



**Building Board of Appeals**

**Agenda**

Regular Meeting

February 6, 2012 at 1:30 P.M.

City Hall, 1625 13<sup>th</sup> Street, Committee Room 103, Lubbock, Texas

- 1) Call to Order Welcome and Introductions- *Michael Landress, Chairman*
- 2) Approval of Minutes- November 7, 2011 regular meeting- *Michael Landress, Chairman*
- 3) Action Items: None
- 4) Work Session

4.1) Continued discussion of the expansion of the Building Board of Appeal's responsibilities and authority

- 5) Adjournment

The next meeting is tentatively scheduled for March 5, 2012, as needed.

The above referenced NOTICE OF MEETING was posted on the bulletin board outside the east entrance of City Hall, 1625 13<sup>th</sup> Street, Lubbock, Texas, on the \_\_\_\_2nd\_\_\_\_ day of \_\_February\_\_\_\_, 2012 at \_\_\_\_8:30 am.

By: \_\_\_\_\_Irma Mart0inez\_\_\_\_\_

*Building Board of Appeals* meetings are available to all persons regardless of disability. If you require special assistance, please contact the City of Lubbock at (806) 775-3791 or write to P.O. Box 2000, Lubbock, Texas, 79457, at least 48 hours in advance of the meeting.

February 6, 2012

## AGENDA BACKGROUND INFORMATION

4.1) Staff presentation regarding the Model Code and Construction Ordinance Advisory Board's recommendations concerning expansion of the Building Board of Appeal's responsibilities and authority

*A preliminary Ordinance draft will be presented for study and discussion at the meeting.*

### DISCUSSION POINTS:

- Model Code Board Recommendation:
  - Provide limited oversight of registered contractors by the Building Board Appeals
    - Transfer of appellate authority regarding permits and contractor registrations from the License and Permit Appeals Board to the Building Board of Appeals
    - Authorize the Building Official to bring certain decisions regarding permit and contractor registration suspension and revocation actions to the Board of Appeals, at his discretion
    - Authorize the Board of Appeals to initiate, on their own motion, a hearing to determine whether a contractor should have his/her registration suspended or revoked
- Staff Recommendations:
  - In light of the Model Code Board's Recommendations:
    - Expand contractor registration requirements to include all trades that obtain permits, including State-licensed contractors- *this is the intended direction of Staff; the Board is not tasked with this decision*
    - Consider the creation of alternate Board positions, representative of a particular trade, who would be called upon to sit when considering a case involving a peer- *See discussion below*
    - Ensure any ability of the Board to self-initiate proceedings against a contractor is well-vetted by the Legal Department and precludes any possibility of a conflict of interest, real or perceived- *The Legal Department advises that any ability of the Board to act in lieu of staff removes a step in the due process chain available to a citizen, and is not advisable. For example, if the Board could initiate a revocation action on their own motion, absent any action by staff, there would be no body at the municipal level to appeal the Board's decision to. Since any citizen has the ability to file a complaint with the Building Official on a contractor, which then results in an investigation and a determination of whether or not that contractor's registration should be suspended or revoked, that citizen, if aggrieved by the action or inaction of the Building Official, could appeal to the Board, which could then reverse, affirm, or modify the Official decision. This would preserve the due process that everyone has the right to.*
  - Generally (Unrelated to the above)

- Expand the Board's general authority as a true appellate body
  - Consider alternate materials and methods
  - Issue variances and special exceptions
    - Based on demonstrated hardship
    - Not in conflict with the intent of the code
    - Hardship not self-created
    - Hardship not solely financial in nature
    - Code section does not apply or is mis-applied

*The Ordinance will provide for the ability to grant relief using one of three methods:*

- 1) Appeals of decisions by administrative officials*
- 2) Variances to technical requirements*
- 3) Special exceptions with regard to technical requirements*

*Appropriate safeguards are necessarily built into the procedures to ensure due process, fairness, and protection of the public health, safety and welfare. More information will be provided at the meeting.*