

MINUTES
BUILDING DEVELOPMENT APPEALS BOARD
BANQUET HALL
July 28, 2022 at 10:00

Meeting called to order by Chairman Barry Ezerski.

MEMBERS PRESENT: Mike Cornish
 Barry Ezerski
 Bryan Jones
 Michael Merritt
 Mark Mitchell
 Mark Pippin

MEMBERS ABSENT: Joshua Dickson
 Barbara Ellis
 Mark Mitchell
 Arthur Patrick
 Charlie Wright

ALSO PRESENT: Charlotte Brown, Supervisor License and Permits
 Michael Wright, Fire Marshall Office
 Denise Ezell, Record Secretary
 Brandon Want, Deputy Fire Marshall

3. Approval of minutes from March 24, 2022.

Motion by Pippin, **Second** by Cornish, to approve the minutes of March 24, 2022 as written. **Aye:** Ezerski, Jones, Merritt, Pippin, Cornish. **Nay:** None. **Motion Passed.**

New Business

4. Discuss moving forward with the adoption of the 2018 International Building Code, 2015 International Residential Code, 2018 International Existing Building Code, 2018 International Plumbing Code, 2018 International Fuel Gas Code, 2018 International Mechanical Code, 2018 International Fire Code, and the 2017 National Electrical Code as amended by the Oklahoma Uniform Building Code Commission.

 Ezerski stated for those who haven't been here for the last ten (10) or fifteen (15) years the last time we looked at this was six (6) or seven (7) years ago. Unfortunately, these have already passed by the time we see them. We really have no choice in the matter. The National Codes are given to the state and the state makes their amendments. An example is the National Code requires sprinklers in a single-family residential home. The state removed that requirement. Once the state makes their amendments, we can do one (1) of two (2) things. We can adopt them as presented or we can strengthen them. We cannot weaken them. We can only strengthen them. We can add but we can't subtract. We will go through and approve it and send it to Council for adoption. Once they adopt it will become code.

Wright stated Barry summarized it well. The last time we did this there were a lot of questions. The paper I gave you explains the process at the national level. They get committee members, and those members are not just government officials. They include building owners, designers, insurance companies, inspectors, contractors and manufactures. They have folks throughout the industry that are committee members to discuss any changes they are going to make to the next code cycle. Cycles are every three (3) years. The committee will open the forum for suggestions. Those suggestions can come from anyone in the industry or a private citizen. Once they gather all the suggestions the committee will discuss those and what impact they will have. They discuss if it is a good or bad thing. Some suggestions will be thrown out and some modified. Once they have their changes, they take them to a national vote of all the jurisdictions/states that are members of the organization. Then they put the adoption together. The State of Oklahoma looks at it to see how the requirements will impact Oklahoma. They will make their amendments for the State of Oklahoma. I will provide Barry with the significant changes to the fire code on the national level. Any significant changes from 2015 to 2018 I'm going to ask Deputy Want to give you examples of those updates. I'm also going to provide the significant change that the State of Oklahoma made when they received the National Code. You can read through them at your leisure. The state has adopted these effective November of 2021. It is law and the minimum standard.

Pippins asked can we have the mechanical and electrical inspectors come tell us what significant changes were made.

Brown stated yes, we can do that at the next meeting.

Wright stated ICC provides us with the significant changes. The electrical is the only code standard that doesn't come out of the international. It is the National Electrical Code and NFPA standard. Everything else is part of the international code.

Want stated they didn't have anything in the 2015 for the ever-growing cannabis industry on certain things we have to regulate. They added a chapter, Chapter 39, which involves the processing and extraction of the cannabis facilities. The other piece they added is the carbon dioxide enrichment systems. Before it had to do with beverage dispensing and things like that. Now they bleed carbon dioxide into those grow rooms to help the plants generate and grow more. This adds a different hazard for anyone that goes into those rooms to include employees and our guys that don't realize they have a carbon system. It can incapacitate them and cause death. When we do inspections one of the main things we deal with is storage issues. A lot of places are not designed for storage. The change they have made benefits the customer. You can have those items stacked all the way to the ceiling as long as it is on an outside wall. Before you had to keep it twenty-four (24) or eighteen (18) inches from the ceiling. This doesn't seem like a lot but when you are trying to get as much storage out of those areas as possible a couple inches really helps. Another change is due to the most recent increase in school and workplace violence. The lockdown plans have added a caveat where if a facility has an intruder, they can automatically lock the egress doors during the lockdown procedure. Before you could not lock them down during lockdown due to egress issues. So, they changed that just for those procedures. On I-1 facilities like your assisted living and halfway houses they have given contractors two (2) option on the cooking appliances. Before you had to put in a suppression hood. They have a second option now that you can get a cooktop or range that meets specific heating limitations instead of the hood system. That might be a big cost savings.

Pippins stated just like the new fire department. We had to put in a fire suppression system for that little stove.

Want stated right, that would have saved them from doing that. Also, in R4 residential facilities if you are capable of self-preservation, they have deleted the requirement for fire alarm system. That is a huge cost savings for contractors. Those are the changes I found. A lot of the other changes were in factories and industries. Are there any questions.

Cornish asked is that last statement for single family.

Barry stated no, that would be apartments.

Want stated it would be any R4 facility with sixteen (16) or fewer residents.

Brown stated like a halfway house or boarding house.

Want stated a halfway house or boarding house will not have to put those in.

Cornish stated (can't hear)

Want stated yes. Those are the changes that I marked.

Wright stated we have all dealt with code and we know that it is consistently getting more and more refined. Some of that, especially on a safety side, is caused by loss of life. A more recent one is the nightclub fire in Rhode Island where the band was playing a concert with pyrotechnics. The pyrotechnics wasn't approved, and the sound proofing materials were highly flammable. There is a YouTube video if you can stomach it. If the police crew had not turned around when they did, they would have been part of the one hundred (100) people that perished. From the time the fire started to the time folks started perishing was minutes. The code changed the next cycle for the threshold for fire suppressions systems in bars. It went from three hundred (300) to one hundred (100) based on that large loss of life. In 2007 we lost seven (7) firefighters in a furniture store fire in South Carolina. The next code cycle the threshold for fire suppression system in a building that has upholstery furniture went from twelve thousand (12,000) to any. The next cycle this went back to twenty-five hundred (25,000) square foot building and if you had a small furniture store or thrift store you didn't have to have a suppression system.

Cornish asked you would or would not.

Wright stated would not.

Cornish asked what is the square footage threshold.

Wright stated twenty-five hundred (25,000) square feet.

Pippins asked what about existing businesses.

Wright stated there are provisions for existing buildings and suppressions systems and fire alarms are not retroactive. It would be for new construction or alterations to the building.

Ezerski stated it is like what we experienced with the guy who owns the Vaska.

Wright stated correct.

Jones stated a change of use.

Wright stated the code protects the existing non-conforming. We still have some bars and restaurants that have occupant loads over three hundred (300) or one hundred (100) to three hundred (300) that are not sprinkled. They will continue to be that as long as they don't make any alterations to the building or change their use. City code protects them. It is not designed to be punitive. It is designed to protect and learn from past tragedies to save lives moving forward. That gives you an overview of where we are. Are there any questions. If not, I'll pass it to Charlotte.

Brown stated I gave you the changes the Building Code Commission has approved. I did not include residential because the OUBCC is still under the 2015 code. Council denied the adoption of the 2015 code. Once we took the residential out, they approved it. I'm concerned with the commercial and need to do more research on the residential. It is my understanding there are significant changes to the residential code from 2009 to 2105. I also gave you a spreadsheet of towns that we looked at when we adopted the 2015. There are seven (7) communities that have moved to the 2018. Oklahoma City and Edmond did not. This is something that Council will look at. I have not been able to find a timeframe that we must adopt. I think Michael also looked.

Wright stated yes, the language just says that municipalities shall pass the addition. It doesn't give a timeline.

Brown stated it also says if we don't pass it, we could be fined.

Wright stated it says the municipality shall pass whatever edition of code it is. It is state minimum standard if they pass it or not. That is a dilemma we have. When plans are submitted, we have contradicting requirements. The state statute says the minimum is 2018 and we have ordinances that says 2015. It puts us in a difficult place as to whether we follow state law or local ordinance. The passing of that code makes it a lot cleaner and easier for us to be consistent.

Ezerski stated what we are running into on the residential side is the inspectors are going by the 2018. Builders are throwing a fit especially within city limits. Lawton City code is 2009 and that is what we must go by not 2015. Since the state adopted the 2015 the county is building per those codes. They are running into some real problems with home inspectors. It does create confusion.

Cornish asked why hasn't Oklahoma City adopted these.

Brown stated five (5) years ago they were still under BOCA. They have just been slow moving.

Cornish stated yes, but they are building like no tomorrow.

Brown stated that is what I'm hearing.

Cornish stated I bet there is a thousand (1,000) houses under construction.

Wright stated we are in a boom here for some reason.

Cornish asked you have a thousand (1,000) houses being built.

Wright stated no, but we are reviewing more permits right now.

Brown stated we have more commercial permits than we have seen in years.

Cornish stated if we take the medical marijuana out of the plan does that make the permits go away.

Wright stated a lot of these are being pushed by the medical marijuana industry. They have a moratorium on any new licensing effective August 1st. Essentially that will shut down any permitting in the last two (2) weeks. The up tic that she is talking about has nothing to do with marijuana. We are moving forward and are definitely building something.

Brown stated I did two (2) permits the other day and was handed eleven (11) more.

Pippin asked is that the carwash that is coming in.

Brown stated yes.

Cornish asked is it the solar electric stuff.

Brown stated on the residential side it is. The solar guys are sending in twenty (20) or thirty (30) emails a day for solar panels.

Ezerski stated I will tell you solar panels do not add value to your house. They are saying you will recoup the entire amount.

Cornish stated and telling them they will save money.

Pippin stated you have to replace them in ten (10) years.

Ezerski stated it is really sad.

Brown stated the state inspectors are looking at the solar companies. There has been some license lending and other issues.

Cornish stated PSO doesn't have to buy the power to generate it. You have to have a special meter.

Ezerski stated do you look at the weight bearing on the roof.

Brown stated yes, you must have an engineered stamp your plans to show it will work.

Ezerski stated I have a home in Elgin and the roof is literally sagging a foot under the weight of the panels. There was no inspection there.

Wright stated it will end up being in the living room one day.

Ezerski stated the interesting thing about the code is they have already done 2021 and the committee is working on 2024. If we want to have an impact on 2024, we will have to start getting involved pretty quick. I know the Commercial Builders Association and the National Builders Association both have representatives on the committee. They are the watch dogs to make sure the stuff they are doing is safe but also reasonable. We rely on them. What we get is what we get. The question today is do we want to move forward with this.

Brown stated or do you want time to review it.

Pippins stated I would like to hear from the mechanical inspectors.

Brown stated okay, we will schedule that for the next meeting.

Pippins stated one of my employees knows most of them, but it would be nice if we could all hear it.

Brown stated I'm hearing on the federal level they are changing some of the mechanical guidelines. We are about to redo the hv system here and I'm hearing if they buy the equipment now it won't be within federal guidelines.

Wright asked are you talking about the sear ratings.

Brown stated I think so.

Wright stated that is part of the grain stuff. There is a lot of money in the energy conservation.

Jones asked if Council adopts it, when does that start effecting new construction.

Brown stated thirty (30) to forty-five (45) days. I haven't started putting anything together yet to take to Council.

Merritt asked does existing permits fall underneath the old code.

Brown stated yes, anything that had been applied for would. Anything applied for after the effective date will fall under the new code.

Wright stated we give enough time. If you are applying for a permit, they will know which code it falls under. The new or old code.

Brown stated we are still seeing things that fall under the 2009 code.

Merritt stated so, it is according to when they apply as to what code it will fall under. I know there are things that are planned out for three (3) to five (5) years in advance during the

process of buying everything. I didn't want someone to be stuck in the middle of a big project and have new codes they would have to go by.

Ezerski stated yes, some of these projects can take up to two (2) years. I know right now there is a big developer looking at potentially one hundred (100) houses. Okay, we will look at this again at the next meeting.

Cornish stated that gives us time to review the documents. I heard a rumor about sprinklers for residential. Is that still a part of this?

Wright asked are you talking about single family dwellings.

Cornish stated yes.

Wright stated that is under the residential code.

Brown stated I think that is approved off the appendix.

Wright stated I think they have. I can't answer that because I don't regulate the systems in single family dwellings.

Cornish stated you regulate everything else. We need to know for sure.

Wright stated I feel like I have it all on my shoulders I promise you. We will get you the answer.

Brown stated I think they left it.

Ezerski stated it is in the National Code, but I heard the state took it out.

Brown stated it is in the National Code. The state moved it off into an appendix and municipalities can adopt that appendix if they want. That is the way it was done in 2009. We did not adopt the appendix.

Cornish stated (can't hear) a house now much less a sprinkler system.

Wright stated that is what we talked about in the beginning. Say we want the sprinkler system in residential home in Lawton America. The city could adopt that. I don't believe that will be a conservation, but they could do that. The state wouldn't have any objections because it goes above the state minimum.

Cornish stated I'm trying to avoid more regulations. Like you have to have a seer 3-14 air conditioner.

Wright stated I heard that just the other day.

Cornish stated we have used these for three (3) years.

Pippins stated they don't sell those anymore.

Wright stated we will get you that answer. I should have looked at that because I knew it was a question last time. That is what delayed the adoption of the residential code last time. We adopted the commercial code but not the residential.

Ezerski stated stuff like that will kill you. You can go two (2) miles outside city limits and not have those regulations. That will save \$5,000. We will get more information and bring it back to the next meeting.

5. Discuss the requirements for revoking a contractor's license and schedule a special meeting to revoke contractor's licenses.

Brown stated after posting the agenda I found a code section that talks about revocation of a contractor's registration certificate. Code says, "The code official or the building development appeals board may revoke any city issued building contractor's registration certificate if the holder of such registration certificate shows incompetency or lack of knowledge in matters relevant to such certificate, fails to perform normal business obligations or if such certificate was obtained by fraud". If appealed, it comes before this board. I know of three (3) certificates that we have pulled but I was not involved in the process. We have two (2) companies we are looking at. I wanted to talk to the board to see what kind of standards we are looking at. Do you want to be the one to revoke or if they meet those standards do you want to allow me as the code official to revoke it? Then they would appeal to this board.

Ezerski stated the process has always worked. If their license is revoked, they can appeal to this board.

Brown stated okay, are there any specific standards that you have. We have a mechanical and a general contractor we are looking at.

Ezerski asked is it repeated offenses.

Brown stated the mechanical contractor is. The state CIB is involved. They are investigating and writing citations. A complaint was filed against a GC and they have filed a lawsuit in District Court against him. They are suing for breach of contract. He has not completed the work. There have been no inspections and the house has been this way for about a year.

Pippins asked what did the mechanical contractor do?

Brown stated this company is out of Texas. We had one (1) residential house that had seven (7) rejections. In Texas they don't have to have a journeyman's license. They are sending unlicensed journeyman to Oklahoma to do the work and not having anyone with an Oklahoma license on the site.

Jones asked so they don't have a license.

Brown stated in Texas journeyman are not required to be licensed like they are in Oklahoma.

Pippins stated you can work under one (1) contractor's license. We had Bob get his license in Texas and we can send them all to work in Texas.

Brown stated in Oklahoma journeyman apprentices must have a license.

Pippins stated yes.

Brown stated they are sending unlicensed journeyman to Oklahoma to work.

Pippins stated you don't know if they are a journeyman. There are no standards.

Brown stated we had seven (7) rejects on one (1) house. Our inspectors have reached out asking them to allow us to walk them through the process and they won't return our calls. We reached out to CIB, and they are handling them not having a license. This has been going on for a year to a year and a half. We are looking at revoking their city license.

Jones asked are they still working here within the city.

Brown stated yes.

Jones asked have you suspended them.

Brown stated not yet. I wanted to talk with the board first. We reached out to CIB three (3) weeks ago.

Pippins stated if you are working without a license that is pretty simple. I have to have a license.

Cornish asked have you issued them a stop work order.

Brown stated yes. We ran five (5) or six (6) of them off the jobsite last week.

Ezerski stated I don't see where the board should be the ones to revoke their license. We only meet once a month and time is of the essence on some of this. You don't want to let it go to long. People are going to get hurt.

Brown stated okay, I'll move forward with revocation. I'll send them a certified notice stating they can appeal the decision to this board.

Pippin stated I like that idea.

Cornish asked are there any procedures in writing.

Brown stated nothing other than that part in code that talks about incompetency.

Cornish stated I would like to see that printed. We need a procedure outlining the punishment for your first offense, second offense and so forth. Do a legit procedure where each time it escalates. Follow the basic rules.

Brown stated that is what I was thinking.

Ezerski stated yes, there should be a sliding scale on punishment. Give them a chance to fix it and if that doesn't happen move to the next level until they are done.

Brown stated I will work on that and bring it back to the board. We won't need to schedule a special meeting. I will move forward with revocation, and we will go from there. If they want to appeal, they can do so.

Jones asked have they filed an appeal.

Pippins stated they haven't revoked their license yet.

Cornish asked have you issued a stop work order.

Brown stated yes, I wanted to discuss the procedures with the board before I took action. I wasn't involved with the previous revocations.

Cornish asked have you consulted with the attorneys on how to handle the process and do they want to be a part of it.

Brown stated I spoke with Greg yesterday and he was the one who found that information in code. I thought this board did the revocations. He was the one that said it could be a code official or the board.

Wright stated if you allow the board to revoke that doesn't allow the violator any ability to appeal their grievance.

Cornish stated I also think it needs a ten (10) day grace period. Give them ten (10) days to follow the procedures. If not, then revoke their license and suspended them from doing business within the city permanently. Then they can appeal to this board. That deflects the heat off of you, but you are enforcing the rules.

Pippins stated plus they know you are serious if you send a certified letter stating their license will be suspended.

Brown stated yes.

Cornish stated that is the reason we need to develop this procedure. The more communication the better.

Brown stated right.

Ezerski stated alright. Does anyone have any other discussion items?

Jones asked are we scheduling a special meeting.

Brown stated no.

Cornish stated we will send the certified letter stating his license will be suspended if he fails to perform properly.

Pippins stated if he appeals, we will have to have a meeting.

Cornish stated then we will have a special meeting so he can come talk to us.

Jones stated okay.

Ezerski stated it would probably be scheduled at our regular meeting. We would just put it on the agenda.

Brown stated yes.

6. Discussion

7. Adjournment.

There being no further business the meeting adjourned at 10:40 a.m.

Motion by Pippin, **Second** by Merritt, to adjourn. **Aye:** Jones, Merritt, Pippin, Cornish, Ezerski. **Nay:** None. **Motion Passed.**