

Construction Codes Advisory Council Meeting
Thursday, June 18, 2015 @ 10:00 a.m.
MEETING MINUTES

Minnesota Room – Department of Labor and Industry
443 Lafayette Road North, St. Paul, MN 55155

Members:

Scott McLellan (Chair)
Mark Brunner
Jennifer DeJournett
Tom Downs
Tom Erdman
Bill Freitag (via teleconference)
Todd Gray
Gerhard Guth
Pat Higgins
Robert Jewell (via teleconference)
Mark Kincs (Bastianelli alternate)
Jim Kittleson
Laura McCarthy
John McConnell
Mike Paradise
Larry Stevens, Jr.
Kevin McGinty (Smith alternate)

Members Absent:

Pete Parris
Bob Bastianelli

Staff & Visitors

Deputy Commissioner Jessica Looman – DLI
Scott McKown – DLI
Suzanne Todnem – DLI
Jeff Lebowski – DLI
Lyndy Lutz – DLI
Katherine Nielson - BAM
Heather Cederholm – League of MN Cities
Janet Blaisdell – APA (via teleconference)
Richard Hauffe – ICC
John Babin – Fire Chief
Dan McConnell – MN Bldg. Trades
David Siegel – BATC

1. Call to Order

The meeting was called to order at 10:00 a.m. by Chair McLellan. William Freitag and Bob Jewell attended the meeting via teleconference. Housekeeping announcements were made.

2. Introductions

Members introduced themselves (a quorum was declared). Patrick Higgins, CCAC's newest member introduced himself.

3. Approval of Minutes

A motion was made by Guth, seconded by Gray, to approve the September 18, 2014 meeting minutes as presented. The vote was unanimous; the motion carried.

4. Code Adoption Status

McLellan referred to the department's webpage for information about the effective dates of the 2015 Minnesota State Building Codes at: <http://www.dli.mn.gov/cclld/codes15.asp>. Kevin McGinty gave an update on the Fire Code. The code cycle adoption process was discussed.

5. Report on Resilient Buildings presentation / Green Code update

- McLellan briefly discussed the presentation held at the department on May 21, 2015 and referred to a Building Resiliency flyer found on the department's website at: <http://www.dli.mn.gov/CCLD/PDF/workshop.pdf> McLellan then referred to a handout titled "Minnesota Options to Increase Climate Resilience in Buildings" from Georgetown Climate Center (see Attachment A).
- McLellan noted a new venture between US Green Building Council, ICC and ASHRAE to create a green code & standard that would address the LEED program and green building sustainability features. Minnesota currently maintains its own green sustainability standard known as B3. The B3 standard is applied to state bonded building projects. Some believe the state should use this as the green building standard. He suggested that both documents be reviewed to determine which makes the most sense.

6. Report on Building Official Survey & meetings

- McLellan briefly discussed results from a 2014 building official survey, found here: http://www.dli.mn.gov/CCLD/PDF/bofficial_survey.pdf Survey results were recently discussed at the first annual Building Official Forum at Camp Ripley on June 5, 2015. The forum was well attended and valuable feedback was received. McLellan noted that as one result, the state is planning to expand their entry level building official limited training program to have a greater impact.

7. Legislative update

- Deputy Commissioner Looman gave an update. A budget has been passed and because of this, department as a whole has greater stability. All of the department's projects and programs will continue. Looman also recognized all of the hard work of the Construction Codes and Licensing Division (CCLD) along with the various affected advocacy groups.
- Looman said licensing fees have been reduced for all of the trades and businesses that are licensed through CCLD. It was made possible due to greater efficiencies in moving to a more modern processing. Between 72-88% of every personal license renewal is now being done online and the department is meeting their performance measure of issuing renewals in 3 days or less 96% of the time. The department also reduced the Contractor Recovery Fund fee assessment so building contractors will see a significant reduction in the cost of getting a license. For licensing fees visit: <http://www.dli.mn.gov/cclld/PDF/LicenseFees.pdf>

8. Division update

- McLellan gave an update on the Energy Code. The federal government has a mandate that when a new code comes out, the Department of Energy (DOE) reviews the code to determine if it is more efficient than the previous edition. If it is, and it almost always is, states are mandated to adopt the new commercial code and notify the DOE. If DOE certifies the new residential energy code as more efficient, then states must hold public meetings to make a determination on whether to adopt the new code. McLellan noted that the federal government does not have this type of leverage with other code processes. Minnesota adopted the 2012 version of the model Energy Code which is 30% more efficient than the 2006 code.
- McLellan discussed a roof collapse in Otter Tail County, explaining this was located in a non-code enforced area. This created discussion on statewide code.

9. Next Meeting

A *tentative* meeting date was set for 10:00 a.m. on September 17, 2015.

10. Adjourn

The meeting adjourned at 11:20 a.m.

Respectfully Submitted,

Lyndy Lutz

Lyndy Lutz, Executive Secretary
Construction Codes and Licensing Division
Department of Labor and Industry

Minnesota Options to Increase Climate Resilience in Buildings

Sara P. Hoverter
Kraig Ahalt
January 2015

Executive Summary

The Climate Change Problem in Minnesota

The impacts of climate change pose a significant risk to both the people and buildings of Minnesota. In the coming years, municipalities will be at ever-increasing risk of flooding and the detrimental effects of increases in heat and humidity. By preparing buildings for these coming effects, Minnesota municipalities can help reduce the risk of harm to both their buildings and their occupants. Extreme heat and humidity events can endanger people unless buildings are designed or retrofitted to compensate, and the urban heat island effect can be mitigated by changes to buildings and sites, protecting people and saving energy. Increased flooding affects public health through contaminated water, water-borne illnesses, and damage to public facilities and homes. Building and site design can either contribute to or help to mitigate the frequency and severity of this flooding. Minnesota and its municipalities have already taken steps toward reducing this risk. However, municipalities' lack of authority to set building standards has hindered their ability to increase their resilience.

This report explores steps that Minnesota state agencies and the Minnesota Legislature can take to enable more resilience at the local level, as well as some steps municipalities may already have authority to implement. Minnesota state agencies have already supported more resilient buildings in some ways, including the MN GreenStep Cities program and the Buildings, Benchmarks and Beyond (B3) program. Still, many municipalities would like to do more to increase the resilience of buildings in their communities. The state building code, however, prevents municipalities from adopting building codes that are "different" from the state code. This restricts municipalities from using the building code to prepare local buildings for the coming effects of climate change that pose the biggest threat to that municipality. Three types of actions are presented as opportunities to improve the options to increase the resilience of buildings.

State Level Action

The Department of Labor and Industry (DLI) may be able to adopt a set of resilient building standards as a part of the state code, optional for municipalities. DLI has the authority to establish a "code of standards" governing construction of buildings in the state. Because the state building code is made up a number of different model codes -- including, for example, a residential code, an electrical code, and a commercial code -- it may be possible to add a set of resilient building standards for municipalities to follow, as an optional section of code.

The Minnesota Legislature could also amend the authorizing statute for the state code to allow municipalities to have more control over the building code where climate change conditions warrant it. Currently, § 326B.121 prevents municipalities from adopting their own building codes. Several options exist that would grant municipalities more authority than they currently have, while allowing the state to retain varying levels of control.

First, the authorizing statute could be changed to allow municipalities to apply to the state for approval whenever they have unique circumstances, including climate change effects, that warrant more-restrictive building standards. This would allow the state to retain control over the building code, and still allow the state to retain discretion over any changes. Massachusetts currently follows this model.

A second possibility would be to grant municipalities the power to enact building standards that are more, but not less, restrictive than the state code. California and Pennsylvania both follow this basic model, which establishes a minimum level of standards throughout the state but allows some variation in a more protective direction. In both California and Pennsylvania, municipal changes are subject to review by the state agency that oversees the building code and can be rejected or denied if they are found to be unsupported.

A third possibility would be to amend the code to allow municipalities to enact more-restrictive standards whenever climate conditions warrant them. Washington follows this model, with one exception, allowing municipalities threatened by climate change to amend their local codes in specific ways, while still maintaining a mostly uniform building standard across the state.

Any of these three models would provide Minnesota municipalities with at least some discretion to strengthen their local building codes, while giving the DLI some measure of review and control over the content and strength of those changes. All would take action by the state legislature to change the state code.

Municipal Options

Although municipalities may not use the building code to mandate resilience, they have a number of other options. Municipalities in Minnesota have broad municipal powers to regulate local matters, which translates into several pathways to take action to improve building resilience. Municipalities may issue best practices to inform and motivate building managers and developers about how they can increase building resiliency, including benchmarking programs and building design best practices to educate and encourage developers to use those practices. Municipalities may also use incentive-based tools to encourage more resilient buildings without running afoul of the state building code. Examples include offering expedited permitting, bonus density for resilient practices, or financial incentives such as tax breaks, permit fee reductions, or rebates and subsidies.

Conclusion

While the state has already taken some steps to help municipalities adapt buildings in their communities to the effects of a climate that has already begun to change, there is much more that can be done to help make buildings more resilient and to protect both the buildings and the people using them. While municipalities certainly have some options to encourage more resilient buildings, legislative or administrative change at the state level would allow them greater flexibility to require particular resilient practices, while keeping a statewide minimum standard and allowing the state to control the amount of variation permitted. By explicitly allowing some variation, the state legislature or DLI can enable municipalities that are eager to promote resilience greater opportunity to better protect the people and property of Minnesota.