MINUTES
BUILDING BOARD OF REVIEW
Monday, January 13, 2020 at 1:00 p.m.
Omaha/Douglas Civic Center – 1819 Farnam
Third Floor – Jesse Lowe Conference Room

Board Members:
Jack Ryan – Chairman
Ron Feuerbach – Vice Chair
Cheryl Kiel
Michael Naccarato
Kent Therkelsen
Thomas Thibodeau
Dennis Van Moorleghem

Certification of Publication: Board Secretary certifies publication in the Daily Record, the official newspaper of the City of Omaha, on Monday, January 6, 2020.

THE OWNER, OR A REPRESENTATIVE OF THE OWNER, MUST HAVE SIGNED THE APPLICATION OR BE PRESENT AT THE MEETING FOR THE CASE TO BE HEARD.

NOTE:  THIS BOARD DOES NOT HAVE THE AUTHORITY TO WAIVE ANY REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT, FEDERAL FAIR HOUSING ACT, OR THE N.F.P.A. 101 LIFE SAFETY CODE; BUT DOES HAVE THE AUTHORITY TO HEAR APPEALS OF THE INTERNATIONAL FIRE CODE, NEBRASKA ACCESSIBILITY GUIDELINES AND THE NEBRASKA FAIR HOUSING ACT.

Mr. Jack Ryan called the meeting to order at 1:00 p.m.

I. Roll Call

Jack Ryan
Ron Feuerbach
Cheryl Kiel
Michael Naccarato
Kent Therkelsen
Thomas Thibodeau
Dennis Van Moorleghem

Others Present:
Anna Bespoyasny, Assistant Director Permits and Inspections Division
Le Nguyen, Plans Examiner
Jennifer Taylor, City Law – left early
Jared Dean, City Law – arrived late
Capt. Steve Thornburg, Omaha Fire Department
Don Gerjevic, Chief Electrical Inspector
Thomas Phipps, Chief Mechanical Inspector

II. Approval of Minutes: Approval of December 9, 2019 minutes.

Motion by Mr. Ron Feuerbach to approve the December 9, 2019 minutes. Second by Mr. Kent Therkelsen.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Van Moorleghem
ABSTAIN: Thibodeau

Motion carried: 6-0-1, Approved
III. Cases

<table>
<thead>
<tr>
<th>19-13 <em>Laid over from 11/18/19</em></th>
<th>LOCATION: n/a</th>
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<tbody>
<tr>
<td>Permits and Inspections Division</td>
<td>REQUEST: Proposed Ordinance Change – Examination and Licensing Board</td>
</tr>
<tr>
<td>1819 Farnam St Ste 1110</td>
<td>Omaha, NE 68183</td>
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Ms. Anna Bespoyasny explained that another memo was written in regards to the proposed code changes. She detailed that the original memo was written in 2013 and 2014 and that some things were adjusted by her. She stated there was an error in the Electrical Board meeting schedule in 2019, clarifying that those minutes were not posted online. She detailed that she was provided with updated information in regards to the Electrical Board meetings that were not part of the initial study. She clarified the residency requirements for those boards as per the codes for those boards where it is explicitly stated and how there could be consistency across the boards for the residency requirement. She voiced her personal opinion would be to allow board members who live outside the City limits but have a business within the City limits to have the ability to sit on the new board. She suggested that as an area for the modifications to what is proposed. She addressed the safety concerns that were brought before the board at the previous meeting. The Board consensus was that it would not be required to be read into the record. Ms. Bespoyasny read the recommendation as it pertains to the safety concerns into the record for those in attendance. She stated that the Permits and Inspections Division has a recommendation of approval.

Mr. Ryan asked for clarification from Ms. Jennifer Taylor as to what the board has the authority to do with this proposal. Ms. Taylor clarified what exactly the board’s authority would be in this case. She clarified the process to make a code change official.

Mr. Ryan asked for proponents.

Mr. Don Gerjevic appeared in support of this proposed code change. He explained that the efficiency would be improved. He stated he did not foresee any safety factors being involved.

Mr. Ryan asked for opponents.

Mr. Gary Dixon appeared in opposition to the proposed changes on behalf of the Steamfitters and Plumbers Local 464. He voiced a concern about the involvement of stakeholders to address the proposition. Ms. Bespoyasny stated that there was the thought of addressing the safety concerns with the comments from the previous meeting would be sufficient. Mr. Dixon stated that he opposes the consolidation of the boards beyond just the safety issues.

Mr. Dan Huse appeared in opposition to the proposed changes on behalf of IBEW Local 22. He voiced that he thought they would be reached out to and received no contact to speak about this proposition and they would have appreciated the opportunity.

Mr. Mike McEvoy appeared in opposition to the proposed changes. He detailed his experience with the Steamfitters Board and in the industry. He stated that he agreed with others as he did not see much that had changed since the November 2019 meeting. He stated no one reached out to him in regards to the proposed code changes. He asked if the City of Omaha employees needed to live within city limits. Ms. Bespoyasny stated they do not. Mr. McEvoy asked if he is considered a City of Omaha employee as being on a board member as he received a letter stating he was an employee of the City of Omaha for being on the board. He expressed that it would be difficult to find board members within the city limits as the pool of potential board members would be reduced. He addressed the safety concern that was addressed in the new memo and that he disagreed with the City’s recommendation because there will be board members making decisions about things that are not in their field. He detailed the makeup of the Steamfitters Board and how it helps them make the best decision possible. He gave the example of the Police Department and the Fire Department having Standard Operating Procedures (SOP) being written by people who understand how the SOP should be written. He stated that they should be the same in this instance.
Mr. Jason Kirchhevel appeared in opposition to the proposed changes on behalf of Sheet Metal Workers Local 3. He echoed the continued safety concerns. He stated he would oppose because he would want people making decisions to be making decisions based on their field.

Mr. Pat Schuster appeared in opposition to the proposed changes. He detailed his experience. He asked how the tests will be graded. Ms. Bespoyasny stated that in some cases the tests will be graded by the board, just as they are now, with the answer key provided to the board members or the design portion being graded by the mechanical engineer. Mr. Schuster stated that his understanding was that the tests would still be graded by a group of peers, if that is the case, then there is no efficiency if the other boards are still in place in that respect. He stated he doesn’t disagree with the efficiency of combining the boards but would want the tests to be graded by people in their field.

Mr. Jared Dean arrived. Ms. Taylor left. This was not mentioned on the record.

Mr. Dan Downs appeared in opposition to the proposed changes. He detailed his experience and the fact that he does not live within City limits. He asked how the board would be comprised. Ms. Bespoyasny clarified. Mr. Downs asked about the quorum. Ms. Bespoyasny stated she believed it would be five. Mr. Downs voiced a concern about the board being comprised of members outside their field making decisions with limited input from the trades. Ms. Bespoyasny clarified about how the tests will be graded and the process. She summarized that those fields with tests could be graded with input for the new board to be addressed on if they will receive their license or not. Mr. Downs asked for clarification on individuals outside a field holding a license holder accountable for “bad work.” Ms. Bespoyasny clarified what the board would be addressing and how the board would make the decision. Mr. Thomas Thibodeau asked about the concern of if there is no one representing that specific trade to vote on decisions. Mr. Downs confirmed, continuing that yes the Chiefs would be present, but they are non-voting members. He expressed a desire to know how much money would be saved and that they do it for love of their trade.

Mr. Ryan asked about residency requirement in regards to the new memo. Ms. Bespoyasny clarified what is written versus her personal opinion. She stated that the board could approve with the suggestion to change that residency requirement prior to the presentation to City Council.

Mr. Scott Falcone appeared in regards to the proposed changes. He asked what the composition of the board would be. Ms. Bespoyasny read the composition of the proposed board into the record. Mr. Falcone asked about subcommittees. Ms. Bespoyasny stated they are still part of the ordinance and they are basically just putting the master contractors on the combined board. Mr. Falcone stated that he’s not sure what would be gained by creating the new board if there is still a subcommittee. He stated he believes that composition could come to a conclusion on matters. He expressed a concern about representation. Ms. Bespoyasny expressed they would be able to write their own rules and regulations. She asked Mr. Dean about the quorum requirement. Mr. Falcone detailed that it could be written into the board policy and procedures could be written to ensure that a quorum is comprised of certain members when voting on certain issues or fields. Mr. Falcone asked if that serves the citizens if issues or cases are laid over if those requirements are not met for a quorum. Mr. Dean stated the board members would need to police themselves. Mr. Falcone asked about the frequency of the new board meeting. Ms. Bespoyasny stated that they would be potentially meeting monthly. She detailed that some existing boards are not following the letter of the law because the boards are not being run as they are written in the ordinance, but they are being made to work to issue licenses. She stated she supports the combination of the boards to ensure that the letter of the law is followed. She expressed her appreciation for those who have been on these boards. Mr. Thibodeau asked about the potential ordinance and the new board making their own policy and procedures and how he was not aware that was the case. Mr. Dean stated that every board does have the authority to write the policy and procedures that they will follow. Mr. Thibodeau stated that the new board could create set of rules and regulations to address these concerns. Mr. Dean confirmed and stated that there are general rules to follow, but there are limits to the modifications to the rules and regulations.
Ms. Cheryl Kiel asked who would select the members of the board. Ms. Bespoyasny stated that her recommendation was to move current board members to this new board if they would be open to that. Mr. Ron Feuerbach asked about the grading of the exams. Ms. Bespoyasny stated that it may be similar to what takes place now. She detailed her understanding of how some boards are currently grading exams. She expressed a desire to have less City of Omaha employees grading exams and more board members or outside agents grading exams. She stated that cross disciplines would not be grading exams with the exception of using an answer key by City of Omaha employees, in some cases. Mr. Ryan asked about third party grading exams and who appoints them. Ms. Bespoyasny used the example of Prometrics for the Air Conditioning Air Distribution licenses. Mr. Tom Phipps detailed the approval process in approving an individual to test through a third party for the Air Conditioning Air Distribution licenses. He detailed the in house process for the Steamfitter license exam and the test creation and grading. He detailed the in house process for the Hoisting and Portable license and how he creates, administers, and grades the exam. He detailed that for the mechanical exams, it is a mix of homegrown and third party and what the board’s role is in that process.

Mr. Evan Schmeits appeared in opposition to the proposed changes on behalf of Mr. Michael McDonnell and the Omaha Federation of Labor. He read a letter written by Mr. Michael McDonnell into the record and presented it as Exhibit 2.

Mr. Ryan asked if any board members have any questions. Mr. Therkelsen stated he has a few ideas. He stated that the first would be to change the residency requirement to allow for those who have a license and live nearby as well as his rationale. He stated that his second suggestion would be in regards to the testing, recommending that an outside agency is involved in the grading of exams within their respective industries.

Motion by Mr. Therkelsen to approve with the following changes: change requirement of a being a resident of the City of Omaha to be licensed in the city of Omaha and a resident within the surrounding metropolitan area and that an outside grading agency be used to grade tests within the trade discipline.

Ms. Kiel stated that she would agree but would want the addition that the stakeholders be contacted by the City of Omaha as well. She stated that would be important to be considered.

Mr. Therkelsen modified his motion to also include that stakeholders be contacted in regards to these changes.

There is discussion about if the existing motion would be laid over or proceed to city council. Ms. Kiel voiced the desire to have the discussion with each existing board to get their input. She stated that was just a suggestion.

Mr. Ryan asked Mr. Dean about the options the board has in regards to their motions. Mr. Dean clarified the motion as it is and the action piece of the motion. He stated that with the action of discussing with stakeholders would be a separate motion. Mr. Ryan asked if they have a motion to forward onto City Council. Mr. Dean clarified that that piece was not currently present in the motion. Mr. Feuerbach asked if they need to make a motion to move it on to City Council. Mr. Dean clarified that they should either vote to keep the proposition here or for it to go to the City Council. Mr. Ryan summarized where they are currently.

Mr. Michael Naccarato stated that there was a comment about a quorum requirement and asked if they would need to be in this recommendation. Mr. Dean stated that it would come once the board would be formed and be included in the rules and regulations. Mr. Naccarato stated that it would come later.

Mr. Therkelsen clarified that the motion would be as follows: “approve with the following changes: change requirement of a being a resident of the City of Omaha to be licensed in the city of Omaha and a resident within the surrounding metropolitan area and that an outside grading agency be used to grade tests within the trade discipline.” Second by Mr. Dennis Van Moorleghem.

Mr. Therkelsen asked about the existence of a third party exam option for some trades. Mr. Phipps stated that currently there is only one third party testing agency. Ms. Bespoyasny asked if it would be possible to
work with a third party testing agency to create a test. Mr. Phipps confirmed that it would be possible. Ms. Bespoyasny stated that some research would be required for that. Mr. Thibodeau clarified that it would need a person to be competent grading the exam and gave examples of what that would mean. Mr. Feuerbach asked about a subcommittee grading. Ms. Bespoyasny stated they could if that was in the new board’s rules and regulations. Mr. Thibodeau stated that the outside agency in the existing motion would be problematic. Mr. Dean confirmed and explained their options.

Mr. Therkelsen withdrew his motion. Second by Mr. Van Moorleghem.

Mr. Dean stated that the action motion should be addressed.

Motion by Ms. Kiel to have the City of Omaha meet with stakeholders to have clear input. Second by Mr. Feuerbach.

AYES: Feuerbach, Kiel
NAYES: Naccarat, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion failed: 2-5, Denied

Motion by Mr. Therkelsen to change the ordinance that requires a board member to be a resident of the City of Omaha to have a board member be required to be licensed within the City of Omaha and a resident of the City of Omaha or surrounding jurisdictions. Second by Mr. Van Moorleghem.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Approved

Motion by Mr. Thibodeau to include a requirement in the ordinance that exams are graded by persons competent in the field of which the exam covers. Second by Mr. Therkelsen.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Approved

Ms. Bespoyasny added that the way she looks at the new combined board is comparable to an existing state board. She stated she thinks they can work together to make it work at the city level. Mr. Dean explained what the next stage would be. Mr. Ryan clarified for those in attendance.

Mr. Feuerbach stated that Ms. Kiel made the motion to lay it over last time and asked if she wanted to make the motion this time. Ms. Kiel stated she’s struggling with not feeling like we’re there yet.

Motion by Mr. Therkelsen to, with the proposed changes today, to send the ordinance changes on to City Council. Second by Mr. Naccarato.

AYES: Feuerbach, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem
NAYES: Kiel

Motion carried: 6-1, Approved
At the Building Board of Review meeting held on January 13, 2020, Mike Bogard appeared before the Board in regards to the above request at the above address. Tom Phipps and Steve Thornburg appeared on behalf of the City.

Mr. Bogard summarized what was accomplished at the last meeting and submitted a plan for the makeup air. He expressed that he received a letter from the Fire Department. Mr. Ryan asked if they have met with Permits and Inspections or the Omaha Fire Department. Mr. Bogard stated he did not believe Mr. Sanford did. Mr. Phipps stated that the Permits and Inspections Division has not heard from anyone since the last meeting. He stated that without knowing or seeing the product, he couldn’t make a different determination. Mr. Ryan stated the delay was for the applicant to come up with more information. Mr. Phipps confirmed and it still isn’t because nothing else was submitted. Capt. Thornburg stated that without receiving any additional information, the Omaha Fire Department can’t evaluate the system at this time. Mr. Bogard read information from the letter he received from the Omaha Fire Department. Capt. Thornburg expressed what the code states as it pertains to what Mr. Bogard read. Mr. Bogard stated the manufacturer stated they would not need to move anything. Capt. Thornburg stated they would because it is in the IFC 2012. Mr. Bogard read the letter into the record and presented it as Exhibit 2 as it pertains to the UL listing for the product they want to utilize at the above property address. Capt. Thornburg read the IFC 2012 section 904.11.1 into the record. Mr. Bogard stated they would add an additional pull. Capt. Thornburg stated that one can’t be there. He stated that the modification of the original is not in compliance with the IFC 2012. Mr. Bogard asked if just the presence invalidates it. Capt. Thornburg confirmed.

Mr. Feuerbach asked for clarification if they could have one on the hood and a remote. Capt. Thornburg stated that they can’t have one on the hood. Mr. Thibodeau wondered why they’d build it that way. Capt. Thornburg stated they don’t build it to meet all codes. He continued that without more information, they are unable to make any other recommendation. There is discussion about having two options. Ms. Kiel asked where it is on the appliance. Mr. Bogard readdressed his letter. Capt. Thornburg declined stating that they want people to get away from the appliance instead of getting burned. Mr. Bogard stated they would cover it. Capt. Thornburg stated people would go to the first thing they see and get burned. Ms. Kiel asked where it is on the appliance. Mr. Bogard detailed where. Mr. Thibodeau asked about how it would need to be built. Capt. Thornburg detailed that it would need to be reevaluated to get an approved UL listing and that could take three or four years. Ms. Kiel asked if it could be covered. Capt. Thornburg stated any modification would invalidate the UL listing.

Mr. Van Moorleghem asked if there was another unit they could use. Mr. Bogard stated this seemed the most complete, so he didn’t know, he was under the understanding that given the cost they would be built to compliance. Ms. Kiel asked if Mr. Feuerbach knew of any other systems. Mr. Feuerbach stated a Type I hood but it wouldn’t be ventless. There is discussion about what the board could do.

Motion by Mr. Feuerbach to deny based on Capt. Thornburg’s concerns. Second by Mr. Thibodeau.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Denied

Mr. Bogard stated it seems crazy that they can meet the qualifications and for it to be held up seems crazy to him. Mr. Feuerbach asked if the City would have the authority to shut down operations if the odor gets out to residents. Mr. Phipps stated that would go to Property Maintenance. He discussed the device he was shown.
Ms. Le Nguyen stated that this case was withdrawn this morning by the applicant.
At the Building Board of Review meeting held on January 13, 2020, Todd Cushing, Bill Severn (did not sign in), and Jack McCarthy (did not sign in) appeared before the Board in regards to the above request at the above address. Don Gerjevic appeared on behalf of the City.

Mr. McCarthy detailed their process and how his company specializes in data centers. He expressed they’ve come up with design efficiencies in the installation and coexist with other trades more easily. He expressed the solution of a cable bus system that is pre-engineered and UL listed. He detailed how it is installed. He stated that he’s presented the hardship of installation without the cable bus versus with it. He reviewed the plans that were submitted with the application and the different versions of installation that are presented on those plans. He stated that the second page of the plans shows the installation of cable bus. Mr. Cushing detailed the use of the building. Mr. McCarthy detailed the specifics of the product and other cases of installation.

Mr. Thibodeau asked about the cable bus and materials. Mr. McCarthy detailed the materials used.

Mr. Gerjevic presented information to the board in regards to the Omaha Municipal Code as well as information from the National Electrical Code and how they are conflicting. He stated that in extreme instances he would not object to the installation. He stated there is a benefit to having an approved raceway. He stated that the City of Omaha does not object to this wiring method in this situation.

Mr. Feuerbach asked about the sprinkler system. Mr. McCarthy confirmed it is pre-action.

Motion by Mr. Thibodeau to grant the waiver to allow the use of this product. Second by Ms. Kiel.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Approved

There is further discussion.
IV. Election of Officers

Motion by Mr. Feuerbach to appoint Jack Ryan as the Chairperson. Second by Mr. Naccarato.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Approved

Motion by Mr. Therkelsen to appoint Ron Feuerbach as Vice-Chairperson. Second by Ms. Kiel.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Approved

V. Review Board Policy and Procedures

Ms. Bespoyasny asked if this could be laid over to the February meeting.

VI. Adjournment

Motion by Mr. Feuerbach to adjourn. Second by Mr. Therkelsen.

AYES: Feuerbach, Kiel, Naccarato, Ryan, Therkelsen, Thibodeau, Van Moorleghem

Motion carried: 7-0, Adjourned at 2:47 p.m.