

OKLAHOMA UNIFORM BUILDING CODE COMMISSION

REGULAR MINUTES

UNIFORM BUILDING CODE COMMISSION CONFERENCE ROOM

2401 NW 23RD STREET, SUITE 82

OKLAHOMA CITY, OK 73107

MARCH 21, 2023 – 1:30 P.M.

COMMISSION MEMBERS PRESENT:

Wayne Allen, Daniel Favata, Bradley Flatt, Warren Goldmann (arrived at 1:50 p.m.), Paul Gunderson, Mitchell Hort, Kyle Lombardo, Lonnie Shackelford, Zachary Tippet, Scott Tucker, Cary Williamson, and Donny Williamson

COMMISSION MEMBERS ABSENT

Dee Hays

OTHERS PRESENT:

David Adcock (OUBCC Staff), Kathy Hehny (OUBCC Staff), Lindsay Heinrichs (OUBCC Staff), Bryan Neal (Oklahoma Attorney General's Office), Melody Kellogg (OMES – ABS), Marcia Gallant (MA+ Architecture), Chris Van Rite (M&M Manufacturing), Deanna Fields (MFD Housing and Modular), Amber Armstrong (A & E Code Professional), Melisa Williamson, Kyle Nelson (City of Oklahoma City), Kevin Brown (City of Oklahoma City), Caleb Deck (FSB Architects & Engineers), Bryant Van Fossen (City of Edmond), Scott Boyle (City of Edmond), Scott Wise (City of Oklahoma City)

CALL TO ORDER:

Mr. Mitchell Hort, Chairman of the Commission called the regular meeting of the Oklahoma Uniform Building Code Commission to order at 1:30 p.m. in the Oklahoma Uniform Building Code Commission Board Room at Shepherd Center, 2401 NW 23rd St., Suite 82, Oklahoma City, OK 73107.

STATEMENT OF COMPLIANCE:

The following statement was read into the record:

"This regular meeting of the Oklahoma Uniform Building Code Commission scheduled to begin at 1:30 p.m. on this 21st day of March 2023, has been convened in accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Sections 301 through 314.

Further, this meeting was preceded by an advance public notice that was sent to the Secretary of State electronically specifying the date, time, and place of the meeting here convened.

Notice of this meeting was given at least twenty-four (24) hours prior hereto. To date, 5125 (five thousand one hundred twenty-five) people have filed a written request for notice of meetings of this public body."

WELCOME TO THE NEW CEO:

Mr. Hort stated it had been a long search, but they had found a new CEO and asked everyone present to take a moment and welcome Mr. Adcock.

REPORTS:

CEO Report

Mr. David Adcock addressed the Commission. He reported some of the things he had dealt with during his first two weeks on staff; furniture items received from the State Fire Marshal due to the moving of their office; and that he would be attending the Construction Industries Board (CIB) meeting the following day. Mr. Adcock reviewed legislation related to HB 2556 that he felt the Commission should be aware of. He stated the Education committee would be meeting after the Commission meeting and that he intended to set up meetings with each of the Commission Committees, adding that those commissioners that were not on a committee would be addressed later in the meeting. He discussed the OUBCC notification process on the website and plans to increase the number of people requesting information about the OUBCC. He reviewed some of the information in the comparison charts he had included in the report in the commission books.

There was some discussion on where the permit numbers were coming from with Mr. Adcock confirming they were state-wide numbers of the permit information reported to the Commission by the jurisdictions. There was discussion on House Bill 2556 that if passed, it would make the OUBCC an advisory board; having the Commissioners reach out to their individual senators; that the Governor promoted consolidation of agencies; that the Commission had a new director and the agency needed time to prove it could do more; that the bill was ambiguous and only said the CIB would administer the agency and didn't specify how that would be done; and new language in the bill that would allow CIB inspectors authority over local jurisdictions that were not current with the statewide minimum code. There was further discussion on how it would affect local jurisdictions during the time period it took the city to adopt the statewide codes; issues with interpretations; that the bill would allow the CIB to write rules that would govern the Commission which gave the enforcement agency authority in directing the code adoption agency; possible reasons why previous bills doing the same thing had not passed; and the narrow margin in which the bill passed the House this year.

Financial Report

Ms. Melody Kellogg, Director of Agency Business Services, with the Office of Management and Enterprise Services (OMES ABS), greeted the Commission. She reviewed each of the financial reports before them. She noted the annual budget had not changed much, adding the Commission had a pretty sizeable annual variance from encumbered and expended funds to the budget. She added long-term vacancies like they have had, it was noticeable in the budget. She reviewed the cash balance as of the end of February. She noted in February the Commission brought in \$28,127 more in revenue than expenses and for the fiscal year-to-date, the Commission had brought in \$116,653 more in revenue than expenses. She noted there was a \$12 difference in the total with the report before and she would research why that was different. At the end of the report there was some discussion regarding the variance between the budget and expenditures for the year, with confirmation a good part of that was from the vacant positions that were budgeted.

ACTION AND DISCUSSION ITEMS:

Discussion and possible approval of the January 17, 2023, regular meeting minutes

MR. DANIEL FAVATA MADE A MOTION WITH A SECOND BY MR. SCOTT TUCKER TO APPROVE THE JANUARY 17, 2023, REGULAR MEETING MINUTES

VOTING AYE:	Wayne Allen	Kyle Lombardo
	Daniel Favata	Lonnie Shackelford
	Bradley Flatt	Zachary Tippet
	Warren Goldmann	Scott Tucker
	Paul Gunderson	Cary Williamson
	Mitchell Hort	Donny Williamson

VOTING NAY: None

ABSTAIN: None

ABSENT: Dee Hays

Discussion and possible action to update the Commissioner assignments to Standing Commission Committees

Mr. Hort noted in the book was a list of current committees and members. There was discussion on the number of commissioners for each committee, which committees were listed, and if anyone wanted to change any of their assignments. There was further discussion on the differences between the code academy and the education committee; what the strategic planning committee did; what responsibilities the Personnel Committee would have moving forward; if the item should be tabled for the next month; and when the next strategic plan was due to be submitted. At the end of the discussion, Mr. Bradley Flatt had volunteered to serve on the Legislative and Code Academy Committees and Mr. Zach Tippet volunteered to serve on the Strategic Planning Committee.

MR. DANIEL FAVATA MADE A MOTION WITH A SECOND BY MR. WAYNE ALLEN TO ACCEPT CHANGES TO THE COMMISSION COMMITTEE ASSIGNMENTS AS VOLUNTEERED BY MR. BRADLEY FLATT AND MR. ZACHARY TIPPETT

VOTING AYE:	Wayne Allen	Kyle Lombardo
	Daniel Favata	Lonnie Shackelford
	Bradley Flatt	Zachary Tippet
	Warren Goldmann	Scott Tucker
	Paul Gunderson	Cary Williamson
	Mitchell Hort	Donny Williamson

VOTING NAY: None

ABSTAIN: None

ABSENT: Dee Hays

Discussion on the review of either the 2021 or 2024 Editions of the International Building Code®, International Existing Building Code®, International Fire Code®, International Fuel Gas Code®, International Mechanical Code®, International Plumbing Code®, and the 2023 Edition of the National Electrical Code®

The commission discussed the adoption of codes and if they should be on a three-year or six-year cycle; that the commission couldn't decide that for any future commission and would need to evaluate every code cycle if they wanted to adopt the published codes; the number of changes in the codes each publishing cycle; and that the commission skipped the 2012 code cycle. There was further discussion on the agenda item being just for discussion only; the timeline for adoption of a code; that committee recommendations could include not adopting the code; rulemaking and legislative deadlines; the amount of work that would be involved with reviewing the 2021 codes before the fall; having flexibility in addressing the codes each time they are published versus tying the commission to a specific code cycle for adoption.

The commission discussed how the review and the adoption of the codes affects the local jurisdictions with their adoptions; working with jurisdictions to get them more involved in the code adoption process; and the number of changes to a code in a three-year code cycle. There was further discussion on how skipping the codes makes it harder on both cities and contractors as something inserted in a code that is skipped, may be missed when reviewing the next edition as it would not be marked as a change to the code. The commission discussed how skipping codes can affect someone trying to test on a code; that the commission should look at each code cycle; how contractors deal with jurisdictions on different codes from the OUBCC adopted codes; and that the commission should think about the issue and be ready to make a decision at a later meeting.

Discussion and possible action to create an ad-hoc Commission Committee to investigate a possible need for a formal code interpretation process

Mr. Adcock stated he had asked for the item to be on the agenda because he found out there wasn't a formal process. He added if someone called the office and asked how the state looked at the code, the current answer was that it was up to the local jurisdiction. He added it was, but the state was adopting the minimum installation standards and that interpretations were developed but then they were not able to say what the code meant. He noted all the code organizations had a formal code interpretation process and his idea behind it was, that the volunteers for the technical committee would be reached out to and asked what their interpretation was when they looked at that item. He cited a local jurisdiction email that had been received that day regarding the IRC® because the Commission adopted the code and the 2020 NEC®. He added the 2018 IRC® referred to the previous 2017 NEC®. He stated under the referenced standards section of the IRC® the commission changed the reference to the 2020 NEC®, however the chapters pertaining to electrical were not removed from the IRC® which contained the 2017 NEC® language. He added, the committee should have made changes to the 2018 IRC® not just the referenced standard. He added his belief was the committee intended to refer to the 2020 NEC® but there was a very good counter argument that the IRC said you can do things and only where it's referenced did the 2020 NEC® need to be followed. He added as an example, a formal interpretation board would vet that question and specify what was intended. He added he was asking for an ad-hoc committee to be put together to investigate how that process would work.

The commission and Mr. Adcock discussed if the interpretation board would only address OUBCC changes or if it would address anything in the code; that it could go either way; using the ICC interpretations; that the ad-hoc committee would lay the ground work for how the process would work, but wouldn't be reviewing interpretations; that the interpretation process wouldn't change what was adopted, it would clarify the intention of any changes by a technical committee; and if the commission as a body was responsible for providing the interpretation. There was further discussion addressing if interpretations would be on the website; how they would be published; how the City of Oklahoma City did interpretations; how OUBCC interpretations could differ from how a jurisdiction interpreted the code and issues arising from that; and that there should be legal language that specified it was the interpretation of the OUBCC however enforcement was with the jurisdiction. Mr. Adcock noted the OUBCC should not tell jurisdictions how to enforce the code, but if asked for a formal interpretation of the code, the OUBCC should be able to provide it. There was further discussion on the fact that technical committees were advisory and if those committees were to be making decisions it would open them up to the open meeting act; that the Commission was the one that made final decisions to adopt codes and making sure they didn't give up that authority to technical committees; that decisions should go back to the commission to approve before being answered; managing interpretations as new codes were adopted; that the intent was not to supersede anything a jurisdiction did but to help them when they received inquiries from contractors or insurance companies.

MR. DONNY WILLIAMSON MADE A MOTION WITH A SECOND BY MR. WARREN GOLDMANN TO CREATE AN ADHOC COMMISSION COMMITTEE TO REVIEW THE NEED FOR A FORMAL CODE INTERPREATION PROCESS

There was further discussion on the authority of the local code official to interpret the code and if the ad-hoc committee would be an exercise in futility; that some requests came from municipalities; how that could affect liability for the commission as a whole, as well as individual commissioners and the technical committee volunteers; how variance boards worked; how the process could help unincorporated areas; and that the ad-hoc committee would look at pros and cons of setting up such a process and make a recommendation to the Commission. There was some discussion on who should serve on the ad-hoc committee.

MR. WILLIAMSON AMENDED HIS MOTION WITH AGREEMENT BY MR. GOLDMANN TO INCLUDE THE FOLLOWING COMMISSIONERS TO SERVE ON THE AD-HOC COMMITTEE: MR. DANIEL FAVATA MR. WARREN GOLDMANN, MR. KYLE LOMBARDO, MR. CARY WILLIAMSON AND MR. DONNY WILLIAMSON

VOTING AYE:	Wayne Allen	Kyle Lombardo
	Daniel Favata	Lonnie Shackelford
	Bradley Flatt	Zachary Tippet
	Warren Goldmann	Scott Tucker
	Paul Gunderson	Cary Williamson
	Mitchell Hort	Donny Williamson

VOTING NAY: None
ABSTAIN: None
ABSENT: Dee Hays

NEW BUSINESS:

There was no new business

PUBLIC COMMENT:

Mr. Caleb Deck with FSB Architects asked if there was any update on the adoption of the International Energy Conservation Code. He added he couldn't find anything on it since the January 2022 meeting where the Commission approved the committee to look at the 2018 edition. Mr. Hort noted they were not allowed to comment on public comments but that they could get together with staff after the meeting for an update.

ADJOURNMENT: (2:37 P.M.)

MR. DONNY WILLIAMSON MADE A MOTION WITH A SECOND BY MR. WAYNE ALLEN TO ADJOURN

VOTING AYE:	Wayne Allen	Kyle Lombardo
	Daniel Favata	Lonnie Shackelford
	Bradley Flatt	Zachary Tippet
	Warren Goldmann	Scott Tucker
	Paul Gunderson	Cary Williamson
	Mitchell Hort	Donny Williamson

VOTING NAY: None
ABSTAIN: None
ABSENT: Dee Hays

Minutes approved in the regular meeting on the 18th day of April 2023

MITCHELL HORT
Mitchell Hort, Chairman
Oklahoma Uniform Building Code Commission

PREPARED BY: KATHY HEHNLY
Kathy Hehnly, Executive Assistant
Oklahoma Uniform Building Code Commission

Official Copy: Original with signatures in office file.