

## Building Energy Code Study Committee Introductory meeting

July 14, 2023

### Meeting Minutes

- **Call to order.**
  - We are calling this meeting #0 to meet the statutory requirement that we have a meeting before July 15th.
  - Will have six subsequent meetings of the full committee by October 31<sup>st</sup>.
  - Meetings will be recorded and posted on the PSD website.
- **Introductions** – Committee members
  - Scott Campbell - VT House of Representatives
  - Christopher Bray – VT Senate
  - Sandra Vitzthum - Sandra Vitzthum Architect LLC – at large appointee
  - Craig Peltier - VT Housing and Conservation Board
  - Richard Faesy - Energy Futures Group – it was requested that Richard facilitate today in Kelly Launder’s absence.
  - Keith Levenson – VT Department of Public Service (attending in place of Kelly Launder)
  - Michael Desrochers – VT Department of Public Safety - Division of Fire Safety
  - Matt Sharpe – Efficiency Vermont
  - Chris Burns – City of Burlington Electric Department
  - Timothy Perrin – Vermont Gas Systems and South Burlington Energy Committee
  - Bob Duncan – A.I.A. and Duncan Wisniewski Architecture
  - Jason Webster – Huntington Homes and Vermont Builders and Remodelers Association
  - Matt Musgrave - Association of General Contractors of Vermont
  - Ted Brady – Executive Director, Vermont League of Cities and Towns
  - Chris Company - Windham Regional Planning Commission
  - Also in attendance:
    - Ellen Czajkowski – Legislative Counsel
    - Ben Civiletti – staff attorney, VT Department of Public Service
    - William Nash – International Code Council
- **Meeting procedures and process** (combined with “**Meeting duration and structure**” and moved to later in the agenda per request from Scott Campbell)
- **Overview of the bill language/Committee charge (Rep. Campbell and Senator Bray)**
  - Rep. Campbell: my background is as weatherization Director of 3E Thermal, an energy consulting and incentive program that serves affordable apartment housing statewide.
    - interested in getting more building science knowledge into the general construction industry. I've been trying different strategies for doing that since I since I arrived at the legislature.
    - Not having an AHJ is the primary stumbling block to increasing awareness of and compliance with RBES and CBES.

- This is the latest strategy to get people to talk about how we identify the authority having jurisdiction and what is the role of the AHJ
  - Administration and enforcement are related but separate issues.
  - Fielding code questions, resolving conflicts between energy codes and other building codes: Life safety codes, electrical codes, Maybe plan review, maintaining records, marketing or increasing awareness in the industry, perhaps organizing trainings, all those kinds of things are the administration part.
  - The bill also mentions evaluating current cost effectiveness analysis for RBES and CBES - whether it should include public health benefits, social cost of carbon etc. Technical issues that I doubt we're going to have time to get into.
  - I think of enforcement as a separate issue.
  - The focus ought to be on education
- Sen. Bray: the CBES and RBES just came up for review in LCAR, the Legislative Committee on Administrative Rules.
  - LCAR worked with the Department to take the unusual step to approve but with an effective date of July 1, 2024 to allow for a full legislative session to occur
  - There was quite a bit of testimony at LCAR voicing concerns about trying to roll out the next version of the RBES and CBES.
  - We don't have a comprehensive system like some other states that integrates all the things that Scott was just walking through.
  - There'll be a bill introduced, probably both House and Senate, in the beginning in January to address the concerns that we'll all be working through in this committee.
  - What propelled this is that the compliance rate on RBES is at about 54% CBES at about 87%, and both rates are falling.
  - And affordability issues - need to have cost effective investments in energy code and quality construction that addresses energy.
- Rep. Campbell: Vermont has also just been awarded some money from DOE to help with this issue of improving Code compliance.
  - I think that is an added charge to this committee to outline how best to spend that money.
- Richard Faesy (RF): We still have to negotiate the project with DOE. They are awarding US \$1,000,000 contingent upon successful negotiations.
  - This is sort of phase one of that effort.
  - We have a report that's due from this committee to the legislature on December 1<sup>st</sup>.
  - Our primary charge is to recommend strategies to increase the awareness and compliance with RBES and CBES. It does not specifically include enforcement, although that phrase it is mentioned otherwise in here.
  - in terms of definitions,
    - compliance is acting in accordance with a wish or a command to meet specified standards, whereas

- enforcement is the compelling of compliance with law, rule or obligation.
    - Other ways to improve compliance:
      - Increasing awareness (e.g., code training)
      - Local ordinances (e.g., requiring HERS rating to receive a C.O.)
      - Incentives from EEU's
      - Registering, Certifying or Licensing builders and design professionals
        - Contractor registry passed last session
        - Making lack of code compliance a title defect
    - It will be a combination of efforts that we should consider here.
    - Our first charge is to figure out who's in charge of this.
    - The AHJ that we determine is the starting point in this conversation and enforcement and compliance promulgation are all part of our charge.
  - Matt Sharpe: Cost effectiveness analysis seems very separate from compliance and enforcement. Does that have to be a charge of this committee as well?
  - RF: Because it's in the bill and it's a part of the charge we're given, we need to at least address it.
  - Sen. Bray: the subtleties and impacts of that kind of cost effectiveness analysis will not be especially useful if we don't have the administrative framework worked out to apply that analysis.
    - Every work committee I've ever been on always ends up prioritizing, but I think probably the number one priority is awareness and compliance.
    - I really want to make sure that everyone feels that their time is well spent, that their contribution leads to something productive.
    - the more concrete we can be making recommendations, the more helpful will be. Then this report will be taken up by committees of jurisdiction and worked through again during the legislative session.
  - Craig Peltier: Cost effectiveness is a huge conversation and maybe this committee should set up another committee to really look at that question.
    - Only six years from when the code needs to be net zero design.
    - cost effectiveness limitations are butting up against that goal.
- **Committee Chair nominations (vote at next meeting)**
  - RF: We need to select a chair from among our members at meeting #1, coming up in a couple weeks.
    - Open opportunity to nominate.
  - Rep. Campbell: I nominate Senator Bray. He would be the ideal person to share this committee.
  - Ben Civiletti: the vote will be next meeting, but could entertain further nominations at the next meeting as well.
  - Sen. Bray: I'd be happy to serve. One of the most respectful things we can do with a working group is take that expertise and channel it into affective legislation.
  - Sandy Vitzthum: I'd be happy to second.
- **Workplan/discussion topics for upcoming meetings**
  - RF: Next meeting, we'll vote on the committee chair. and review the current status of RBES and CBES

- Want to discuss more about stakeholders and their roles. What is the role of the energy efficiency utilities, the distribution utilities in supporting code compliance?
    - What's the role of division of fire safety and municipalities?
    - Existing energy code compliance strategies
  - RF: 2<sup>nd</sup> meeting, continue discussion of strategies to increase awareness of and compliance
    - How building energy codes interact with fire and building safety codes – Mike Desrochers to provide some perspective
    - Enforcement mechanisms,
  - Sandy Vitzthum: Compliance is a subcategory. We need to focus straight on the authority issue.
    - suggest we focus on commercial 1st and that would go multifamily housing and rentals and then we could get to single family homes.
  - Rep. Campbell: I agree with at least at least some of what Sandy said. The AHJ question is the primary charge of this effort.
  - Rep. Campbell: We should all look at this agenda and circulate it for comments. We wanted to walk through our thinking about how the six meetings would be organized and encourage anybody to provide feedback.
- **Meeting duration and structure and Meeting procedures and process**
  - Calling this meeting #0 to meet the statutory requirement to have a meeting before July 15.
  - Need to have six subsequent meetings of the full committee by October 31<sup>st</sup>.
  - Proposed dates and times:
    - 7/25, Tuesday
    - 8/8, Tuesday
    - 8/22, Tuesday
    - 9/5, Tuesday
    - 9/12, Tuesday
    - 10/5, Thursday
    - 10/31, Tuesday
    - 11/16, Thursday
  - Want to make sure that there's a public stakeholder input process as part of each meeting
  - Need to follow Open Meeting Laws
  - Meetings will be recorded and posted on the PSD website along with minutes.
  - The Department will set up a SharePoint site as well to share internal documents among this group
  - Future meetings will be hybrid: in person in Room 10 of the State House and virtual as well.
  - Ben Civiletti: Anytime a quorum is discussing something substantive, whether that's by email or in person that could be considered as triggering open meeting law requirements.
    - So my advice is just to proceed with caution and remember that the goal of the open meeting law is that the public should have access to the decision

making process Anytime you're conducting the official business of the committee you should be thinking about those open meeting law requirements.

- Emailing back and forth to discuss the agenda, logistics, distributing materials to the group for consideration at the meeting, those kinds of things are OK.

- **Public/stakeholder input/testimony (when/how should this occur)**

- The meetings will be announced so the public can attend.
- most of the discussion is among the committee members, but with public input opportunities either at the beginning and end of the agenda.

- **Schedule future meetings**

- Planning on six meetings by October 31<sup>st</sup>.
- In November we will develop the report that's due in December 1st with opportunity for review
- Meetings will run from 9:30 to noon, in person in the statehouse, Room 10, with a virtual option
  - There will be some meetings where not everybody can make it. Hopefully a majority of people can make these.
  - If any of these dates do not work, let us know via email.
  - 8 total meeting dates proposed, with the last one being a virtual one in November.
- Chris Bray: Want to include interested people who aren't formal stakeholders like Realtors, bankers, title insurers, home energy inspectors.
  - I had put together five questions to send to everyone and ask people to work through those and bring them to the first meeting.
  - I'll ask Ben and the department to distribute it to the group.