?

15          MS. MEADE: I will get these out probably this  
16          afternoon, an email out to everyone just a copy  
17          of the results.

18          MR. HANCE: Mr. Chairman, after that committee gets  
19          established, if any member of us -- we can  
20          attend those meetings also, Gary?

21          MR. WIGGINS: Yes.

22          MR. HANCE: Will we get a notification when those  
23          meetings occur?

24          MR. WIGGINS: Yes.

25          MR. ZUBIA: Mr. Chairman, on the fire officials we

1           have Porter and Hoshall. Is it appropriate for  
2           me to ask if the votes happen to be in -- we  
3           discussed that option and if it's okay I'll  
4           tell you that what the consideration was to be  
5           is to put Mr. Hoshall first on residential and  
6           Porter second, reversing that. If that's  
7           acceptable I'd like to make a motion and  
8           there's a reason behind it if you want to know.  
9           Some of the rationale behind it, I have a  
10          significant number of code changes before the  
11          group and Mr. Hoshall was going to make those  
12          presentations before the commercial group. I  
13          don't want him to be the primary when he may be  
14          hearing his own presentation.

15       MR. CHAIRMAN: Do you wish to make a motion before  
16                    Council?

17       MR. ZUBIA: Mr. Chairman, I make it so switching Mr.  
18                    Hoshall over to Mr. Porter on the residential  
19                    committee.

20       MR. CHAIRMAN: Do I hear a second?

21       MR. BRIGGMAN: Second.

22       MR. CHAIRMAN: Mr. Briggman seconds. Any  
23                    discussion?

24       MR. SENDLER: Yeah. I think we should not do this.  
25                    I think we had a vote. Everybody had the

1 information beforehand and we reported it and  
2 I think that's what we should -- we should let  
3 the vote stand.

4 MR. CULLUM: Just understand that both of those  
5 individuals were submitted for both of those  
6 slots.

7 MR. SENDLER: I understand that but we voted. We  
8 should let the election stand.

9 MR. CHAIRMAN: Certainly if the primary should not  
10 be available, then the alternate could be --

11 MR. ZUBIA: I could make that happen.

12 MR. CHAIRMAN: All right. So we have a motion. Did  
13 we get a second on that?

14 MR. BRIGGMAN: Yes. Darbis.

15 MR. CHAIRMAN: So we have a motion and a second on  
16 the floor. All in favor of the motion say aye.

17 (Ayes are heard)

18 MR. CHAIRMAN: Any opposed?

19 (Ayes are heard)

20 MR. CHAIRMAN: Let's have a show of hands. Those in  
21 favor of the motion raise your hand. Opposed?  
22 The motion carries. All right. Our next  
23 meeting is May 23rd, 2012 at this location.

24 MR. ZUBIA: Mr. Chairman, I have two items I wanted  
25 to address. Just a couple of issue. In

1 reviewing the codes and developing code  
2 amendments, I found out and I guess I was  
3 shocked when I found out, that based on our  
4 process it's possible that my entity, the State  
5 Fire Marshall's Office, could not submit code  
6 amendments and the only entities legally  
7 entitled to do so based on our code is by local  
8 jurisdiction or a professional association. I  
9 find that somewhat troubling for a couple of  
10 reasons. One is I know there's a number of  
11 state entities that will submit code changes,  
12 but they're not able to do so and the reason  
13 I'm hoping for a future change or modification  
14 is to allow that to happen we have state  
15 entities that can adopt the code and do certain  
16 things different from what this group suggests  
17 for code adoption in the future and that's one  
18 way to kind of streamline the process and make  
19 one code adoption the code adoption so there  
20 can be some uniformity throughout the state.  
21 This is not a process that is a barrier for us  
22 to submit however and have another entity  
23 through a formality or through a process  
24 approve our changes before they come here. I  
25 think in some respects it defeats the purpose

1           behind why -- what we're trying to do as a  
2           state entity. I don't believe we're going to  
3           be out there doing some irresponsible things.  
4           I believe the initial legislative was put in  
5           place so we don't have this rogue official  
6           submitting -- a fire official -- so many code  
7           amendments that would be problematic. My hope  
8           is in the future to suggest to staff a  
9           potential change in the law. That was one of  
10          the issue I wanted to bring up before this  
11          group. The second item and it was something  
12          that the group that I participated with is  
13          proposing for this Council to consider in the  
14          code adoption process as you well know. State  
15          statute permits portions of Chapter One from  
16          being adopted, the administrative chapter. The  
17          real estate law and Chapter One and knowing  
18          what needs to be adopted in order for entities  
19          to move forward by the codes. Our group has  
20          made some recommendations for this group to  
21          consider in the future of adopting portions of  
22          Chapter One as allowed by statute. When I  
23          study that we did this with the review of the  
24          administrative chapter for the article.  
25          Discussing it with staff my concern is it's

1 kind of a presentation where we would bring  
2 before this group that is not comprehensive in  
3 review and when I say that it's really  
4 problematic if we bring that for fire and we  
5 don't bring it back for all the other  
6 subsequent codes that we're looking at, even  
7 though IECC does a pretty good job of  
8 standardizing all of Chapter One for uniformity  
9 and consistency from one code to the other. I  
10 was going to suggest to this Board because it  
11 was my understanding a few years ago there was  
12 a subcommittee that was developed for potential  
13 review of that. My hope is that this group  
14 considers that as a possibility so it's a  
15 comprehensive review of all codes and if it  
16 does not occur and if we need to -- I hate --  
17 could burden my committee. They have  
18 approximately nine days. The rest of the other  
19 code changes -- modified but I think it's  
20 something that there's such value and  
21 significance that I believe a subcommittee may  
22 be appropriate to do so. But if that's not  
23 done as I told you we may go back and redo all  
24 the codes for consideration.

25 MR. CHAIRMAN: Thank you. I understand the issue



1           and I agree that, you know, one of the most  
2           important things that we do and I think,  
3           Darbis, you touched on it earlier, is that  
4           without the building permit what we do with the  
5           code is all for naught. All the code changes,  
6           all the enforcement training, all of the  
7           licensing, if people don't get a building  
8           permit that's the lynch pin of the entire  
9           system and I agree that that's something that  
10          we should look at. Are there any other  
11          comments or questions from Council? Are there  
12          any other comments or questions from the  
13          others?

14       MR. WIGGINS: Mr. Chairman, you left that last  
15          subject tantalizing --

16       MR. CHAIRMAN: Come back in May.

17       MR. WIGGINS: Well, what I need if the Council wants  
18          to go forward in this direction. Does the  
19          Council want staff to actually go back and  
20          either prepare administrative revisions or go  
21          back to the original committee's  
22          recommendation, which I think we still have, or  
23          is the Council going to just take it as  
24          information and let it go?

25       MR. CHAIRMAN: I don't think the Council took any

1           action on this today because it wasn't on the  
2           agenda. But I think what is -- the point of  
3           Adolf's comments and my comments is this is  
4           something that we'd like to see the Council  
5           take action on in the future. Exactly what  
6           that action is, I don't know at this point in  
7           time. And --

8           MR. WIGGINS: That's what I'm trying to determine.  
9           Do you want staff to do anything?

10          MR. CHAIRMAN: At this particular point, I don't  
11          have --

12          MR. SENDLER: Is it a state statute or something  
13          that we -- Chapter One can't be changed or  
14          something?

15          MR. WIGGINS: Actually the Building Codes Council  
16          has the authority by regulation.

17          MR. SPOON: I'm sorry. Really this is getting into  
18          an area -- while I've given you leeway --  
19          public comments and the open meetings law. I  
20          think these are all valid discussion topics for  
21          the next meeting. But I'll tell you because  
22          you've come to the end of your agenda, I'm not  
23          comfortable. You've gotten to the end of the  
24          agenda. You just have.

25          MR. SENDLER: Mr. Chairman, I move we adjourn.

1 MR. DRURY: I second it.

2 MR. SPOON: Build your agenda, build your agenda  
3 from these topics.

4 MR. ZUBIA: Mr. Chairman, one final question. You  
5 know what? No questions.

6 MR. CHAIRMAN: Any comments from the audience?  
7 Hearing none, do we have a motion to adjourn?

8 MR. SENDLER: So move.

9 MR. DRURY: Second.

10 (There being nothing further, the meeting adjourned  
11 at 1:25 p.m.)