



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

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STATE BUILDING CODE COUNCIL SUMMARY SPECIAL MEETING MINUTES

LOCATION: DES Building – Room 2208
1500 Jefferson St SE, Olympia, WA 98504
with Zoom and teleconference options

MEETING DATE: Tuesday, November 28, 2023

Members in Attendance: Council Chair Tony Doan, Kjell Anderson, Jay Arnold, Todd Beyreuther, Justin Bourgault, Micah Chappell, Daimon Doyle, Tom Handy, Roger Heeringa, Matthew Hepner, Craig Holt, Tye Menser, Ben Omura, Katy Sheehan, Representative Keith Goehner, Senator John Lovick, Representative Alex Ramel, Senator Lynda Wilson

Members Absent: Pete Rieke, Lorin Lathrop

Staff In Attendance: Managing Director Stoyan Bumbalov, Assistant Attorney General Dierk Meierbachtol, Krista Braaksma, Dustin Curb, Rozanna Ghanie, Annette Haworth

Visitors Present: Bryan Ahee, Tim Attebery, Kim Barker, Miranda Beagley, Steve Belzak, Richard Blumenthal, Ken Brouillette, Abbie Bullen, Andi Burnham, Brett Conway, Jerry Cornfield, Josie Cummings, Greg Davenport, Kevin Duell, Mike Fowler, John Frankel, Miller Freeman, Patrick Hanks, Angela Haupt, Gary Heikkinen, Andi Hochleutner, Luke Howard, Jason Hudson, Adam Hutchinson, Morgan Jackson, Ty Jennings, Erik Jensen, Gregory Johnson, Jonathan Jones, Kevin Kaul, Brian Kehler, Jonny Kocher, Jason Krum, Aaron Larson, Jeremy Larson, Koby Lincoln, Carolyn Logue, Jeanette McKague, Daniel Miller, Kathleen Petrie, Liz Reichart, Tom Reiss, Kevin Rose, Lisa Rosenow, John Rothlin, Celina Sanchez, Ray Shipman, Deepa Sivarajan, Jeff Slichter, Andrea Smith, Earl Smith, Michael Snook, Tammie Sueirro, Kerry Sutton, Scott Swantek, Steve Tapio, Quyen Thai, Kelly Thomas, Patricia Thompson, Eric Vander Mey, Nick Waggood, Ted Williams, Crue Woodard, Tom Young

Agenda Items	Council Actions/Discussion
1. Welcome and Introductions	The meeting was called to order at 10:00 a.m. by Council Chair Tony Doan. Roll was called and a quorum was present. Everyone was welcomed and members of the public, who wished to, introduced themselves.
2. Review and Approve Agenda	Jay Arnold moved to approve the Agenda. Tom Handy seconded. The motion passed.

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<p>3. 2021 Washington State Energy Code-Residential and Commercial Worksession</p>	<p>Council Chair, Tony Doan, introduced the WSEC and Managing Director, Stoyan Bumbalov, addressed CR-103 Rule Making and workgroup process.</p> <p>Assistant Attorney General, Dierk Meierbachtol, provided legal clarification to the ruling making process, and explained the public comment process is designed and intended to give information to the Council that would be helpful in the final rule adoption. However, substantial changes would need to follow the Administrative Procedure Act, RCW 34.05; determining factors of “is the subject different vs is the effect different?”.</p> <p>Multiple members of the Council spoke to not skipping the 2021 Energy Code Cycle.</p> <p>Senator Lynda Wilson spoke to the absence of a Cost Benefit Analysis, issues with the Small Business Economic Impact Statements. The proposed code poses more challenges for builders, and it is being rushed, which leads to violation of the APA.</p> <p>Daimon Doyle stated that PNNL’s analysis showed that Washington State had gone more than 18%+ of the 2021 targeted goal and we are two code cycles ahead of where Washington State should be. The current proposed code is too restrictive. Daimon Doyle also stated that at the last TAG meeting, Option 2 was chosen where gas space heating and gas water heating were eliminated but Option 1 was not analyzed, and the Table C406 credits were not reviewed.</p> <p>Jay Arnold advised that discussion should focus on clarifying the code to better comply with EPCA and discuss the amendments that were suggested.</p> <p>Ty Jennings, member of the public, spoke to his letter and Small Business Economic Impact Statement.</p> <p>Krista Braaksma spoke to Ty Jennings’ concerns of the SBEIS and ORIA’s table.</p> <p>Managing Director, Stoyan Bumbalov, clarified that what is being discussed is the cost benefit analysis and how the SBCC’s preliminary CBA is created.</p> <p>Kjell Anderson presented suggestions based on Public Comment:</p> <ul style="list-style-type: none"> • Commercial: <ul style="list-style-type: none"> ○ Updating the effective year from the Olon Letter for the Commercial Code. ○ Updating footnote b in Table C503.4.6 from 10% to 5% based on Ty Jennings’s letter. ○ Clarify language in C406.1.2 “Where one occupancy group is less than 10% of the floor area of the project, use the primary occupancy group for those credits.” (based on Ty Jennings’s letter) ○ Update C401.3.6 Electrification Readiness item 1 based on the Olon Letter.
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	<ul style="list-style-type: none"> ○ Make the changes indicated in Amendments 1 through 5 of the Johnny Kocher letter. ○ In Tables C406.2(1) and (2), add the high efficiency water heating credit option 19 from Option 2 to Option 1. ○ Simplify the equation for credit normalization in Section C401.3.3.1 to $CR = A \times (B-C)/D$. ○ Language alterations to Sections C503.5 and C503.4.6 to specify that the fossil fuel path is allowed to be used. ● Residential: <ul style="list-style-type: none"> ○ Updating HPSF 2 values. ○ Amend the baseline for water heating in Table R405.4.2(1) to be a Federal minimum heat pump water heater vs a Tier 1 NEEA water heater. <p>Jay Arnold spoke to his proposed language change in C501.1 for existing building and HB 1042 and discussion was heard.</p> <p>Ben Omura spoke to Eric Vander Mey's editorial proposal to Section C401.3.6, Electrical Readiness.</p> <p>Patrick Hanks, member of the public, spoke to Small Business Economic Impact Statement and his Public Testimony.</p> <p>Daimon Doyle spoke against changing the U-factor for above-grade walls in Table R402.1.2.</p>
<p>4. Action on 2021 Washington State Energy Code - Commercial</p>	<p>Motion: Kjell Anderson moved to adopt into CR-103 rule making process the CR-102 Commercial Energy Code provisions option one with the following public comment and modifications:</p> <ul style="list-style-type: none"> ● Updating the effective year from the Olon Letter for the Commercial Code. ● Updating footnote b in Table C503.4.6 from 10% to 5% based on Ty Jennings's letter. ● Clarify language in C406.1.2 "Where one occupancy group is less than 10% of the floor area of the project, use the primary occupancy group for those credits." (based on Ty Jennings's letter) ● Update C401.3.6 Electrification Readiness item 1 based on the Olon Letter. ● Make the changes indicated in Amendments 1 through 5 of the Johnny Kocher letter. ● In Tables C406.2(1) and (2), add the high efficiency water heating credit option 19 from Option 2 to Option 1. ● Simplify the equation for credit normalization in Section C401.3.3.1 to $CR = A \times (B-C)/D$. <p>Seconded by Jay Arnold. Kjell Anderson spoke to the motion and addressed letters from the public.</p> <p>Amendment 1 to Motion: Micah Chappell moved to modify the motion to strike out Section C401.3.6. Daimon Doyle seconded.</p> <p>Micah Chappell stated that the modifications proposed would increase costs as two service conduits would have to be installed: one for immediate usage and one for future upgrades, additional</p>

accommodations for utility, equipment comprised of transformers or other equipment necessary. The proposed modifications go beyond what the Council is tasked to do.

Roger Heeringa asked for clarification if the code change that is proposed, was this adopted in 2022? Kjell Anderson confirmed that the code was not adopted in 2022.

Todd Beyreuther asked for further discussion from the Council as the concern is 50-100 years from now when certain systems are obsolete, will buildings be ready to incorporate new changes.

Jay Arnold supports the electrification policy, but the discussion is to EPCA and EPCA Adjacent changes needing to reduce legal risk.

Craig Holt expressed that with the number of modifications proposed by Kjell Anderson, it would be best to have more time to review the proposals as well as hear more from the public.

Representative Alex Ramel spoke against Micah Chappell's amended motion stating that adding the requirements now will not cost developers more as versus retrofitting later.

Micah Chappell responded to Representative Alex Ramel's statement voicing that required equipment sizing is based on equipment needed for present day technology, but the Council is speculating what technology will require in the future which is an added cost. In addition, Micah Chappell asked how this ties in with the EPCA issues being addressed?

Todd Beyreuther stated that he supports the initial proposed motion as it the most cost effective.

Daimon Doyle stated that this was not a part of the first nor second TAG meeting. He will support the initial motion but supports the amended motion of striking the C401.3.6.

Matthew Hepner spoke to striking the section as the initial motion provides flexibility for the homeowner on what to do with the spare conduit. It may cost hundreds upfront but will save thousands later.

Daimon Doyle asked if the electrification fell under the Department of Labor and Industries versus SBCC? Micah Chappell stated that it would depend on if a jurisdiction has an electrical program or not, but the whole discussion previously on electric vehicles was based on legislative and it is in the building code.

Kjell Anderson clarified that the initial motion is in the Commercial Energy Code and would apply to multi-family with enclosed corridors and all commercial buildings, not single family or town home residential. Some discussion about electrical readiness was discussed at the TAG level.

Micah Chappell inquired if the size for the equipment was calculated to support all heat pump appliances and what are those specific appliances? Kjell Anderson responded stating that he is

not versed on electrical equipment sizing, but modified language was discussed at the TAG. In the Kocher letter, amendment four listed appliances as fossil fuel, space heating or service water heating appliances installed but the main motion is to clarify appliances just as space and water heating appliances.

Tom Handy believes that this was discussed a previous meeting, possibly an SBCC meeting, and there was a motion to strike but it did not move forward due to lack of a second.

Roll call was taken to approve amended motion. Motion failed 5 to 8.

Amendment 2 to Motion: Kjell Anderson amended his original motion to include language in Sections C503.4.6 and C503.5 to specify that the fossil fuel path is allowed to be used. This was considered a friendly amendment to the original amendment by Kjell Anderson and Jay Arnold.

Amendment 3 to Motion: Ben Omura discussed various editorial corrections, which were accepted as friendly amendments to the original motion by Kjell Anderson and Jay Arnold.

- C401.3.1: Remove "...or any combination of the two" from the last sentence, redundant language. (Vander Mey - 1)
- C401.3.4: Change references to Sections "C401.3.2.1" and "C401.3.3.1" to "C401.3.3.1" and "C401.3.3.2", respectively. (Vander Mey - 2)
- C401.3.6: Remove "utility" from Item 4 in both locations. Update last sentence to "...the space to support electrical service upgrade but also include accommodations for additional cooling for larger transformer(s)." (Vander Mey - 3)
- C406.2.5: Revise definition from "AEC_0.1" to "AEC_b" to align with terms used in equations. (Duell)
- C503.4: Revise "C503.4.2 through C503.4.5" to "C503.4.2 through C503.4.6". (Olnon)
- C503.4.3: Revise "C503.4.3" to "C503.4.6". (Olnon)
- C503.4.6: Revise "like-for-like heating appliances" to "...heating equipment with equipment that is the same type and..." to align with C503.5. (Vander Mey - 4)
- C503.4.6.1: Revise reference to "C403.3.7.2" to "C403.3.8.2". (Olnon)

Jay Arnold asked for clarifications as to why Kocher's Amendment 6 was not included in the motion. Kjell Anderson felt that retaining the option one credit tables was clearer and more conservative but the high efficiency gas water heating credit options from option two were added.

Daimon Doyle asked if PNNL has had a chance to review to see what kind of impact the changes will have as far as energy efficiency? Kjell Anderson stated that PNNL was one of the two entities that updated the table credits and had a strong hand that the fossil fuel path and heat pump path were equivalent.

Daimon Doyle also expressed concern that option one amendment one reverses language that the TAG and the MVE committee approved that allowed electric and gas hybrid heating which is therefore is major change to the CR-102.

Roger Heeringa stated the number of changes is not concerning as the Council will want to make sure the code is user friendly for everyone.

Amendment 4 to Motion: Jay Arnold moved to amend the second sentence in C501.1 to read: “Unaltered portions of existing buildings use for residential purposes that received a certificate of occupancy at least three years prior to a permit application for residential uses shall not be required to comply with this code.” and add an exception to C503.3 stating that for buildings that receives a certificate of occupancy at least three years prior to this permit application, any space that is converted to a Group R dwell unit or portion thereof form another use or occupancy. Tye Menser seconded.

Further discussion was heard regarding the proposed legislative bill and whether or an exception to 505.3 would meet the intend of the legislative bill.

Amendment to amendment 4: Jay Arnold moved to remove the suggested changes to C505.3 from his earlier motion. Micah Chappell seconded.

Roll call was taken to approve amended motion. Motion passed unanimously.

Kjell Anderson provided explanation to code language in his initial motion.

Ben Omura provided explanation to editorial changes to proposed code language that is a part of Kjell Anderson’s motion.

Daimon Doyle sought Assistant Attorney General, Dierk Meierbachtol, perspective on if the Council has gone beyond what is substantial in the CR-102? Dierk Meierbachtol stated that he was unable to provide legal counsel as it will be the decision of the Council on whether if they are comfortable with moving forward. It was suggested that the Council could consider going over the definition of a substantial difference in RCW 34.05.340.

Much discussion was held on the status of the Cost Benefit Analysis.

Roll call was taken to approve motion. Motion passed 9 to 4.

<p>5. Action on 2021 Washington State Energy Code - Residential</p>	<p>Motion: Kjell Anderson moved to adopt the CR-102 Residential Energy Code provisions into the CR-103 rule making process with the following modifications:</p> <ul style="list-style-type: none"> • Add HSPF 2 values in Table R406.3 options 3.3, 3.5 3.6 and 3.7. • Correct a typo in option 3.6 of Table R406.3. • Amend the baseline for water heating in Table R405.4.2(1) to be a Federal minimum heat pump water heater vs a Tier 1 NEEA water heater. <p>Ben Omura seconded the motion. Kjell Anderson spoke to the motion.</p> <p>Amendment to the motion: Daimon Doyle moved to strike the change in Table R402.1.2 to the U-factor for Above-Grade Wall from 0.56 to 0.45. Craig Holt seconded. Daimon Doyle spoke to the amended motion. Craig Holt spoke to amended motion.</p> <p>Kjell Anderson explained that during the TAG meetings the R-value was updated but the U-factor was accidentally not updated to match the R-value. Thus, this is considered a clerical error.</p> <p>Senator Lynda Wilson asked if this was discussed by the MVE Committee and at the TAG level to which Daimon Doyle said it was not. Senator Lynda Wilson asked if this would be considered a significant change versus an editorial error. Daimon Doyle agreed that this would be considered a significant change.</p> <p>Further discussion continued regarding the U-factor change proposal.</p> <p>Roll call was taken to approve amendment to the motion. Motioned tied 6 to 6; Council Chair, Tony Doan, voted to make the final vote 7 to 6. Motion passed.</p> <p>Roll call was taken to approve the motion. Motion passed 10 to 3.</p>
<p>6. Adjourn</p>	<p>The meeting was adjourned at 1:53 p.m.</p>