



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
 CONSTRUCTION CODES COORDINATING BOARD**

**MINUTES OF SPECIAL MEETING  
 Thursday, December 3, 2015  
 1100 4<sup>th</sup> Street, S.W. – 4<sup>th</sup> Floor- Conference Room E4302  
 10:00 am – 12:00 pm**

Members Present	Board Members Not Present	Board Staff Present	Other Persons Present
Jill Stern (Chair)	Robert Looper	LaShawn Dickey (DCRA)	Nicola Whiteman, AOBA (by conference call)
Rabbiah Sabbakhan	Armando Lourenco		Paul Waters (DCRA)
Jatinder Khokhar			Max Tondro (DCRA)
Marc Fetterman			Derek Hora (DCRA)
Kellie Farster			J.R. Clark, Squire Patton Boggs
Jason Wright			Lynda Murphy, Capitol Outdoor
Ethan Landis			John Polis, Capitol Outdoor
Bill Updike			Eric Jones, ABC Metro (by conference call)
Tony Falwell			
Dave Epley			

**1. Preliminary Matters**

(i) Call to Order

The meeting was called to order by Jill Stern, Chair, at 10:12 a.m. with a roll call of members and other persons present.

(ii) Adoption of Meeting Agenda

The meeting agenda was unanimously approved by the Board upon motion made by Bill Updike and duly seconded by Jason Wright.

(iii) Review & Approval of Meeting Minutes

Board members discussed and unanimously approved the meeting minutes for Tuesday, November 10, 2015, upon motion made by Jatinder Khokhar and duly seconded by Bill Updike.

**2. Status Update on Rulemaking and Legislative Proceedings**

Matt Orlins, Director of Legislative Affairs for DCRA, provided a brief update on relevant rulemaking and legislative proceedings. He noted the following: (1) the Harmonization Act will probably not be considered by the Council until February 2016 at the earliest, with adoption possibly in March 2016, (2) the two Administrative Bulletins (underpinning and neighbor notification) have been approved by



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the Director of DCRA and will likely be published in the DC Register on December 11, 2015; (3) the Third Notice of Proposed Rulemaking for the Title 14 Housing Code proposed revisions are in a 30-day comment period; (4) the Second Notice of Proposed Rulemaking for the Title 16 civil infractions revisions is awaiting certification by the Mayor’s Office in order to be published in the DC Register; and (5) DCRA’s Office of the General Counsel will now be reviewing rulemakings, including Title 12 rulemakings, in addition to the Office of the Attorney General. Regarding Title 13 new signage regulations, the proposed document is still being revised. Regarding the issue of unlicensed contractors in DC, he asked Board members with an interest in this subject to reach out to him by email with any ideas they might have for addressing this concern.

**3. Consideration of Previously Introduced Code Change Proposals**

The Board considered previously introduced code change proposals, and took the actions indicated below. Board discussions regarding these proposals are more fully detailed in the text below.

<b>Building Code</b>	<b>Sections</b>	<b>Introduced</b>	<b>Procedural History</b>	<b>CCCB Action 12.03.15</b>
BC-CCCB-1-6-2014	106.6.2 and 705.8.7.6	9.17.15	Referred to IP TAG 10.15.15	Deferred for further consideration
BC-CCCB-1-7-2014	105.1.6	10.15.15	Referred to IP TAG 10.15.15	Approved unanimously 12.03.15 Fetterman (M) Bill Updike (S)
BC-CCCB-Appendix N-1-2014	Appendix N, Section 101.1 and 101.3.5.3	11.10.15		Deferred for further consideration

Marc Fetterman advised the Board that he had spoken with Jatinder Khokhar, Gary Englebert, and members of the IP TAG (Eric Mayl, Cindy VerBeek and David Briggs), and he believed all parties to be in agreement on the proposed revisions to Sections 106.6.2 and 705.8.7.6 of the Building Code, regarding covenants for openings on lot lines, as shown in the revisions to BC-CCCB-1-6-2014 that had been circulated with the Board materials. Max Tondro of DCRA’s Office of General Counsel strongly objected to the proposal’s approach of requiring the covenant to be filed prior to certificate of occupancy, since he believes that the building permit stage is administratively preferable. He cited several recent cases where a project owner is in a rush to get a certificate of occupancy for an opening, and this urgency creates a problem for agency review and approval of covenants and recordation. Marc Fetterman expressed the opposite viewpoint, namely that lot line openings may change during the construction process so that recordation at the building permit stage may not reflect the actual construction. Jill Stern suggested that a possible compromise could be to require the covenant agreement to be legally reviewed and approved prior to permit issuance, but to allow



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for recordation prior to certificate of occupancy. This proposal seemed to present a possible resolution, and Max Tondro agreed to discuss the issues further with Gary Englebert and David Briggs prior to the next Board meeting.

With respect to the new code change proposal to revise Appendix N of the Building Code, Sections 101.1 and 101.3.5.3, (BC-CCCB-Appendix N-1-2014), the proponents of the proposal spoke about the reasons for their request. J.R. Clark of Squire Patton Boggs, representing Capitol Outdoor, advised the Board that the proposal was submitted to restore a provision in the sign regulations relating to interior signs that are more than 18 inches from a window, which provision had been adopted on an emergency rulemaking basis in 2011 but had never become final and the emergency rulemaking expired before adoption of the 2013 Construction Codes. Mr. Clark, and John Polis, his client, spoke about their concerns that this oversight could lead to a proliferation of large format digital screens on the lobby level of office buildings. Jason Wright confirmed that this possibility is not theoretical, and that companies are considering installation of signs that are more than 18 inches from a window, including digital displays. Robbie Sabbakhan expressed a concern about addressing this issue piecemeal, since there is an inter-agency sign working group and an ongoing rulemaking to establish comprehensive sign regulations in Title 13 of the DCMR. Jill Stern confirmed that the Title 13 rulemaking has proposed to require permitting of signs that are “fully visible from the exterior of the building,” and that she had revised the proposal submitted by Mr. Clark to track the language proposed in the Title 13 rulemaking since the language that had previously been adopted on an emergency basis appeared to raise issues under the June 2015 Supreme Court decision in *Reed v. Town of Gilbert, Arizona*. She told the Board that she agrees with the goals of the proposal regarding permitting of signs that can be seen from the exterior of the building, but reiterated that she had received advice from the Office of the Attorney General recommending that the CCCB not move forward with amending Appendix N of the Building Code, and defer instead to the comprehensive sign regulation approach that is reflected in the proposed Title 13. She pointed out that the proposed Title 13 will revise Appendix N in significant respects, and that Appendix N was intended as a temporary measure which would “sunset” upon adoption of Title 13. Because of the complexity of the legal issues raised, and the potential impact on DCRA enforcement activities, she recommended further legal review of the proposal and recommendation by DCRA’s Office of the General Counsel before the next Board meeting.

**4. Introduction of New Code Change Proposals None**

**5. 2015 Code Development Cycle**

(i) TAG Matters

Dave Epley asked that the Residential TAG and Energy Residential TAG be consolidated into one TAG. He thought this consolidation would be more efficient administratively, and he indicated that he would be able to identify TAG members with broad residential expertise to sit on the TAG. The



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Board unanimously approved this proposal, upon motion made by Dave Epley and seconded by Ethan Landis

(ii) TAG Applications

Jill Stern asked Board Members to review the TAG applications that have been submitted, and to be prepared at the Board meeting on December 17 to make recommendations for voting TAG members. She also asked Board members to identify any categories of stakeholders who should be, but are not, represented in the TAG applications and to reach out as necessary to make sure that the TAG membership represents diverse stakeholders.

She asked Board members to identify TAGs in which they would like to participate, so that the respective TAG Chairs can take this interest into consideration when formulating TAG recommendations. The following Board members expressed interest in TAG membership (in addition to TAGs they are chairing):

Marc Fetterman: Administration and Enforcement, Existing Buildings, Fire & Life Safety  
Robert Looper: Building  
Robbie Sabbakhan: Accessibility, Administration and Enforcement, Structural  
Jason Wright: Fire & Life Safety

(iii) Update on Board Recruitment

Chief Falwell of DC Fire has been sworn-in as the FEMS representative on the CCCB, and Robert Looper has been sworn-in as the private citizen on the Board.

**6. Comments by Members of the Public**

J.R. Clark and John Polis spoke about the Appendix N proposal, as noted in 3, above. No additional comments were made by members of the public.

**7. Adjournment**

The meeting was adjourned at 12:00 pm upon motion made by Jason Wright and duly seconded by Dave Epley. The next Board meeting is scheduled for December 17, 2015.