

**Legislature Affairs Committee (LAC)**

Meeting Minutes 12 February 2008

In attendance were: Edward Adelman, George Bachrach, Esq., Andrew Baldwin, Michael Davis, Ernest O. Edwards, Russel Feldman, (Chair), David Johnson, Stacy Lucas, Rohn MacNulty, John Nunnari, Paul Pezzella, Christopher Walsh, Donald Wohn.

1. **Legislative Update:** Paul Pezzella and George Bachrach, Esq.

a. The second year of the Governor's administration has begun and, with the exception of the passage into law of the Governor's Green Community Act and the State Committee assignments, very little progress has been made on new legislation. The intent is to end this session in July, being an election year.

b. **The Fy 09 State Budget** discussions is gaining momentum to address a possible short fall of 1.5 billion dollars, for increasing income and closing tax loop holes - sorting priorities. Debate is scheduled for April. Refer below to further discussion.

c. **Emeritus Architect Category:**

As reported earlier, this bill has no organized opposition. Neither does it have staunch support. The BSA must become a more active advocate to gain passage. This bill remains in Committee and is not expected to be reported out of Committee in this session. BSA will inquire with members of the Fellows committee to see if there might be someone who can be an advocate on this bill.

d. **Interior Design Licensing: HB 3209**

This bill remains in committee and is not expected to be reported out, this session.

e. **Intumescent Paint Bill:**

This is a new bill filed with Senator Timilty by a Massachusetts paint manufacturer, which, if passed, would require the use of a fire resistant paint for painted interior surfaces of dormitories of educational institutions and nursing homes. It would limit paint materials to in state manufactures. Our initial review suggests that it is inappropriate for legislative action and will require further attention by the LAC.

f. **Concrete Bill:**

This bill remains in committee and is expected to require further LAC action.

2. **Green Communities Act:**

As noted above this Act is moving through for approval. It does not include a provision for a Green Building Tax Credit.

On 6 February 2008, the Massachusetts Building Code Alliance (Alliance), consisting of 11 design and construction organizations, of which the BSA is a member, sent a letter to Senator Michael W. Morrissey and Representative Brian S. Dempsey of the Joint Committee on Telecommunication, Utilities and Energy, expressing concern for the Senator version, **S 2468**, and advising that:

- **Section 5** be deleted because it by-passes the State Board of Building Regulations and Standards (BBRS) and provides that "a green community may create and enforce building codes"...
- **Section 44** makes this legislation a "specialized code", not part of the State Building Code, and therefore not under the authority of the BBRS. The Alliance recommended deletion.
- **Section 45** by adding a subsection (m) mandates that the BBRS "adopt and fully integrate the latest International Energy Conservation Code (IECC)." The text also directs the BBRS to update the energy provisions of the State Building Code, with any revisions of the IECC (not the original text) within 1 year. This requirement is also included in the House version, **Section 36 of H4373**.

No authority is provided for modification of IECC revisions by the BBRS.

Though individual members of the Alliance support many provisions for the IECC, the members of the Alliance support maintaining the authority of the BBRS in its sole capacity for the preparation and recommendations in State Building Code matters.

The Alliance recommended deletion of Section 45 (S246B) and Section 36 (H4373).

BSA will provide a separate letter providing additional detail on these positions.

### 3. **Meetings with Senator Murray and Senator Panagiotakos - Public Utilities**

Mr. Feldman reporting.

The Senate President's office requested that Mr. Feldman attend a conversation with AGC, ASM and CIM regarding ways of restructuring state capital facilities. While most of the conversation revolved around horizontal construction (roads and bridges) which was not the topic of the prior construction reform legislation, last week's discussion touched on a current policy by many utility companies to delay assistance in the design of utility systems until user agreements with utility providers are in force.

Designers cannot avail themselves of utility providers engineering or approvals throughout design documentation and the Owner is still subject to utility provider's design modifications, additional design fees, and change orders to the Construction Agreement. According to the Commissioner of

the State Highway Department, his department lost 20,000 construction-days statewide in 2007 due to utility company lack of early participation. This relates to highway construction only and not other public projects or private projects, many of which are subject to similar delays.

Mr Adelman indicated that the State can authorize utility design costs to be paid up front with a provision of a bond bill, specific to public work. The Senate President's office may seek a resolution of this issue. Mr. Feldman requests that anyone who has possible solutions contact him.

In a separate meeting with Senator Panagiotakos (Ways & Means Chair) he noted that the State Lottery has become a mature institution (representing \$600 per person per year, twice the next state's level) and has therefore little growth potential. This year it has a fiscal short fall of \$175 million. Another point of pressure on the state's budget is the new health care program, which is running \$150 million over budget. Optimistically new gaming legislation may generate 1 billion dollars in construction jobs and \$800 million in fee receipts. Also, closing tax loopholes may generate another 500 million dollars however both will take time and may be offset by other tax changes required to pass the business tax measures. A proposed 11% gasoline tax will probably not be accepted. The Governor was reported as being more flexible in his budget priorities, which may bring a wider search by the legislators for balancing the budget.

The rising health insurance cost may be offset with increased cigarette taxes and licensing fees but this was not discussed at the meeting.

#### **4. Filed Sub-Bid Legislation - SB 1903**

A new bill has been filed in the Senate, which would add Earthwork to the filed sub-bid law, Chapter 149. There is no provision to designate specific areas of earthwork included and this would create a good deal of ambiguity as to the scope of this sub-trade. Pre-qualification of sub-bidders is not addressed. It was recognized that this bill would require LAC attention and BSA will draft a letter in opposition to this measure.

#### **5. Legislation to enable substantial Equivalency - MAAB to ADA - HB 3938**

LAC and BSA do not object to the proposed change to include an ADA provision for places of "public employment" within MAAB regulations. Concern extends to conflicts within the regulations, now addressed with the variance procedure.

The role of the Massachusetts Office of Disabilities (MOD) is questioned as mandated to be pure advocacy as opposed to balancing public priorities. For example, the 30% threshold for cost of all work including maintenance items, which expands the scope of accessibility, could result in reduced spending on public safety purposes such as sprinkler systems if it would trigger a complete compliance requirement.

The objective of the LAC, and therefore of the BSA, is to generate access legislation driven solely by excellence and uniformity of delivered services, in full conformity with regulation references.

A meeting to begin that course of action is scheduled for 27 February 2008, at the offices of Mass Housing. Federal official Marsha Mazz will be in attendance. Representatives of the LAC, Access, Codes and other BSA committees will attend. Commissioner Gatzunis, MAAB Executive Director Hopkins and members of his Board are invited to attend.

6. **Architects Day on Beacon Hill**

The day for this event is 22 April 2008, beginning with lunch at 145 Tremont Street, followed by a visit to the State House. NOTE: it was subsequently observed that April 22 is during school vacation week and would be a poor choice. The day was therefore rescheduled to April 29.

The agenda will be determined.

7. **Next Meeting**

Tuesday, 11 March 2008, beginning at 8:30 a.m. The place of the meeting shall be determined due to the renovations of the BSA 5th Floor Conference Room.

The speaker shall be Senator Timilty.

It may be possible that a conference room at 1 Ashburton Place may be available.

8. **Other Business**

Ways of encouraging participation of the Central and Western Mass chapters was discussed. As held in past years, visits by LAC chairs to a western Mass meeting, perhaps in Springfield, was mentioned as a way that active members can be briefed on public issues. Another way would be to identify central/western MA constituents of important legislators and assigning them to contact their representatives at the district offices perhaps accompanied by LAC members.

Messrs. Walsh and Wohn inquired as to the availability of our political consultants to assist in campaigns. It was considered that support of specific candidates would be inappropriate but one possible way of advancing the AIA's and BSA's goal of encouraging greater numbers of elected architects might be thorough a seminar on running for office and ways of organizing campaigns. Build Boston might be a venue for this.

Mr. Feldman announced his resignation as Chair and that Michael Davis and John. Nunnari will share the responsibilities as co-chairs of the committee, beginning in May.

**End of Meeting Minutes**