

MISSOURI ASSOCIATION

OF

BUILDING AND FIRE OFFICIALS

State Fire Marshal's Office Jefferson City Missouri

January 13, 2010

In attendance

Metropolitan Kansas City Chapter, Brad Henson, **MACA**, Traey Lambertz **Fire Marshals Association of Missouri**, Steve Gettemeier **MACE**, Tamara Schenke Johnny Benisch, **MABOI** Mike Pavlakes, Bart Alspaugh, Gregory Tate, Jason Boren, **State Fire Marshal**, Randy Cole, **Southwest Missouri Code Officials**, no one in attendance

1. Call to order- Traey called the meeting to order at 10:14 a.m.
2. Approval of minutes- Traey passed out the minutes from the November 23, 2009 meeting. Steve made a motion to approve the minutes Brad seconded the motion.
Motion approved minutes passed.
3. Treasurers report- Traey stated no money was spent, the balance remains the same \$11,482.54
4. Old business – Going with the State code discussion. Nick Heatherly sent me an email questioning the resolution. I pulled my associations resolution up and it states in there that MACA supports the efforts and actions of MABFO. I do not know why we need to go back to our prospective chapters to ask for a resolution to move forward with the document that the committee had put together. Traey passed out the document put together by the committee headed by Johnny Benisch. This is a guideline everyone should disregard the dates on this document that was something that the committee put in there.

Brad- being new to this group have all the other organizations shown support already?

Traey - On this document? No, this document is a rough draft put together by the committee. This is what we are looking at doing. We make a pyramid so that when it goes down we have a document to start with.

Steve – can we add to the State Statutes?

Traey – Well it would go into legislation. I will go back to the mini-maxi idea. Tying in a bit of new business here we met with the fire alliance about three weeks ago just before Christmas and spoke with them and there was interest with us going with the fire alliance. I will tell you that these guys are very serious about the State code that is currently in the discussion faze. They have one of the best lobbyists in the State. Everyone that I have talked to said that firm is one of the best. After the meeting I came back and started digging around in the Illinois code, this is the code that our rep from ICC, Bob Neal, assisted in getting passed recently. They did the same thing that we are trying to approach; they started out with a whole gamut of codes and let them just pick their own ended up with a couple of the codes that they submitted. The energy code is what sold the deal in my opinion.

Johnny- I agree

Traey - If we get Bob Neal from ICC in here, and move forward with this ideally he is going to be the go to person. Like I said earlier he just went through this with Illinois, and Chicago is exempt from it. If you go through the ICC website you will see that each jurisdiction has what code they have adopted.

Back to the mini maxi deal, that was a big deal at the meeting with the fire alliance. There were two gentlemen there that were very outspoken on that. I started digging in our State Statutes under 701 health and public safety, we have a lot of jurisdictions that can adopt stronger than but not less than the code and I think that is going to be our biggest obstacle.

Randy- I think their biggest issue is that the language says meets or exceeds why do I have to do this much more than the minimum if that is good enough for the State then that is all we need.

Traey – I spent several hours doing research on the computer and going back through the codes. In 701 alone it states that cities or counties may adopt more restrictive standards and it gives it specifically out there that adopting minimum standard that are more restrictive than the standards adopted by the State pursuant to that section. So my argument back to them would be that any safety standard that is in the State Statues right now already says that. Licensed plumbers have it DNR has it State Health has it so my argument would be it is already there. I keep referring back to safety glazing and we have had that there forever. Well the building code is actually more stringent than the statutes say as far as where they are required.

Bart- What about the process of amending any State building codes prior to its adoption?

Johnny-The discussion I had with HBA, they were concerned about local amendments and stuff, they were fine with us going toward this and they would back us on this as long as we kept in there that each jurisdiction had the capability of making their own amendments. So what I wrote in there that the jurisdiction has the capability of amending this code.

Mike- but they would not be able to make it less stringent.

Johnny - That will be up their attorney to fight because they are the ones that are making the amendments. It is not up to the State or anyone else.

Bart-my point is that I cannot see the HBA getting on board with something that they would not be able to go back and manipulate the local elected officials to get these codes lessened.

Johnny-That is what's in there.

Traey- That is what's in there, what I am doing is taking what Illinois has finally gotten passed after what they went through for what 2 years? There are two pages of actions that were taken on that. What they ended up with is a disclaimer that this section does not apply to any area in a municipality or county that has registered its adopted building codes already. So if your jurisdiction has already adopted a code this has nothing to do with it.

Bart- then it would appear to me that this state adoption would have no benefit other than those rural areas that do not have a current code.

Traey-I would say that your statement is correct but that was the intent going after a standard that someone who lives in an area or a city that does not have any codes. This would give them something that states it is the minimum standard for the State. We know they will throw out the residential if we can keep the commercial and the fire in it I would be happy.

Mike-So what standard are they building to now?

Traey-they are not. That is the problem

Mike - so the fire districts are not able to do anything about this? And the insurance companies they are not able to do anything about that?

Traey- No that is why State Farm wanted to jump on board. They wanted to see this. However with the declining economy they have pulled back on helping write the code, providing the attorneys etc.

Mike – I don't doubt your word it seems odd to me that any financial institution would lend money to build a commercial structure without it having been built to a certain standard. Further it seems odd to me that a design professional would seal anything that wasn't designed to a certain standard.

Johnny- Well the design professional has to design to a code. But it does not have to be the current code.

Randy- there is a lot of stuff being built that is new to your area how many times do you see the plans or blue prints, where the building is built not following the original blue prints.

Traey- I have seen this happen to people who are in a jurisdiction that do not have a code and they did not know any better. This way the owner has the ability to say this builder did not build it to the minimum standard adopted by the State. It gives them that right to do that. Right now they do not have any rights to do that.

Bart- So what we are supplying here is a means to sue, because we are not going to be able to enforce it in these rural areas. Randy your office does not have the man power to enforce this correct? So what we are providing is a right to sue correct?

Traey- We are providing a minimum standard that gives the person the right to sue and it also gives a standard that everyone should build to.

Randy-that is the big thing you are requiring a standard that people have to build to.

Brad - it is the enforcement that is the issue. It is the tool, if you are in an area where they do not have enforcement then you are rolling the dice.

Traey- exactly but if I am going to roll the dice than I would rather have a standard to fall back on.

Brad-I do not know how it is in Missouri but in Kansas I do not really see builders, commercial or residential, really abusing the system. I know that it happens but what I am saying it is not common. Now Kansas has had a State Code for about 30 years.

Traey - I have seen it myself in Bates County and I have it in Johnson County. Those reps in Johnson County actually approached me and said what should we do? I told him about our efforts to get a state wide code adopted and he said he was on board and would be able to get others on board. He also said they had no idea there was not a State Wide Code.

Brad – Once we set a standard for the '06 it may be 20 or 25 years before we can get it updated again.

Randy- That is why I suggest that you not identify an edition. I think you should establish that by rule so that it is easier to change.

Johnny- I think I did put it in there that it is the most current edition. I think we started with '06 than I think it says the most current edition.

Randy- I am not sure that the HBA will sign off on that.

Johnny-the whole thing comes down to we do not know what the HBA is going to do. We don't know what anyone is going to do until we do this. I have heard from some of these people that this is not going to work or that is not going to work. Let's put this out there and see what happens.

Randy- even when you come up with a draft that you want you need to get a sponsor. You're not going to get it the first year you are probably not going to get it the second year. It may take years to get it but you have to keep after it every year trying to reach that compromise.

Steve- do you have something developed?

Traey-the two page sheet I handed. This goes back to the comment Nick made back in Springfield that he would like some kind of resolution to go with that rough draft so that they could see what codes.

Traey- I agree with Randy no year should be put on the code edition.

Randy-it needs to be established by rule. You will also need to determine who has the authority to establish those rules. Maybe establish a building and fire code board.

Steve- I do not think you will get rural homes on acreage. If I have a subdivision than yes the code should apply, but rural areas will not fly. We have to go for commercial.

Bart- if you include residential than commercial will get struck out with it.

Bart- I talked with Helen Defray President of the Professional chapter there in ST. Louis and as I understand it if the structure qualifies for a design professional as dictated by our state statutes, then it has to be designed to either the current code or the 2003 code (I cannot remember which I will have to go back and talk with her). If this is the case are we not just duplicating what is already there?

Traey-I wish someone would show me where in the statute it is because it is not there.

Bart-my point is Traey that you are not doing anything to circumvent that any way. If there is not any enforcement how is it any different?

Traey-so tell me how else we do it.

Bart- I think we need to find more out. I have contacted some other States why in the world is it that Louisiana can do rural third party inspections and we cannot do that?

Randy – several years ago I was involved in a hearing with the board of architects and engineering in a day care situation, and a number of them on the board talked to me about why there is not a state code. They said they would support a state code.

Traey- they have already addressed us (Johnny and I) about supporting the code.

Randy –so they obviously see this as a problem.

Traey-they do see this as a problem.

Steve - is this rough draft is it good enough to present to a senator?

Traey-no

Traey- In discussion in St Louis at Ed Berkel's fire house Bob Neal was at the meeting when he got the phone call that the Illinois bill was going to pass. His comment in that meeting was that they gave them the basket, they will pick and choose. If we can get the commercial and the fire code to stay in then we are good.

Bart-what if you end up with nothing but the energy code?

Traey-that is possible, we already have an energy board that is already set up.

Bart-Randy if only the commercial code was the part, do you think something like a third party inspection program would work.

Randy-who is going to pay for it though, that is the question.

Bart-it would be the builder who pays for it.

Traey-you would have to keep track of it, before the building was occupied you have to take that approval and file it back with the state.

Johnny- who is going to certify the third party inspectors?

Bart-that would be something you would have to set up there would have to be some kind of process.

Randy-That process can be set. You would need to look at the degree it would cost the Fire Marshal's office etc. Cost and fees would have to go to a third party fund to pay for the program. Also you would need to establish who investigates the complaints. It is a process that would take a lot to make it work.

Traey-the document that I handed out is a rough draft that needs work. Take this back to your boards get there feedback and bring that back to our next meeting.

Brad-do you have this document in word?

Traey-yes

Brad-can you email that out to us?

Traey - yes.

Johnny- I think for the next meeting we invite Bob Neal.

Traey-I agree with Johnny invite Bob Neal

Randy- I think we keep it simple and reference a rule making process. It would be better.

Mike-how are the rules promulgated?

Randy-they are filled with the Secretary of State's Office it takes six months you have public comments etc.

Johnny-the committee needs to change. I would like someone from each group on the committee.

Mike- we had a MABOI meeting last month in St. Charles. Randy will still be the rep for MABOI we will make sure this is at least one rep here for every meeting,

Traey-Randy have you heard anything back from the alliance?

Randy-no I will take this back to them

5. New business. Partially covered under old business

6. Presidential update-None

7. Region IV report None

8. Other issues- None

9. Next meeting March 10th at 10:00 a.m.

10. Meeting adjourned- Traey called for a motion to adjourn the meeting.

Steve made a motion to adjourn.

Brad seconded the motion meeting adjourned at 11:23 a.m.