

CALIFORNIA BUILDING STANDARDS COMMISSION MEETING
April 7, 2022

Agenda Item 1. Call to Order

Designated Chair Justyn Howard called the meeting of the California Building Standards Commission (CBSC) to order at 10:08 a.m. The meeting was held via Zoom, teleconference, and at the California Department of Health Care Services, First Floor Auditorium, 1500 Capitol Ave., Sacramento, CA 95814 hosted by the CBSC.

Roll Call: CBSC Staff Member Pamela Maeda called the roll and Designated Chair Howard stated that a quorum was present.

Commissioners Present: Deputy Secretary Justyn Howard, Designated Chair
Elley Klausbruckner Erick Mikiten Rajesh Patel
Kent Sasaki
Aaron Stockwell
Juvilyn Alegre
Frank Ramirez
James D. Haskin
Laura Rabin

Commissioners Absent: Peter Santillan

Pledge of Allegiance

Chair Howard led the Commission in the Pledge of Allegiance and gave instructions regarding public comments and teleconferencing.

Item 1a. Commissioner re-appointments

Chair Howard stated that, earlier this year, Governor Gavin Newsom re-appointed Commissioners Erick Mikiten and Kent Sasaki to additional four-year terms.

Commissioner Mikiten is the principle of Mikiten Architecture and was re-appointed as the Public Member. Mr. Mikiten is a licensed architect and wheelchair rider. He is experienced and knowledgeable in barrier-free architecture and the requirements necessary to ensure public buildings are accessible.

Commissioner Sasaki is the principle and Board of Director member of WJE, a nationwide engineering and architectural materials science firm. He is a California registered civil and structural engineer and serves CBSC as the Structural Engineer Member.

Chair Howard conducted the swearing-in process.

Agenda Item 2. Questions or Comments from the Public

There were no questions or comments from the public.

Executive Director Mia Marvelli reminded the public that May is the International Code Council's (ICC) Building Safety Month. This is an international campaign celebrated every May to raise awareness about building safety. Each week represents a featured theme centered around building safety, such as energy and innovation, planning for a safe and sustainable, careers in building safety, and the various actions taken by the ICC to address these issues. ICC is emphasizing the significant role that building and fire officials play in keeping our built environment safe. There is also a theme for disaster preparedness. This is to understand the four phases of emergency management, disaster mitigation, preparedness response and recovery. The last theme for May is water safety, which is about creating a safe and abundant water supply. Clean water is the world's most precious commodity. Last year, the Governor announced a proclamation supporting Building Safety Month and CBSC is working on that with the Governor this year as well.

Agenda Item 3. Title 24 process, timeline, and public participation

Chair Howard noted that this agenda item presents an opportunity for the Commission to discuss the Title 24 Rulemaking process.

Item 3a. Commission meeting process, including but not limited to, limits to queuing for public comment, time limit for public comments, pausing for commission discussion, voting order:

Executive Director Marvelli provided an overview of the process, employing PowerPoint slides while doing so. She began by noting that the topics for discussion came about from the January 18, 2022, Commission Meeting. The Commissioners had questions and wanted clarity on the public participation process and other items that can make the rulemaking process more efficient.

- The first slide represents an overview of the Title 24 rulemaking phases. This displays the pre-cycle through publication.
- The rulemaking process can take anywhere from 18 to 24 months. CBSC determines the timeline of the phases ahead of time by reverse engineering from the effective date and then subtracting the required 180 days that the regulations need to be available to the affected public, then the time it takes to work out the issues with the publishers for publication.

- CBSC also reverse engineers the Commission meetings for final adoption and review. This timeline considers the public processes required by the Administrative Procedures Act (APA) and building standards law.
- CBSC is now in its development period. The new codes have not yet been published. They will be published July 1 of 2022 but CBSC also started the next code cycle. Any time between February 2022 and August 2022, state agencies can begin having pre-cycle workshops.
- The most common documents are the Express Terms (ET), the Initial Statement of Reasons (ISOR), the Final Statement of Reasons (FSOR) and the need for the nine-point criteria analysis. These documents are required by either the APA or building standards law.
- In the case of building standards, the rulemakings are filed with the CBSC for review and compliance with the APA and building standards law. In addition to these documents, building standards law requires that state agencies submit a nine-point criteria that substantiates that they do not conflict with other building standards; that they are also within the jurisdiction of a state agency; they are in the interest of the public; they are not unreasonable, arbitrary, unfair or capricious; the cost to the public is reasonable; they are not unnecessary or ambiguous or vague; model codes are incorporated; and the format is consistent with building standards.
- The Office of the State Fire Marshal (SFM) also review them to ensure they do not conflict or require fire life safety items.
- The “399” is a Department of Finance (DOF) document and is reviewed by DOF and, if necessary, DOF signs the 399, concurring the state agency's determination of the fiscal and economic impact.

Commissioner Klausbruckner: Initially, when we were discussing this in January, part of the question was whether we could make the process more efficient, to allow the public more time for comments and the Commission to be able to send certain sections back for further study. The goal was to make it more inclusive, to ensure the public has enough time to provide comments to appropriate agencies.

Executive Director Marvelli responded: She went through the slides, so the Commission and the Public sees the process that the APA requires.

- The workshop phase emphasizes the beginning, the foundation, for developing the rulemaking. It is the responsibility of the state agencies to conduct these workshops. The requirements are actually found in the APA, and in addition, they are found in the California Administrative Code, Part 1 of Title 24, and in 1-403. The purpose of that section is to remind state agencies that they “shall conduct workshops to solicit input on proposals that are complex or large in number.”

- CBSC conducts the Coordinating Council Meeting and that is another opportunity for the state agencies to discuss what might be coming up in the future code cycle.
- For example, CBSC, Housing and Community Development (HCD) and Division of the State Architect (DSA) will be conducting a group workshop for electric vehicle charging. Based on the feedback at that meeting, it might be decided that more meetings are needed in order to shape the code change for the 2022 code cycle.
- The due date for initial rulemaking submittals is December 1, and that allows state agencies to have the beginning of the year to allow that pre-cycle work and it is the “kickoff” for CBSC rulemaking. After they are submitted the CBSC staff begins reviewing the documents for compliance with the APA.

Commissioner Patel: When departments do their pre-cycle workshops, are the results published anywhere, does it get distributed anywhere?

Executive Director Marvelli: In the case of CBSC, we are starting to record those on YouTube. There are no requirements for the agency to publish finalized notes.

Commissioner Sasaki: On the pre-cycle portion – how does the public get noticed? How do interested parties get contacted about potential workshops?

Executive Director Marvelli: the pre-cycle phase is a requirement by the individual state agencies, they would be announcing their pre-cycle workshops through their listservs, much like CBSC does. CBSC does not send other state agencies individual workshops notices out, this is the responsibility of the state agencies.

Commissioner Patel: The public would go through the individual agencies to find out the public input. Is that an accurate statement?

Executive Director Marvelli: The information is documented in the ISOR For example, Greg Andersen is conducting ICC and WUI workshops, and in the ISOR submitted to CBSC, SFM would say “conducted these workshops on these days, and these were the outcomes of those workshops.”

Greg Andersen, SFM Code Development Analysis Division Chief: It depends on the work groups. For example, WUI Building Standards is an ongoing group, which meets every month. And when it has gone through the cycle, SFM has one meeting where all of the proposals are reviewed from all of the work group meetings. The draft cycle is on SFM’s website, then submitted to CBSC, then SFM goes through the next cycle.

Commissioner Klausbruckner: Do you think the other agencies follow the same process?

Greg Andersen: I know that DSA has a highly active work group for Accessibility. I think it would depend on the particular state agency.

Executive Director Marvelli: One of the things that CBSC staff is responsible for is reviewing ISOR and determining if they did pre-cycle workshops on a particular subject. It is a requirement, so if a state agency is conducting a complex and/or substantial number of rulemakings, they are conducting those workshops.

Chair Howard: Does it specify how many workshops they are required to do? For example, does it say you have to conduct a meeting in the north part of the state and the south part of the state, to ensure different perspectives?

Executive Director Marvelli: No, the APA does not get that specific. It depends on the complex nature of a particular subject.

Commissioner Rambin: Is there a different strategy about the pre-cycle workshops, say the triennial code workshop as compared to the intervening code cycle?

Executive Director Marvelli: State agencies try to provide the approved express terms that are not published yet, so the participants see the most up-to-date changes.

Greg Andersen: Some of this is based on the workload. When we are on a triennial, we have a new code. A lot of workload is going through the new codes. Sometimes on the intervening code they are not doing the big package and is different with each agency.

Chair Howard: presented a scenario:

- At pre-cycle workshops the public provides input
- Agencies take that input and craft language
- What is the time frame?

Greg Andersen: responded with a process:

- Discuss within the work groups the issues
- Make it a rounded work group with the members, which represent the different interested parties, and open for the stakeholders
- Hear the comments
- Recommendation of the SFM who approves the suggestions of the work group

Commissioner Mikiten: What if people dispute what was discussed in a workshop and it might be useful to document what people say in the workshop and have something that is published as minutes, or a summary?

- Greg Andersen: SFM has taken minutes and working on, publishing more of those so people can review them to create transparency.
- Emily Withers, Housing and Community Development (HCD): HCD does conduct focus group meetings during the pre-cycle portions of the rulemaking cycle. In certain cases, the changes are very minor, they are editorial or HCD is adopting the code verbatim.
- Jenna Klein, HCD: HCD takes notes of all the work groups so that stakeholders can review those on HCD's website and make sure they see the changes and the progress that HCD is making along the way. HCD does not post the meeting minutes due to the accessibility issue.

Commissioner Patel: When you hold your workshops are you able to reach some sort of consensus, or do you try to have consensus before you end the meeting?

- Emily Withers, HCD: takes some of the consensus back and digest it and then work on a strategy
- Executive Director Marvelli: the last couple of years conducting these virtual meetings and conducting these pre-cycle workshops, it allows for more public participation. It is about 20 to 25 percent increase in the participation at the workshops because it is a virtual format and that is actually helped.
- CBSC has recording of these meetings, and it is a way around not having meeting minutes posted. The recordings are available on YouTube channel.

Michael Malinowski, AIA CA Consultant: In trying to monitor and interact with the co-development process throughout the state agency landscape, one of the challenges is that, in California these complex topics get assigned to different state agencies.

Executive Director Marvelli: The Code Advisory Committee (CAC) review. This process is actually unique to CBSC; other state agencies do not have this same process (slide presented). These are the administrative code's part one, it contains regulatory language for the CAC membership and the process by which CAC members review the proposed code language every three years.

- The Commission reconstitutes the six Code Advisory Committees from applicants that have technical expertise in specific disciplines of building design and enforcement. Later on in the agenda we will be discussing the subcommittee that actually reviews those applications and selects and nominates the members.
- Once CBSC staff has reviewed the many rulemaking packages that were submitted by the state agencies then they prepare them for CAC review then a

public meeting is conducted. The CACs review each code change and provide a recommendation which is documented on the Commission Action Matrix. It is often a dialogue back and forth between the committee members, the public, and the members of the audience.

- After the meeting, the state agencies have an opportunity to refine that code language, based on the recommendations and the public feedback. They also refine the other rulemaking documents. For example, the ISOR includes what the recommendation was and any changes they made for various reasons. The state agencies resubmit the code packages back to Commission staff and the staff prepares that information for the 45-day public comment period.
- Eventually those recommendations are seen by the Commission.

Commissioner Klausbruckner: As Commissioners, we go through a lot of ethics workshops and ethics disclosures. Do the CAC members go through a similar ethics process?

- CAC's do not take Ethics training through CBSC. The Commissioners do and they fill out Form FPPC 700.
- Executive Director Marvelli: The CAC meetings are conducted pursuant to Bagley-Keene, so the concept is that it is an open public process.
- Greg Andersen: stated that the advisory committee gives a recommendation, so the state agencies will then bring forward their recommendation, whether they agree or not, because the advisory committee recommendation is not binding.
- Executive Director Marvelli: As we mentioned, the state agencies modify their code packages based on the CAC recommendations and any feedback they receive at those meetings. CBSC staff prepares their documents based on the CAC recommendations and any feedback they received at that meeting, then they resubmit to the CBSC staff and CBSC staffers use those packages, once again making sure they comply with the APA and building standards law, and that they have included any changes or responses based on the recommendations.
- Staff prepares these documents for the formal public comment period, which is required by the APA. The Notice of Proposed Action and the Face Sheet are submitted to the Office of Administrative Law for notice in the California regulatory notice register. A minimum 45-day comment period is conducted, and subsequent comment periods can be conducted for additional code changes.

- If the state agency determines that they need to make further changes, those changes are posted on the website and an ensuing public comment period occurs.
- If there are significant code changes it may necessitate another 45-day comment period; if they are sufficiently related it may just necessitate a 15-day comment period. If there are additional comments, there can be additional comment periods to address those comments. When the rulemaking needs to be modified, all of that is also documented on the Commission Action Matrix (CAM).
- A CAM is a record of what is occurred throughout the code cycle. It is important to note that the public can comment on the issued or publicly noticed code changes; this is not an opportunity for the public to include a code change to something that was not part of the rulemaking package.

Commissioner Sasaki: On the public comment period, the 45-day, how often is it that there is more than one 45-day comment period?

Executive Director Marvelli responded: CBSC staff reverse engineers the time frame. CBSC management, due to communications and coordination with the state agencies, are aware that there might be controversial topics, so we anticipate that ahead of time.

Commissioner Klausbruckner: Any suggestions on efficiencies to provide more time as Commissioners to be able to send it back for further study if the nine-point criteria is not met?

Commissioner Mikiten: I think having more time is an important, but I think that, at least half the time, the issue is more that we are unsure. A suggestion that at the beginning of each meeting that we have, a graphic that has been developed that shows the commission and the public, the 18-month period.

Chair Howard: How often is it that we get comments that are raised for the first time, when we are getting ready to approve, that kind of give us pause, that was not raised in an earlier process? Is that a common occurrence?

Commissioner Klausbruckner: No. It is what happened during the workshop as Commissioner Mikiten said people, members of the public not understanding the process or not wanting to hear the process, or they actually were not heard by the agency.

Commissioner Mikiten: I would say it is more common within the accessibility issues that come up in the code.

Commissioner Klausbruckner: we have seen quite a bit of improvement on that.

Commissioner Mikiten: I do agree, With the work that DSA has done, with their separate working group that was created a couple of years ago, that is definitely provided another layer.

Commissioner Patel: I totally agree with what the Commissioners have said. We are starting to see it now from the sustainability committee because it is such an important issue. But this is a two-year code process that we are going through with these workshops. And when you start technology and what is out there for climate change at this point and we are a year and a half into the process and now things have changed, and yet people want to add something at the end based on what they know today.

Commissioner Sasaki: It would be good to go over two of the four actions. The first two are pretty obvious we “approve,” or we “disapprove” a set of amendments with proposals. But the other two “further study required” means, and then “approve as amended.” If a brief explanation, and “further study required” that needs explanation.

Executive Director Marvelli responded:

- The introduction of new information at a Commission meeting is actually, it is pretty clear in the APA and also in our regulations that new information cannot be introduced to a state body and considered in the rulemaking. Part of the reason for that is it has gone through this arduous process, so that would create in some cases a substantive change and we would have to start the process all over again.
- The other thing that was raised is the time part, because on a triennial code cycle, if I recall, in December there were somewhere between 18 and 23 rulemakings that the Commissioners were reviewing in three days. And then in January it was about the same amount. So, it is a huge amount of material.
- One of the things I try to encourage the Commission to do throughout the year is to participate and listen in on the pre-cycle workshops that are occurring and then, when the CBSC staff are noticing the CAC meetings and then the public comment periods, I remind the Commission that those are occurring, and you may want to prepare yourself for what's going to be heard at the end of the rulemaking cycle. That is just something to keep in mind, so you are not caught off guard at the end of the code cycle when you are seeing the regulations.
- When listening in on a CAC meeting you can certainly comment during the meeting. You are representing yourself, learning about the rulemaking but not necessarily weighing in as a commissioner.

Commissioner Haskin: my understanding then is the Commission's primary role is the final Commission review. Is there any way then for some summary of comments in these workshops?

Commissioner Klausbruckner concerned with the same ethics issues and Commissioners are held to an extremely high ethics standard; and then, when it is based on an advisory basis that has the most influence on what is eventually published or eventually approved. It happens during the code advisory committees (CAC) and yet they may not be held to the same ethics standards.

Greg Andersen: SFM department, goes through the ethics training every year. I will also suggest that, with the newer technology, if the CAC committee is recorded on YouTube, it would be a good thing for the Commissioners to watch later. All of SFM's public comments have to be acknowledged in SFM's FSOR.

Chair Howard: I know most staff and many of the departments that they all go through the same ethics training, which is the FPPC requirements, because when you are in those levels, positions of authority and decision making, you are required to.

Commissioner Patel: the CAC members, are chosen by this Commission. They do submit their applications to us with a full resume and, in accordance with Title 1, they are chosen based on the specific expertise that each of them has. I am not as concerned with the ethics on the CAC.

Commissioner Klausbruckner: I have no doubt that people have the best of intentions when they attend the meetings.

Commissioner Mikiten: I wonder if there have ever been instances over the many years where somebody's participation on a code advisory committee was questionable.

Greg Andersen: I have never had an issue with the CAC members. I absolutely have had issues with our work groups because a lot of times I know who they represent, and their mind will never change based on who they represent. But I still want them there to represent their side because it is important to the process.

Executive Director Marvelli responded:

- CBSC has not had that issue with CAC members. The California process is the state agencies who are developing the code language, not the CAC members. They are making a recommendation based on the information provided to them, but it is up to the state agency to develop that code language. This process is different than the national process.

- No new information can be raised at the Commission meeting that is not part of the rulemaking package, and it is clear in the APA. It also helps the state agency that is presenting the code package to remind the Commission of “this was addressed during the 45-day comment period” or “this is new information and it’s an opportunity for the Commission to ask questions of the state agency that is presenting the code package.”
- The part of the nine-point criteria is that the Commission shall give great weight to the determinations and the analysis of the state agency that has brought forth the building standards code package because they were in the thick of it, they have to comply with the APA in order to get this far. The determination shall be considered conclusive by the Commission, unless the Commission specifically finds that the factual determination is arbitrary and capricious or unsupported by the evidence that was provided.
- The Commission to “further study” something that might be challenging because, if the facts were in the rulemaking, that could be challenging. You would have to determine a reason it was arbitrary or capricious for the state agency to create such a code change. I hope that answers the “further study required” motion.
- The “approve as amended” motion, which is in part one of the administrative code is a little clearer. It is used when a state agency needs to fix a section, the public heard it, the public agrees with this, we are bringing this to you so that when the Express Terms are filed with the Secretary of State, they are accurate.” So that would be an “approve as amended” that is brought forward by a state agency.

Chair Howard: it is conforming adjustment within the code sections, It was just missed, and the State agency forgot to technically conform this section or that section?

Executive Director Marvelli: Yes, and it is a little bit more than a grammatical change.

Commissioner Klausbruckner: On the motion to amend, it was suggested on an editorial change, and it was ruled out of order, even though it met the intent of what was proposed. It sounds like the only time something can get mended is if the state agency proposes an amendment. All we can do is vote yes or no to the amendment, is that correct?

Executive Director Marvelli responded: Yes. Sometimes what is discovered at the dais is an incorrect section number, grammatical errors, things like that. That can be handled by the “approved” motion. It is not wrong to handle it by “approve as amended.” The regulations themselves state that “approve as amended” is something where the state agency has brought forth a change and they are asking the Commission to approve it as amended.

Commissioner Mikiten: If we wanted to keep the “approve as amended” to the presentation that the proposing agency has, we could just make a motion to approve with editorial change. Would that be a reasonable sort of way to put it?

Executive Director Marvelli: Yes, you are making a friendly editorial.

Viana Barbu, CBSC Legal Counsel: I think the summaries have been spot on with the law. If there are any additional legal questions I can answer them, but the summary was correct.

Executive Director Marvelli: Went back to the PowerPoint presentation.

This is simply the phase of the rulemaking where the Commission has approved code changes and adopted the codes. The publication process takes about six months. The key here as well is that the Health and Safety Code requires that there be a 180-day wait period after publication before the code becomes effective. That again is part of that reverse engineering of the time frame.

- Most of enforcement is delegated to the local jurisdictions, except for things such as handled by prior OSHPD hospitals, or HCAI, and then DSA for state essential services, public schools; K-12, and community colleges. Then the local jurisdictions start working on their local amendments soon after publication, and those are filed with CBSC.
- There are some exceptions for energy reach codes. Those are filed with the Energy Commission. And there are a number of local amendments that must be filed with the HCD.
- It is important to remind everybody that broad input happens during the pre-cycle workshops; and I heard a number of good comments about the necessity for recordings or minutes that are provided that allow the public to see what was conducted during those workshops. The APA is really what drives this entire process and narrows the rulemakings down to the point where they are available for a Commission board to take action on them.
- The Bagley-Keene Open Meeting Act is used at public meetings, and that is at the CAC level and at the Commission hearing level. Those are state bodies that must comply, to the Open Meeting Act. And the public comment portion of that, there is no requirement in Bagley-Keene that the Commission actually deliberate on the comments that are provided during the meeting, it is merely a function of the of the Bagley-Keene that the public be heard at a meeting.

Commissioner Sasaki: when does the intervening cycle begin?

Executive Director Marvelli responded: For the purposes of CBSC staff, for the function of our “big hat” which is administering the code cycle, December 1 is when it starts. But the important aspect here is this pre-cycle phase. Right now, state agencies are conducting that pre-cycle outreach. We look at the intervening code cycle as already having started, and this is the “awkward time” where we do not have a published 2022 Title 24 yet, but we already need to start discussing the code changes for the next code cycle.

Depending on what the state agency is doing, in the code cycle they may or may not have already had a pre-cycle workshop. You have heard Chief Andersen mention that their office is already conducting workshops, April 4th. CBSC collaborated with DSA to conduct a Cal Green carbon reduction workshop collaborative. We are going to have one every other month and then next week we have an EV workshop, and then CBSC will continue to have workshops through the summer.

CBSC will be doing a bird-friendly workshop and a plumbing code workshop as well. The EV code changes, for example, we are going to go back and look at what public comments were received last code cycle and discuss this code cycle” and add on to the EV code changes. If there was legislation that passed, it is possible that a state agency has to implement that legislation this code cycle.

Commissioner Sasaki: changes or amendments that happen after publication, for example the new code, which will be the 2022 California Building Standards Code, is there a certain schedule for any changes or amendments that would need to happen or have to happen prior to the following code cycle or following edition coming out?

Executive Director Marvelli responded: The code cycle that we are discussing is just what you said, it is that interim or intervening code cycle. We go through this entire process, February to August is the pre-cycle part of the timeline and, February to March is for the Code Advisory Committee (CAC) review meetings. Public comment period next spring, July of 2023. The Commission would review, and hopefully approve, and take action on any code changes. That would be part of those blue supplements. These are still part of the 2022 code, but they are the blue pages that are effective in July of 2024.

Then for the next code, the 2025 – again, depending on when the ICC codes and the uniform plumbing, mechanical and national electrical code are available, which is the next edition of those, the state agencies start looking at that for the triennial.

Commissioner Klausbruckner: there is something on the Building Standards Commission website that shows the entire cycle, including the intervening. So that might be a good reference for people.

Executive Director Marvelli: Yes. We used to call it “the cigar” and it was that long timeline that was actually specific for each code cycle. We do create one of those, every 18 months.

Commissioner Rambin: On the intervening code cycle, is it always published on the same date? It is very confusing for people that have to use the code. We know that on January 1st every three years we get a new code. That intervening code sometimes has substantial changes that can affect the program of a building and the local jurisdictions have a responsibility to enforce that intervening change, but it may mean a complete redesign of a building that has already gone through planning entitlements.

Executive Director Marvelli responded: Good Point. Yes, it is the same publication date and effective date, every 18 months. The supplement would be published in January of 2024, and it has a 180 day wait period, just like the issuance of a new version of Title 24. That supplement does not become effective until six months later, which is July of 2024. CBSC does send out an information bulletin to the local jurisdictions and the folks that are on our listserv, letting them know that the supplement has occurred, and it is going to be published on X date, it becomes effective on X date. Sometimes we list a summary of those code changes.

Commissioner Rambin: Stated that would be helpful.

Executive Director Marvelli: This was discussed earlier at the Commission meeting, regarding setting time limits on the public comments that are provided at the Commission meetings, and this could also apply to CAC meetings as well.

- At the CAC meetings having time limits when feedback and deliberation occurs between the public and the CAC members and state agencies during those meetings. Setting time limits for those could be a challenge to getting meaningful participation and feedback at those meetings.
- The Bagley-Keene Open Meeting Act, which is where this occurrence falls into, says “the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state bodies’ discussion or consideration of the item.” But Bagley-Keene does not have a requirement that the state body act on those comments.
- Bagley-Keene also authorizes that “the state body may adopt reasonable regulations to ensure that the intent of the subdivision is carried out, including but not limited to regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.”

- You can set time limits for each individual. The other topic that has been discussed is the notion that sometimes people put themselves back in the queue and they comment more than once during a particular item.

Commissioner Sasaki: Based on my experience, the time individuals talk has been handled pretty well when there is a large number of people who want to make comments.

Commissioner Mikiten: suggested to have some comment, like, “please stay on topic” and things like, although I do not know that necessarily has much effect. Have a baseline or standard time period like three minutes, or four minutes.

Commissioner Rambin: Following up on people putting themselves back in the queue, I do not take issue with that if it is responding to another commenter's comment. If it is just to reiterate what they have already said, that seems less appropriate.

Commissioner Klausbruckner: Going back to Commissioner Mikiten's comments, which is how the ICC process is. The proponent has a set amount of time and then they have a set amount of time for responses if the opponent's side has comments.

Commissioner Mikiten: It is important that we set that marker, set a time limit, and then people know well before they start speaking that they have three minutes or four minutes. It also encourages people in an incredibly positive way to think ahead about what they are going to say and be more concise.

Commissioner Patel: We want to treat everyone consistently throughout the process. On the agenda that gets posted, along with the submitting written comments you can state “public comments will be limited to a timeframe. I encourage to make sure that it is consistent with everyone on all the agenda items.

Commissioner Ramirez: I want to make sure that we give deference to those people, for example, who speak Spanish and need more time. We have to make sure we make those allowances as well. I come from the world of the City Planning Commission, where there are hot items and, in those particular cases, the chair has the authority to limit discussion.

Executive Director Marvelli responded: In regard to the comment that Commissioner Ramirez raised because there is another portion of Bagley-Keene I would like to mention. We talked about the fact that a state body can adopt reasonable regulations limiting the total time amount allotted, but there is another part of this as well that speaks to reasonable accommodations and folks ensuring non-English speakers receive the same opportunity.

Part of Bagley-Keene states that “when a state body limits time for public comment, the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator, to ensure that non-English speakers receive the same opportunity to directly address the state body.” I reflect back on some of our Commission meetings where we had persons that needed equipment assistance to provide their public comment.

We have certain items that are on our agendas that tend to be more “hot topics,” and having that equal time allotted for everyone, even if it is not a hot topic, is a fairness, and equitable; and then understanding that we have allowances for flexibility in that, for these reasonable accommodations, is important too. That would be outlined in the regulations if you concur or not concur.

Questions and comments from the Public:

There were no questions or comments from the Public.

Chair Howard: Any other comments or discussion amongst Commissioners on this item? Would the Commission like to take a specific action related to this item, to recommend any changes to our process here?

Commissioner Mikiten: As an action item, not necessarily a vote, I would make a suggestion that staff that has the most experience in all these different venues, and over a lot of time, look at what they think is a reasonable amount of time. My suggestion is three or four minutes.

Chair Howard: have staff go back and bring a proposal that lays out some options to consider, and the thought process behind why times were selected.

Executive Director Marvelli: We can do this during this code cycle, and draft some language, then send it out to our stakeholders and say, “give us your feedback on a reasonable amount of time, these are what we think and why.”

- Making sure there is something clear about reasonable accommodation.
- Only defer your time or receive deferred time
- Let the process dictate what action to take

Commissioner Rambin stated: really have a concern about people re-entering the queue could consider that if they enter the queue, their time limit is reduced.

Commissioner Sasaki stated: Our purpose here is not to run highly efficient meetings, our purpose here is to listen to people but public meetings may have time limits. Do not want to send a signal to stakeholders or the public that we are limiting their time.

Chair Howard directed staff to come back with proposals, and options you could have a threshold that triggers the rule, like if you see 20 people standing up to talk versus two; and the rules only take effect anytime you are going to have more than 20 public speakers on a particular topic.

Commissioner Rambin stated to consider what Commissioner Mikiten said about equitability, do not want to limit their time and needs to be applied evenly to everyone.

Commissioner Mikiten stated that equitably and the same to everybody, whatever the number of people who are coming to speak or calling in what commission can and cannot do in terms of actually taking action when the public comes, speaks, and says “no, don't let this happen.”

Chair Howard: Excellent comments all around, any further comments on this or suggestions? Mia, do we need a motion on that or is that just direction to your staff?

Executive Director Marvelli responded: The direction to staff to do some research, to make sure the expectation is set that, at a future Commission meetings come back with “this is the research we've conducted” and present that to the Commission. At that time, they can decide whether they want us to proceed with regulation. Another topic that has been raised was that these long public comment portions of a meeting, to have a pause so that the Commission can discuss that comment. And there is no action that is needed here either; this is a discussion on how the meeting functions.

Commissioner Klausbruckner: I agree with you having some kind of window where the commissioners can discuss it.

Commissioner Mikiten: That moment to discuss would be useful.

Executive Director Marvelli responded: A free flow of the conversation sometimes those comments from the public garner an answer from the state agency one of the things that is required is, when a motion is taken and the Commission votes, we do a verbal roll call of each Commissioner and record that. We do it in the same order every time. So, staff calls roll in an expected order.

Commissioner Rambin: I agree.

Commissioner Mikiten: I agree with each vote.

Pamela Maeda: Yes, it is simple.

Executive Director Marvelli: Pam will make it simple.

Item 3b.

Executive Director Marvelli: The Express Terms content, the code change” in ~~strikeout~~ and underline format, and then In some cases, that's sufficient information for the public to understand the context of the code change. In other instances, it has been raised that that's not enough information. I am not sure there's best practices that we can modify to do that. Another part of that, if it is modified language for the new model code, where is the language, how does that fit into the model code.

Commissioner Klausbruckner: I agree with your assessment, I just do not know if there is a solution to it, unless we have a system like NFPA or ICC, which are extremely expensive systems, where you can see the context of the entire change.

Executive Director Marvelli: One of the reasons we have mentioned to the state agencies “don't show too much of the code that is not changing,” is because that opens the door for people to perceive that that is open for public comment when it is really just that part of the code change that is in underlining and ~~strikeout~~.

Commissioner Patel: I agree with Commissioner Klausbruckner. For me, as a code person, I like to read the whole section because that is the full context of what you are actually changing.

Commissioner Ramirez: comment about digitizing or doing everything electronically, because there are segments of our population in California that do not have access to electronics. We are working in that direction, but certainly there is still a fair amount of people who do not have access to it.

Commissioner Klausbruckner: One quick comment to Commissioner Ramirez. I do not know if the Commission is providing hard copies to the public. It already is in electronic form.

Executive Director Marvelli: Yes, that is correct. Someone can request a copy. If they contact our office we can provide them a hard copy, but it is electronically available from our website. The purpose for the ~~strikeout~~ and underlying italics and non-italics is that that follows the APA requirement for ~~strikeout~~ and underline. When several state agencies are making a similar modification, how do you see that in one location, as opposed to separate rulemaking files. Technically, that is required.

Commissioner Mikiten: the accessibility of the digital documents and that we need to make sure that they are still able to be read with a screen reader and other devices.

Chair Howard: This has been good discussion. In the essence of time, I want to see if it is all right with everyone, let us see if there is any public comment on this particular item before we continue.

Questions and comments from the Public:

There were no questions or comments from the Public.

Chair Howard: Commissioners, is there is any further discussion or any action that we would like to direct to staff on this particular topic? It is important that we continue to try to find ways to improve the process.

Item 3c.

Any additional items to discuss on the Title 24 process.

Questions and comments from the Commissioners:

There were no questions or comments from the Commissioners.

Questions and comments from the Public:

There were no questions or comments from the Public.

Agenda Item 4. Commissioner Action Matrix (CAM) and Grouped Items

Executive Director Marvelli (referencing a slide) provided an overview.

This table reflects a code proposal package. In this instance, it is the State Fire Marshal's (SFM) code package, which is our rulemaking 04-21. That is the assigned number that it gets on the CAM. Then it breaks down each code change into sub numbers; These do not represent items on an agenda, it is to make clear that this is part of the discussion. We refer to the section numbers, and sometimes we refer to the grouped items, important to remember here is that this table lays out each code change and lists it by section number or, in the case of a definition, it might have the definition name here.

The CAM shows a column for the Code Advisory Committee (CAC) action. Once that package is heard by the CAC, staff goes in and fills in this column and indicates whether it was approved, disapproved, or further studied the state agency returns the rulemaking package back to CBSC staff, we then indicate what was the agency's response, based on that CAC recommendation. In most cases the agency accepts, especially if it is an approved action by the committee. In certain instances, the agency might disagree with the CAC's recommendation, and in their Initial Statement of Reasons, they state why.

As we move through the process, we also fill in the public comments that were received on any particular rulemaking section. This is another way to see the documentation of

the comments that were received, and write in if it was a support comment, and if it was Approve, Disapprove, Further Study or Approve as Amend. The annotations merely indicate what kind of notes coincide with the code change and, lastly, what you would find on these CAMs is the final action by the Commission.

Commissioner Haskin: I have no comments on the format, it looks excellent.

Executive Director Marvelli: These are found on BSC's website. rulemaking page, 2021 triennial cycle see the CAM reoccur at each phase.

At the CAC phase its first introduced to the public on the CAM. During the Commission meeting phase, the items identified by green for go; then yellow version indicates where there are controversial items that were commented on; salmon version, which only shows the withdrawn items by the state.

Commissioner Klausbruckner: provide an initial flow chart where they can click on BSC's website to find rulemaking packet.

Executive Director Marvelli: CBSC staff notice the CAC meetings or the public comment phase or the Commission phase, a link is provided within that meeting notice that directs the public to where they can find all of the rulemaking documents.

Commissioner Patel: CAM is a Commission Action Matrix. in parentheses that describes what the document is.

Executive Director Marvelli: BSC could have a legend, explaining what the ISOR is, what the ET is and what the CAM is and add that to the web page.

Commissioner Patel: The CAM is super helpful. I make notes on the CAM.

Executive Director Marvelli: The CAMs are created by BSC staff.

Executive Director Marvelli: The order of the documents are on the web page. We can implement that thought of having the CAM first. That is an easy website fix.

Questions and comments from the Commissioners:

There were no questions or comments from the Commissioners.

Questions and comments from the Public:

There were no questions or comments from the Public.

Executive Director Marvelli: The grouped items occur when a state agency has a topic that might impact different chapters of the code. The way the express term is laid out, and the CAM, is in numerical order of the chapter of the code and provided is a grouped items list. This shows the CAM number, section number, it says what CAM it is on, whether it is on the green CAM, the yellow, or the salmon with withdrawn items. It shows the page of the final Express Terms, the page of the Initial Statement of Reasons. That way the Commission can take action on all these items together.

Commissioner Patel: everyone can speak about those topics together and you get a better context.

Executive Director Marvelli: I just want to remind the Commission that this will not occur for every code package. This really occurs more frequently with the SFM rulemakings and DSA access rulemakings. There are special circumstances that qualify a need for a Grouped Items list.

Agenda Item 5. Commission committees and Vice Chair Item 5a.

Chair Howard: Agenda Item 5a is the selection of a Vice Chair. Health and Safety Code Section 18922 states that “the Commission shall elect a Vice Chair annually from its members.” Commissioner Patel has served as Vice Chair for some time. Would the Commission like to nominate a Vice Chair.,

Commissioner Sasaki: I would like to ask Commissioner Patel if he would like to serve again. He has done such an extraordinary job.

Commissioner Patel: Thank you for those kind words, but I am always willing to share responsibilities with others that would like to do it. So, if anybody would like to be Vice Chair.

Chair Howard: Seeing no other comments or discussion from the Commission.

Commissioner Mikiten: I was going to see if, based on Commissioner Patel's request, if Commissioner Sasaki would like to accept the position of Vice Chair?

Commissioner Sasaki: Thank you, but I think Commissioner Patel has done a wonderful job, so no, I will not. I would like to see Commissioner Patel continue.

Commissioner Mikiten: I support that.

Chair Howard: Check for comments from members of the public on Item 5a, selection of a Vice Chair.

Comments and questions from the Public:

There were no comments or questions from the Public.

Motion: Chair Howard entertained a motion to consider the selection of Commissioner Patel as Vice Chair of the California Building Standards Commission. Commissioner Klausbruckner moved to approve Item 5a. Commissioner Alegre seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call as follows:

The following Commissioners voted “Yes”: Klausbruckner, Mikiten, Patel, Alegre, Rambin, Sasaki, Haskin, and Ramirez.

Item 5b, the Appeals Committee, is comprised of Juvilyn Alegre, Elley Klausbruckner and Kent Sasaki, who serves as Chair.

Chair Howard: Item 5b and 5c provide an opportunity for the Commission to add or remove members and appoint a chair for each standing committee. The Commission last selected and appointed members for its two standing committees in January of 2020. Each committee may be comprised of one to five Commissioners and meets on an as-needed basis.

The purpose and responsibility of the Appeals Committee is to work with the Executive Director to determine the appropriate course to administer a valid appeal, pursuant to the regulations in the California Administrative Code, Part 1 of Title 24.

Do any other Commissioners wish to serve on the Appeals Committee? Do the existing members want to remain on the committee? Does Commissioner Sasaki want to continue as Chair of the Committee?

Commissioner Sasaki: Yes, I would like to continue as Chair of the Appeals Committee.

Commissioner Rambin: I would be happy to serve on the Appeals Committee.

Commissioner Klausbruckner: If anybody would like to take my place, I am open to that. If Commissioner Rambin or any of the new members are interested, I have no problem stepping down from that position.

Chair Howard: I just want to clarify, it is a total of five on the Appeals Committee, there can be up to five. If we add Commissioner Rambin, we are at four. So, we actually have one more spot available.

Commissioner Patel: I had one quick comment for the new Commissioners. Mia, you can describe each of the committees and then they can choose.

Executive Director Marvelli: The purpose and responsibilities of the Code Adoption Committee is to identify the means of improving the code adoption process, and to review and nominate members for the code advisory committees. The Code Adoption Committee meets more frequently, because they review and nominate the code advisory committee members every three years.

The Code Adoption Committee has worked with the CBSC in the past to make recommendations on CBSC process. A few years ago, we met, based on feedback received about the rulemaking packages format. And that was modified several years back.

Chair Howard: Would any of the new Commissioners like to join their three fellow Commissioners on the Appeals Committee?

Commissioner Haskin: Yes, I will volunteer for that, thank you.

Chair Howard: Thank you, Commissioner Haskin. Seeing no other comments, at this time we will move to public comment.

Comments and questions from the Public:

There were no comments or questions from the Public.

Motion: Chair Howard entertained a motion to consider the selection of the Appeals Committee, which will consist of Commissioner Haskin, Commissioner Alegre, Commissioner Klausbruckner, Commissioner Rambin and Commissioner Sasaki, who will serve as Chair. Commissioner Sasaki moved to approve Item 5b. Commission Mikiten seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call as follows:

The following Commissioners voted "Yes": Klausbruckner, Mikiten, Patel, Alegre, Rambin, Sasaki, Haskin, and Ramirez.

Item 5c.

Chair Howard: This item concerns the Code Adoption Committee, which is comprised of Commissioners Sasaki, Klausbruckner, Santillan, Mikiten and Patel, who serves as the Chair of the committee.

The purpose and responsibilities of the Code Adoption Committee are to identify means of improving the code adoption process, review, and nomination of members for the other code advisory committees.

Would any other Commissioners like to serve on the Code Adoption Committee? Do the existing members want to remain on the committee? Would Commissioner Patel like to continue to serve as Chair of this committee?

Commissioner Patel: I would like to stay on the committee, and I am fine serving as Chair, unless somebody else would like to be Chair, I am open for that, too.

Commissioner Ramirez: I would love to serve on the committee, if there is anybody wanting to get off; but if not, I obviously will not.

Commissioner Klausbruckner: I made this offer before and I have no problem. I think we should have fresh faces as part of that group, so I have no problem stepping down if you are interested in serving.

Commissioner Ramirez: Thank you.

Commissioner Sasaki: I would like to continue serving, but if another Commissioner is interested in serving on the committee, I am fine in stepping down.

Commissioner Haskin: How often are these committees meeting? Is this an annual or is this by code cycle?

Executive Director Marvelli: The Vice Chair is annually, put this on the agenda when we have new Commissioners, or when we have not reconstituted the committees for a while.

Commissioner Haskin: Are we limited on this particular committee to five?

Executive Director Marvelli: Well, we want to stay under quorum, because you are not acting as a Commission body, you are acting as a committee.

Chair Howard: Although Commissioner Sasaki did volunteer to open it up if somebody new wants to serve.

Commissioner Klausbruckner: we have done this on a yearly basis.

Executive Director Marvelli: Yes, absolutely. We just make a note internally to readdress this next April.

Chair Howard: All right, any further comments from the Commission? Seeing none, let us check in with the public.

Comments and questions from the Public:

There were no comments or questions from the Public.

Motion: Chair Howard entertained a motion to consider the selection of the Code Adoption Committee, which will consist of Commissioners Ramirez, Mikiten, Santillan, Sasaki and Patel, who will serve as Chair of the committee. Commissioner Klausbruckner moved to approve Item 5c. Commission Mikiten seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call as follows:

The following Commissioners voted “Yes”: Klausbruckner, Mikiten, Patel, Alegre, Rambin, Sasaki, Haskin, and Ramirez.

Agenda Item 6. Future Agenda Items:

Comments and questions from the Commissioners:

There were no comments or questions from the Commissioners.

Comments and questions from the Public:

There were no comments or questions from the Public.

Agenda Item 7. Adjourn

Chair Howard entertained a motion to adjourn. Commissioner Mikiten moved Item 7. Commissioner Klausbruckner seconded.

The voice vote was unanimous, and the meeting adjourned at 2:11 p.m.