

BUILDING CODE ADVISORY BOARD  
MEETING MINUTES

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**DATE:** May 21, 2013  
**TIME:** 2:00 p.m.

**LOCATION:** 501 North 44<sup>th</sup> Street, 1<sup>st</sup> Floor  
Phoenix, AZ 85008

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**MEMBERS PRESENT:**

Mr. Tracy Finley, Chairman  
Mr. Vincent Territo, Vice Chairman  
Mr. John Kight  
Mr. Robert Ghan  
Mr. Gabriel Millican  
Mr. Arthur Luera

**STAFF PRESENT:**

Tom Ewers, Plan Review Manager/Chief Building Official  
Lynn Favour, Deputy Director  
Ralph Shepard, Plan Review Supervisor  
Debra Stark, Director  
Kathy Semder, Administrative Assistant

**PUBLIC PRESENT:**

Bruce Bartholomew  
Jackson Moll  
Candice Copple  
Jerry Clingman  
Ann Hutchinson  
Alan Muller  
Rusdon Ray

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**ROLL CALL**

Chairman Finley called the meeting to order at 2:01 p.m.

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**APPROVAL OF MINUTES**

Chairman Finley asked if everyone looked at the minutes from the previous April 30, 2013 meeting and were there any comments. Member Kight made a motion to approve the minutes. Member Luera seconded the motion. Motion passed unanimously.

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**REPORT OF COMMITTEES**

None

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**UNFINISHED BUSINESS**

None

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**NEW BUSINESS**

None

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**OTHER BUSINESS**

**New Hearing for the 2012 ICC Code Adoptions – 2013 Maricopa County Local Additions and Addenda**

Ms. Stark advised that this Special Meeting for the 2012 ICC Code Adoptions – 2013 Maricopa County Local Additions and Addenda is being held today because the Board of Supervisors have received emails and phone calls from the public with regards to this process. Because of our newly adopted Enhanced Regulatory Outreach Program (EROP) it was decided to have the process fully vetted with the public by having another meeting. The concerns seem to be mostly about the energy requirements and we want to ensure that when this matter reaches the Board of Supervisors everything has already been thoroughly addressed. We have some members from the public here in the audience today that wish to speak on the issues and amendments. Ms. Stark went on to explain that last week the City of Phoenix just adopted the 2012 Codes pretty much the same way Maricopa County is looking to adopt them, including the voluntary Green codes and some different options for the Energy codes.

Mr. Ewers explained that a Member of the Building Code Advisory Board (BCAB) must first make a procedural motion to reopen the hearing. Member Kight made the motion to reconsider TA2013001 for the purpose of accepting additional public input. Member Luera seconded the motion. Motion passed unanimously. Chairman Finley added Vice Chairman Territo to the roll call.

Chairman Finley announced the first public speaker, Jackson Moll of the Home Builders Association of Central Arizona. Mr. Moll explained that his organization generally separates building codes into two categories, life safety issues and non-life safety issues, such as the Energy Conservation and Green Construction

Codes. Typically the Association is opposed to the adoption of those energy codes, however sometimes they do favor the voluntary adoption of the codes. There are four amendments they have adopted relative to the 2012 codes that they would like to see Maricopa County adopt as well, whether the codes are adopted as voluntary or mandatory standards. Two amendments were included in the packet, the first is the use of the HERS (Home Energy Rating System) index as an alternative method of compliance which creates a 100 percent performance based path to compliance. The City of Phoenix adopted this amendment with a score of 73 last week and Chandler is currently in the process. The second amendment relates to the use of sample testing, because the Energy Code requires a number of different testings, such as blower door and duct testing, for every home. The industry has developed a way to sample test production homes, with a number of quality assurance standards in place.

There are two additional amendments that went through the City of Phoenix that Mr. Moll can provide to the Committee for review. The first addresses a requirement in the code related to air handlers with a 2 percent leakage rate and an overall 4 percent leakage rate for the entire house. Because the overall leakage rate is already included in the regulations they do not see a need for redundant regulation for this matter. The second amendment relates to a trade off table created for supply duct insulation because the code requires R8 insulation. They have found that in some instances it doesn't actually fit so the trade off table maintains the relative energy efficiency and provides additional options for compliance. To summarize, Mr. Moll does support the idea of a voluntary compliance with the code for both Energy Conservation and Green Construction, but with the four amendments added. On pure life safety codes it is more complicated, there are legitimate arguments that the government does have an interest in regulating life safety issues. Because Maricopa County has been on the 2009 Codes and is preparing to move to the 2012 Codes, they are primarily concerned with the International Residential Code but haven't received any feedback from their members.

Chairman Finley announced the next public speakers, Alan Muller and Ann Hutchinson of the New River – Desert Hills Community Association. Mr. Muller explained that they don't have a problem with the adoption of the 2012 Codes, but they would like the adoption process to move at a slower pace. They view some of the proposed changes as very drastic and feel it would drive up the cost of construction, approximately 30 percent of the home building costs, if everything was implemented immediately. Mr. Muller asked Member Luera his background and experience related to the six different areas represented. Member Luera addressed Mr. Muller's concerns by explaining that although costs will increase those higher costs are already in the standards for the construction jobs being done today. The energy savings and these stipulations have already been in practice for the past 10 years so it's not exactly new and what Maricopa County is trying to do is simply make these processes part of their governing laws. Mr. Muller asked the board if they have objections to any of the codes or

how fast the process is moving, to which none of the Members acknowledged having any issues. Another concern for Mr. Muller is the certification requirement which he believes will hurt the "little guy" who builds only one or two houses a year and to offset that he is interested in the possibility of a County sponsored certification program. Mr. Ewers explained that several agencies currently offer training and energy consulting such as RESNET, RESCHECK, Leeds, etc. and part of the amendments under consideration by the BCAB Members is to not require certification for every house plan. Member Luera asked Mr. Muller to provide a list of his concerns which would help them understand and try to resolve any items.

Ms. Hutchinson explained that the Energy and Green Codes are not life safety issues so she doesn't see why there seems to be a rush to adopt these codes. Her concern is for smaller builders and homeowners whose costs will increase significantly, especially if these new product requirements are not readily available in the marketplace. Ms. Hutchinson feels that by making the Energy Code voluntary it will give people time to adjust to the changes while still allowing Maricopa County to move forward with energy efficiency. This will also allow stores the opportunity to increase their energy saving product choices since she believes the products out there now, such as windows, wouldn't meet the new codes. Ms. Hutchinson then introduced Mr. Hutchinson, who was a homebuilder for thirty years and now works as a technical consultant for the Desert Hills Community, and he provided the background building information for her and Mr. Muller.

Member Luera commented that Ms. Hutchinson is correct in stating the materials not being to code can increase costs because that is happening now in some instances however the savings in energy within a year will offset those initial increased costs. Member Luera asked how long of a time period for consideration and Ms. Hutchinson replied that probably a year or two at most would be beneficial to everyone before making it mandatory. Mr. Muller stated that there should also be some verbiage added to allow for alternatives if a specific product is not available. Vice Chairman Territo explained that the code does allow for modifications and alternative materials already.

Member Ghan clarified that Ms. Hutchinson is looking to have the Energy Code be voluntary like the Green Code. He explained that the City of Phoenix has already been using the energy codes for years and compliance is not as cost prohibitive as Ms. Hutchinson might think. Ms. Stark advised that Maricopa County will probably have an implementation strategy similar to what the City of Phoenix did for the adoption of the residential codes within a specified time frame. Chairman Finley commented that when the energy codes first came out in the 2000 IRC there was a big push against it but it was determined that by doing a simple energy analysis of the entire structure there was very little increased costs because the homes were already very energy efficient. Vice Chairman Territo explained that the Energy Code is for the health, safety and general

welfare of the public. A major concern is to protect the unsuspecting public from people who want to cheaply build and flip homes without adhering to standards.

Chairman Finley announced the final public speaker, Rusdon Ray of Queen Creek. Mr. Ray stated that property values are now going up for several reasons, especially areas not governed by a Homeowners Association (HOA) because people don't like over-regulation. He agrees that the codes have good intentions however he doesn't feel that these good intentions will be realized through mandates and enforcement of the law. Mr. Ray explained that increased home costs and longer building construction times are the results of over-regulation, which hurts both the builders and the home owners. Mr. Ray asked if anyone in Maricopa County wrote the ICC Codes to which Vice Chairman Territo replied that they adopt the codes. Member Luera asked Mr. Ray to clarify his specific point related to the topic of the meeting. Mr. Ray would like Maricopa County to only adopt the 2012 Codes as optional because it would be ideal to move toward more self-government and less regulation. Vice Chairman Territo asked Mr. Ray if he is proposing Maricopa County stays with the 2009 Codes forever and Mr. Ray replied that it would be better to go through what is already on record and reduce all non life-safety issues, such as the electrical outlet tamper resistant codes which just add unnecessary costs to the home building project. Member Kight advised that Mr. Ray's example of a paper clip in an outlet is true because the circuit is not complete, however once something is grounded you can get shocked. Member Kight explained that the codes are developed on a three year cycle with input from the panel members and the ICC takes their electrical code verbatim from the National Electric Code which is a consensus based group. This group reviews evidence and data to make knowledgeable decisions and then vote on what becomes code. It is up to us here on the BCAB to assess whether those consensus based panels are doing their job properly and Member Kight believes they are to date.

Mr. Ray stated that he is here not only for himself but also to represent the homeowners who are hampered by this over regulation. Chairman Finley asked Mr. Ray if he was proposing the town of Gilbert to write a specific building code just for the town, which is still regulation and basically switching regulation from one group to another. Mr. Ray explained that is would be switching to a local government that is voted into service. Member Millican asked how it would work if every local jurisdiction adopts a different code, because the point of adopting a greater code is to provide a consistent set of regulations across a large amount of building area. He further questioned if we would have to wait for the same disaster to occur in each city before that particular city creates a regulation to prevent it. Mr. Ray replied that it would be more efficient to have less of those regulations mandated by law because they just increase costs for non life safety issues. Mr. Ray stated that there are requirement inconsistencies already between the different cities because you can't have efficient enforcement of laws when there are thousands of pages to regulate. Chairman Finley responded that the inconsistencies would happen here in Maricopa County if we choose not to

adopt the 2012 Codes because three other municipalities have already adopted them and more jurisdictions are currently in the process. Vice Chairman Territo commented that we are trying to keep pace with the new codes because there is an impact to the homeowners insurance based on what codes you do, and do not, adopt. Ms. Stark explained that when City of Phoenix did not adopt the 2009 Codes, they received the worst ever rating from the ISO, which translated to higher insurance rates for residents and businesses. The other issue is training so that all of our employees and contractors/builders are trained on the new codes to provide greater consistency in application of the codes. Mr. Ray believes that adoption of the codes is limiting choice in the free market and will lead to less prosperity.

Chairman Finley asked if there were any other members of the public who wished to speak. Member Kight asked if we proceed with a second motion now would everything progress as it would have before and Chairman Finley answered yes it would. Vice Chairman Territo asked what the ramifications would be for delaying just that code and Mr. Ewers explained that by recommending an implementation schedule that wouldn't affect the adoption of the code but be more of a procedural matter after adoption, set by the Board of Supervisors. Chairman Finley asked if the procedural matter would come back to the BCAB and Mr. Ewers advised it would go to the Board of Supervisors.

Member Kight made a motion to reaffirm a prior action and recommend to the Maricopa County Board of Supervisors to approve TA2013001 and adopt the 2013 Maricopa County Local Additions and Addenda which adopted would then amend the 2012 ICC Codes and 2011 NEC Code. Member Kight made a further motion to include the two additional amendments from the Home Builders Association. Member Millican seconded the motion. The motion passed unanimously.

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### **SET DATE OF NEXT MEETING**

Chairman Finley confirmed the next regular meeting is scheduled for July 9, 2013.

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### **ADJOURNMENT**

Member Kight made a motion to adjourn the meeting. Vice Chairman Territo seconded the motion. The motion passed unanimously and the meeting was adjourned at 3:01 p.m.

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Minutes prepared by Kathy Semder, Administrative Assistant  
May 24, 2013

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Minutes Reviewed by Thomas F. Ewers, Chief Building Official

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