

FLORIDA BUILDING COMMISSION
Plaza Beach Resort and Spa
600 North Atlantic Boulevard
Daytona Beach, Florida 32118
Plenary Session
December 12, 2014
8:30 AM

COMMISSIONERS PRESENT:

Dick Browdy, Chairman
Hamid Bahadori
Steve Bassett
James Batts
Donald Brown
Bob Boyer
Oscar Calleja
Jay Carlson
David Compton
Nan Dean
Kevin Flanagan
Charles Frank

David Gilson
Jeff Gross
Brian Langille
Beth Meyer
Darrell Phillips
Bradley W. Schiffer
Frederick Schilling
Jim Schock
Drew Smith
Brian Swope
Jeff Stone
Tim Tolbert

COMMISSIONERS NOT PRESENT:

Robert Hamberger

OTHERS PRESENT:

Jim Richmond
Mo Madani
Marlita Peters

Chris Burgwald
April Hammonds
Jim Hammers

MEETING FACILITATION:

The meeting was facilitated by Jeff Blair from the FCRC Consensus Center at Florida State University. Information at: <http://consensus.fsu.edu/>

Welcome:

Time: 8:30 am

Chairman Browdy welcomed Commissioners, staff, and members of the public to Daytona Beach and the December 12, 2014 plenary session of the Florida Building Commission. He stated that in addition to considering regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, and recommendations from our various committees, the primary focus of the December meeting is to decide on the Statement of Estimated Regulatory Costs SERC checklist related to the waiver application Rule, and to discuss Commission participation with the ICC code development process.

Chairman Browdy advised members of the public to sign the attendance sheet on the speaker's table in the center of the room. In addition, we have a sign-up sheet for general public comment. He stated as always, we will provide an opportunity for public comment on each of the Commission's substantive discussion topics (actions that are not procedural or ministerial in content). Chairman Browdy stated if a member of the public would like to comment on a specific substantive Commission agenda item, please come to the speaker's table when the issue is up for consideration so we know you want to speak. He advised that public input is welcome, but should be offered before there is a formal motion on the floor. Chairman Browdy asked that all participants and members of the audience keep all electronic devices turned off or in a silent mode. Thank you for your cooperation.

Chairman Browdy stated that there are also buff colored "*Public Comment Forms*" on the speakers' table that can be used to provide written comments. All written comments will be included in the Facilitator's Summary Report. Please give your completed "*Public Comment Forms*" to Jeff Blair. He advised some of the licensing boards located within the Department of Business and Professional Regulation have adopted rules regarding continuing education credits for attending Florida Building Commission meetings and/or Technical Advisory Committee meetings. If your board participates you may sign-in on the kiosk laptop provided in the meeting room.

Roll Call:

Chairman Browdy performed roll call, a quorum was met with twenty four members present.

Chairman Browdy requested that Jeff Blair cover the agenda items for the meeting today.

Jeff Blair welcomed participants to the December Plenary Session and introduced the agenda as follows:

- To Consider Regular Procedural Issues: Agenda Approval and Approval of the October 14, 2014 Facilitator's Summary Report and Meeting Minutes, and November 13, 2014 Telephonic Meeting Minutes.
- To Consider/Decide on Chair's Discussion Issues/Recommendations.
- To Consider/Decide on Accessibility Waiver Applications.
- To Consider/Decide on Approvals and Revocations of Products and Product Approval Entities.
- To Consider Applications for Accreditor and Course Approval.
- To Consider/Decide on Legal Issues: Petitions for Declaratory Statements.
- To Receive a Report of a Binding Interpretation.
- To Consider the Statement of Estimated Regulatory Costs Checklist Related to the Waiver Application Rule.
- To Review Issue of Commission Participation with the ICC Code Development Process.
- To Consider/Decide on Technical Advisory Committees (TACs): Accessibility; Mechanical; and Special Occupancy TAC Report/Recommendations.
- To Consider/Decide on Program Oversight Committees (POCs): Education and Product Approval POC Reports/Recommendations.
- To Receive Public Comment.
- To Discuss Commissioner Comments and Issues.
- To Review Committee Assignments and Issues for the Next Meeting—February 20, 2015 in Tampa, Florida.

Jeff stated that the Chairman asked that he remind everyone that the meeting today is not the Rule Adoption Hearing on the Florida Building Code 5th Edition (2014), which will be conducted on January 5th. He stated again this subject is not on the agenda today to discuss.

Chairman Browdy requested a motion to approve the December 12, 2014 agenda as presented. A motion was entered by Commissioner Schilling and seconded by Commissioner Boyer, the motion passed unanimously.

Approval of the October 14, 2014 Facilitator's Summary Report and Meeting Minutes and November 13, 2014 Telephonic Minutes:

Chairman Browdy requested a motion to approve the October 14, 2014 Facilitator's Summary Report and Meeting Minutes and November 13, 2014 Telephonic Minutes.

Commissioner Schiffer entered a Motion to approve the October 14, 2014 Facilitator's Summary Report and Meeting Minutes and November 13, 2014 Telephonic Minutes. Commissioner Schilling seconded the Motion. The motion passed unanimously.

Chairman's Discussion Issues and Recommendations:

Appointments:

Commission - POCs/TACs – Workgroups - Committees:

Chairman Browdy stated that all are aware of the Governor re-election and are now preparing for the new term. He stated at this time there are no new appointments, however, he feels the appointments we have been waiting on will be completed in the near future.

Code Coordination and Implementation Workgroup Appointments:

Chairman Browdy stated at the October 14, 2014 meeting the Commission voted unanimously to convene a *Code Coordination and Implementation Workgroup* to review and evaluate all of the regulatory requirements currently impacting the code, and to propose a legislative path to a more efficacious timetable for the implementation of the Florida Building Code update process in the future.

Code Coordination and Implementation Workgroup Appointments (cont.):

Chairman Browdy provided the following names of the members that have been appointed to the *Code Coordination and Implementation Workgroup*:

MEMBER	AFFILIATION
Dick Browdy	Florida Building Commission (FBC)
Tom Allen (ex-officio)	ICC Code Process
Steve Bassett	Building Professionals: Mechanical Contractors
Jay Carlson	Building Professionals: General Contractors
David Compton	Design Professionals: Engineers
Kevin Flanagan	Building Professionals: Electrical Contractors
Charles Frank	Division of Stated Fire Marshal
Darrell Phillips	Education Facility Professionals: Public Education
Brad Schiffer	Design Professionals: Architects
Jim Schock	Building Officials
Drew Smith	Building Professionals: Home Builders
Steve Strawn	Building Product Manufacturers
Brian Swope	Building Professionals: Roofing and Sheet Metal Contractors
George Wiggins (ex-officio)	Building Officials of Florida (BOAF)

Chairman Browdy advised that the Code Coordination and Implementation Workgroup will meet on January 30, 2015 in Tallahassee.

Special Telephonic Meeting for Adoption of the FBC 5th Edition, 2014:

Chairman Browdy stated that at the November 13, 2014 Telephonic Commission meeting the Commission moved to approve the Florida Building Code, 5th Edition (2014) as posted on the BCIS (Supplement plus the foundation code) for adoption by reference within Rule 61G20-1.001; authorizing the Department to publish a Notice of Proposed Rule with regard to the same and establishing within that notice a hearing date and time to be conducted by communications media technology, specifically conference call and webinar as soon as practicable.

The Commission will conduct a telephonic rule adoption hearing for the FBC, 5th Edition (2014) on January 5, 2015 at 10:00 AM.

Special Telephonic Meeting – Education Course Approval:

Chairman Browdy advised that the revisions to Rule 61G20.6.002, F.A.C have been adopted and went into effect as of November 19, 2014 and as a result the Florida Building Commission Advanced courses can now be submitted for approval using the Florida Building code, 5th

Special Telephonic Meeting – Education Course Approval (cont.):

Edition (2014). He stated this was a critical move to go forward with to address the issue of training people on the right code at the right time.

He further advised that the Commission will conduct a telephonic meeting for Education course approval during January of 2015. The Commission and public will be notified when the exact date is determined.

Jim Richmond, advised since the agenda was published that a discussion was held with the POC Chairman and there will need to be a POC meeting to hold further discussion and make recommendations and work with Administrator. He said there will be a POC meeting telephonically on January 14, 2015 in the afternoon with a deadline for course admission for that call of January 7, 2015 and the Commission could meet on the POC recommendations the 22nd or 23rd. He further stated he would like to hold on January 22nd at 10 am.

Accessibility Waiver Applications:

Chairman Browdy stated the Commission will now consider this month's requests for accessibility waivers. April Hammonds will serve as legal counsel and present the Accessibility Advisory Council's recommendations. He then asked April please present the Councils' recommendations regarding waiver requests in turn.

April Hammonds, Esq. advised that there was not a quorum during the Accessibility Council Meeting the recommendations being presented are from the individuals that were present.

[Samantha Hotel, 235 39th Street, Miami Beach](#) - Council recommended granting based on technical infeasibility and historic nature of the building.

Mr. Fine, Attorney for Samantha ask to allow clarification that this was originally on the agenda for the October meeting, however there was a change in the project just prior to meeting thus extending to this meeting. Mr. Fine fully explained the outlay of the building and structure.

Commissioner Schiffer entered a motion to accept the recommendation. Commissioner Schock seconded the motion.

Commissioner Schock was addendum to language as technical infeasibility should be worded as to update to include to the extent necessary

Mr. Fine stated he would like for the language of approval to remain as is leaving in technical infeasibility language.

The motion passed unanimously leaving the language as the Council recommended.

Accessibility Waiver Applications (cont.):

Kappa Delta Sorority House, 555 West Jefferson Street, Tallahassee – Council recommended denial on the basis that new construction should be accessible.

Commissioner Meyer entered a motion to accept the recommendation of denial. Commissioner Schilling seconded the motion. The motion passed unanimously.

Alpha Gamma Delta Porch Enclosure, 517 West Park Avenue, Tallahassee – Council recommended approval based on disproportionate cost.

Commissioner Meyer entered a motion to accept the recommendation of approval. Commissioner Schilling seconded the motion. The motion passed unanimously.

Vela Rouge Hotel, 7130 Harding Avenue, Miami Beach - Council recommended approval based on disproportionate cost.

Commissioner Schiffer entered a motion to accept the recommendation of approval. Commissioner Schilling seconded the motion. The motion passed unanimously.

Tiniciti III Preschool, 3111 S. W. 27TH Avenue, Miami – Council recommend conditional approval based on disproportionate cost with the condition that the second floor toilet room is also made accessible.

Commissioner Meyer entered a motion to accept the recommendation of conditional approval. Commissioner Schilling seconded the motion.

Commissioner Schock requested an amendment to the motion to include second floor toilet room to be made accessible to child standard.

The amendment was accepted in the motion. The motion passed unanimously.

Doitterer/Reese Building, 118 Centre Street, Fernandina Beach - Council recommended approval based on disproportionate cost.

Commissioner Schiffer entered a motion to accept the recommendation of approval. Commissioner Meyer seconded the motion. The motion passed unanimously.

Lynne Pilkerton was present to represent Doitterer/Reese Building and provided background information.

Accessibility Waiver Applications (cont.):

7140 Abbot Avenue, 7140 Abbott Avenue, Miami Beach - Council recommended approval to the extent a waiver is needed.

Commissioner Meyer entered a motion to accept the recommendation of approval. Commissioner Schilling seconded the motion. The motion passed unanimously.

Applications for Product and Entity Approval

Chairman Browdy advised that Commissioner Stone will present the POC's recommendations for entity approvals and the consent agenda for products recommended for approval, and Jeff Blair will present the POC's recommendations for product approvals with discussion and/or comments. He said we will start with the entity approval applications followed by consent agenda, and conclude with discussion items. Commissioner Stone will now present the applications on the entity approval applications and consent agenda

Commissioner Stone stated there were 14 applications for product approval entity on the consent agenda. Commissioner Stone entered a motion to approve the 14 consent agenda applications. Commissioner Compton seconded the motion. The motion passed unanimously.

Commissioner Stone stated there were 64 applications for approval on the consent agenda. Commissioner Stone entered a motion to approve the 64 applications. Commissioner Compton seconded the motion. The motion passed unanimously.

Commissioner Stone stated there were 4 applications that had extensive discussions in the POC. Commissioner Stone advised that Jeff Blair would take the Commission through those 4 applications.

Jeff Blair presented the following POC's recommendations for product approvals with discussion and/or submitted with public comment.

11915-R4 - Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Dean seconded the motion passed unanimously.

17214 - Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

17290 -. Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously

17300 - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously

Applications for Accreditor and Course Approval:

Chairman Browdy advised that Commissioner Nan Dean will present the Education POCs recommendations for course applications will provide recommendations as needed.

Commissioner Dean entered a motion to approve the following courses be approved on consent agenda **651.0, 652.0, 653.0, 654.0 and 655.0**. Commissioner Stone seconded the motion. The motion passed unanimously.

Commissioner Dean stated she had one creditor Charles Barr.

Commissioner Dean entered a motion to approve Charles Barr as an accreditor. Commissioner Stone seconded the motion. The motion passed unanimously.

Petitions for Declaratory Statement [Legal Report](#)

Chairman Browdy requested that Ms. Hammonds present the declaratory statements.

[DS 2014-129 by David Kramer, Building Code Administrator, of University of Florida](#)

Ms. Hammonds read the petition from Mr. David Kramer. Ms. Hammonds advised that the Accessibility TAC voted unanimously to recommend deferral to allow applicant to provide more information.

Commissioner Boyer entered a motion to approve the Accessibility TAC recommendation to defer. Commissioner Schiffer seconded the motion. The motion passed unanimously.

[DS 2014-135 by Michael Ippolito, PE](#)

Ms. Hammonds read the petition from Mr. Ippolito with response. Ms. Hammonds advised that the Mechanical TAC and Special Occupancy TAC voted unanimously to recommend the Commission approve the TACs recommendations on the Petition to approve legal staff's recommendation to deny the petition due to general applicability.

Commissioner Bassett entered a motion to approve the Mechanical TAC and Special Occupancy TAC recommendation to deny petition due to general applicability. Commissioner Calleja seconded the motion. The motion passed unanimously.

Petitions for Declaratory Statement (cont.):

[DS 2014-142 by Robert S. Fine, Esq. of Greenberg Traurig, P.A.](#)

Ms. Hammonds read the petition from Mr. Fine. She stated that the Accessibility TAC addressed this declaratory statement and accepted the petitioners and joint recommendation of the staff. Ms. Hammonds provided the full response with statutory references.

Chairman Browdy recognized Mr. Fine.

Mr. Fine introduced himself and his office location. He stated he is representing Landmark and that they agree with the joint recommendation. Mr. Fine stated he would like to hold any further comments until a vote had been made.

Commission Gross entered a motion to approve the recommendation of the TAC. Commissioner Schiffer seconded the motion.

Commissioner Compton stated this appeared to be a general declaratory statement and not site specific.

April Hammonds stated there were plans provided for a specific work project thus this request would not fall under general applicability.

Chairman Browdy then called for a vote on the motion. The motion passed unanimously.

Mr. Fine stated that declaratory statement DS 201301.1 was recently submitted by him which asked the same question however was multiple family housing that was not receiving Government funding. He stated at the time FS 553.775 prohibited declaratory statements that involved interpretation of the accessibility guidelines which are incorporated into accessibility code, which has now changed. Mr. Fine stated he felt the prior declaratory statement was based on the statutory interpretation instead of the code itself. He referenced the declaratory statement 201301.1 currently is only showing under 424.1 which is swimming pools and he requested that the system to be updated to reference this DS under the accessibility code also.

Ms. Hammonds provided information on the prior work completed to allow guidance to Code Officials. She also stated that DS 201301.1 would not fall under the accessibility code. Ms. Hammonds asked that on record she is requesting a way to cross reference.

Jim Richmond advised there is a new appliance "Google" to be added to the system that will scan every document on file and will allow text search throughout the site by key word and this may address this situation.

Petitions for Declaratory Statement (cont.):

Mr. Fine stated that this will be a great addition to the site. He further stated that the Commission is fortunate to have someone he finds to be an exceptional administrative lawyer working with them as well as your staff director now and former counsel to the Commission.

Commissioner Gross asked about the Accessibility portion of the code. He wanted to know when the code is updated they have no changes. Commissioner Gross asked if there will need to be a separate rules hearing.

Jim Richmond stated it is a separate rule but not separate, it is intergraded in the Building Code Rule and has a separate existence as well, so it will rollover as is.

Mo Madani stated there were three changes which were made to the Accessibility Code and did occur through the rule. It will remain a draft being published under 5th Edition (2014) but will have in it 2012.

Binding Interpretation:

Petition #112 by Raymond Masciana of Cape Coral

Chairman Browdy advised that the Commission had received a request for a binding interpretation, the first one under the new procedure. He then asked April Hammonds to present.

Ms. Hammonds stated there were seven members that were selected and agreed to participate in the binding interpretation. She stated that the purpose of this agenda item is to only brief the Commission, she said they cannot discuss the substance of the petition or the binding interpretation issued since should someone choose to appeal the interpretation, the Commission is the appellant body. Ms. Hammonds stated she can advise that the process was held on November 17th and seven members participated on Petition #112 by Raymond Masciana of Cape Coral and pertained to whether fire rated doors are permitted in a rated wall assembly to interconnect the living spaces of separated dwelling units. The Commission's appointed Interim Binding Interpretation Panel appointed August 22, 2014 was convened to hear the petition, and issued a binding interpretation on the Petition. The Panel ruled that the answer is yes pursuant to Section 104.1 of the FB

Statement of Estimated Regulatory Costs (SERC) Checklist Rule 61G20-4.001 Procedures (Waiver Application Form):

Chairman Browdy stated that in order to take the next step in the rule adoption process for Rule 61G20-4.001, Procedures (waiver application form) the Commission needs to approve the Statement of Estimated Regulatory Costs checklist and to charge the Chair with executing the same.

Chairman Browdy then read the language for the Commissioners as follows:

The agency has determined this rule will not have an adverse impact on small business or likely increase directly or indirectly costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Commission conducted an analysis of the proposed rule's potential economic impact and determined that it did not exceed any of the criteria established in Section 120.541(2) (a), F.S.

There being no further discussion, Chairman Browdy asked for a motion to approve the Statement of Estimated Regulatory Costs Checklist and Legislative Ratification as completed for Rule 61G20-4.001, Procedures, and authorizing the Chair to execute the same.

Commissioner Gross entered the requested motion. Commissioner Schilling seconded the motion. The motion passed unanimously.

Commission Participation with the ICC Code Development Process:

Chairman Browdy stated at the October 14, 2014 meeting Commissioner Stone indicated that he had participated in the ICC code development process over the years and he thinks it would be beneficial for the Commission to participate in the process going forward. He said that Commissioner Boyer suggested that the issue of ICC participation by the Commission should be added to the scope of review for the Code Coordination and Implementation Workgroup. Chairman Browdy also advised that once the Commission agreed to a strategy, any request for a Commissioner to attend ICC code hearings should be sent formally in a letter to DBPR.

Commission Participation with the ICC Code Development Process (cont.):

Chairman Browdy advised in addition, staff indicated that in the past the Commission voted to fund Mo Madani to attend an ICC code hearing. There were also comments from staff regarding difficulties with getting approval for out-of-state travel, and that any requests to attend an ICC code hearing must be done months in advance. Legal staff also indicated that only a single Commission member should plan to attend ICC code hearings due to the Sunshine Law's prohibition regarding members communicating with each other on substantive issues outside of a noticed meeting.

Chairman Browdy stated that April Hammonds, will provide a legal perspective on the issue of Commissioners participation with the ICC Code development process and answer member's questions.

Ms. Hammonds advised as stated there was a discussion at the last meeting regarding multiple members of the Commission participating in the ICC process and the possibility of the violation of the Sunshine Law. She said that as we go through the triennial and glitch process you would have Commissioners that were addressing issues that were going to be coming before them which are prohibited through the Sunshine Law and Code of Ethics. Ms. Hammonds further stated that the other issue that comes up and it was a new statute for this particular triennial code process, is that we had to be very careful that any changes made to the Florida Building Code had a justifiable Florida specific reason and one of the items in the question on the form was "was the proposed amendment submitted to be included in the foundation codes". She stated therefore another possible concern that may exist would be from a legal standpoint, if a Commissioner submitted or spoke on behalf of including a particular amendment to the ICC or the Foundation Code. She said if they rejected that and tried to bring it to the next triennial process, it would be very difficult to argue that it was Florida specific in nature, if it was attempted to be included in the ICC or the Foundation Code as it is a strict requirement that it be Florida specific. Ms. Hammonds stated if something can be included in the International Code and then brought back here it would be hard to argue that there is a Florida specific reason why it was not included in the ICC. Ms. Hammonds stated this is her perspective, she said that it is helpful for someone like Mo to listen in but participation could affect the next triennial process.

Jim Richmond stated that they certainly have scope concerns, but should be limited to legal concerns as they are paramount. He said the legal concerns create a threshold issue if those cannot be overcome; there is no reason to go beyond those.

Chairman Browdy opened the floor for discussion among the Commissioners.

Commission Participation with the ICC Code Development Process (cont.):

Commissioner Stone stated the next version of the International Building Code, Code change process starts next year and is over a three year period. He said most of the issues where we have Florida specific amendments dealing with issues we will discuss in 2016 but the code change process begins in 2015. Commissioner Stone stated his discussion with members of the legislature is that they expect us to be participating in the ICode process; they were surprised when he advised them that there is a question about that. He further said that he provided a memo to the Chairman which outlines the process which also gives at least a recommendation at a minimum that the Florida modifications be submitted to the ICode process according to their schedule and the TACs be charged with the review of all of the proposals and make recommendations based on the proposals that would affect Florida and then for the Commission to make a decision or policy decision on whether or not to support the code change proposals. He said he is also recommending that the Commission fund with the budget provided for Commission attendance. Commissioner Stone further stated that there could be two Commissioners or a Commissioner and a staff member like Mo at the meeting attending two different meetings covering the code. He stated he is not suggesting any violation of Sunshine Law, this would be no different than having dinner together or meeting at the Bar after a meeting, we do not discuss these issues. Commissioner Stone stated all Code Meetings are public and shown on the Internet; any statement made by a Florida representative would be fully in the Sunshine as it is publically viewed. He said that Florida since we use the ICode as a base or foundation code should be involved in that code change process.

Ms. Hammonds addressed Commissioner Stone's concerns and she has some answers for his questions and or concerns. She said even though it may be in the Sunshine the code of ethics specifically states you may not discuss anything that will be coming before this Commission and inevitably we are going to have a triennial code updates which is a code of ethics issue. She further stated so while it may be in Sunshine and a public hearing, it is going to come before this Commission, and the Commissioners are perceived to have a view on it. Ms. Hammonds said when he stated all Florida specific amendments will go before the ICC she does not believe the Commission then could argue in any way that they were Florida specific if they wanted them included in the International Code. She said if listed under 553.3(7) (g3) would eliminate anything that was not accepted by ICC into this code, we would be left almost with the foundation code if anything was proposed and not accepted by them.

Commissioner Bassett stated he is not an attorney, but it seems to him if we submitted something to the ICC and they rejected it, it would support that it is Florida specific as they turned it down as being applicable to the rest of the country. He said he felt it would support the Florida specific amendment.

Commissioner Compton stated that he agreed with Commissioner Bassett.

Commission Participation with the ICC Code Development Process (cont.):

Commissioner Schiffer asked if Ms. Hammonds had any concerns with any Commission Members sitting on an ICC Committees.

Ms. Hammonds stated yes because you would be sitting in on the Florida Code. She stated to address submitted and rejected, there are many reasons that it was submitted and you felt it was broad enough to be submitted nationally it would be difficult to then argue that it is Florida specific.

Commissioner Bahadori asked counsel if she is prohibiting two members of this Commission from attending any ICC meeting.

Ms. Hammonds said no sir you can attend anything you choose to. She said no-one is questioning their integrity and no one is questioning those things. Ms. Hammonds further stated the appearance of their propriety is often raised as you all are familiar in political situations. She said that they can attend anything they want to, whether later someone would challenge a portion of the code or some portion of the proceeding that there were three or four members at the meeting and they saw them talking and could not determine if they were discussing code changes or not could be an issue. Ms. Hammonds again stated that they can attend anything they want to on their time, but her job is to be counsel to each one on them and to guide as best she can on the code of ethics and sunshine law. She said if someone were to raise an issue of breach of sunshine law, then they would have to address.

Commissioner Schock stated on the last code cycle it was a requirement to submit to the ICodes.

Ms. Hammonds stated that was a question, was it submitted or attempted to be submitted to the ICode. She said arguably that they wanted to know was it attempted to be submitted because she believes the rationale in this could be arguable. She said the rationale is if an attempt to be submitted as an International Code change, it would not be specific to this state. Ms. Hammonds stated that was a new provision for the newer members and it is a question, it was not mandated it was only a question. She said there was a great deal of discussion, there was two weeks on the road, working many hours with the support of the TACs and Commissioners holding hours and hours of meetings to discuss things to determine whether things met Florida specific requirements and it became the opinion of most Committees and the Commission, if you submitted it to the ICC and you could not give a hard and fast rule to show that it was specific to Florida, then it would not be specific. Ms. Hammonds stated this occurred in October 2012 as a new statutory provision; this was to limit changes to the ICC. She said the only thing she is trying to do is provide information for them and is not telling them that they cannot participate in anything, but it could raise an issue at a triennial process and could subject them to a code of ethics issue and sunshine is a broad term used, but the code of ethics is bottom line. She said they can get together socially but cannot discuss anything that could come before the

Commission Participation with the ICC Code Development Process (cont.):

Commission. Ms. Hammonds said she wanted to caution them as public appointees that they are subject to the code of ethics and she can do nothing about that other than provide guidance.

Chairman Browdy acknowledged Jim Richmond to offer additional comments on the information provided by legal counsel.

Jim stated he felt Commissioner Schlock's questions highlight where his concerns land conceptually. He further stated given that it is a question and is relevant to this Commission legislatively, he would say that it is not the Commission that is supposed to submit those items on the ICode under that provision, but the advocate for the change is to provide that information. Mr. Richmond said that it is not surprising that those stakeholder groups represented at this table would have stake in the International Codes it is obvious that they would otherwise they would not be here, because the Florida Building Code is basically the interaction of the International Code. He said what we need to look at is what is the interest of the Commission as a regulatory body in making Nationwide policy and he said he struggles with that and if he reviews part 4 of Chapter 553, he finds no mention of that whatsoever of being within our powers and authority. Mr. Richmond advised that we are here to basically tell Floridians how to build in Florida, not tell people in other states how to build in Florida. He said we do not have authority to tell people in other states how to build like in Washington State or anywhere else, he said he is not sure that we could make the case to the Governor's Office who has to approve out of state travel, that we should be expending State of Florida funds to help out Idaho with their construction issues. Mr. Richmond said certainly the stakeholder groups should go pursue their items to the extent that the changes they advocate in Florida could help out their members in other states, otherwise he thinks the only participation that is statutorily anticipated at this point is monitoring so that we are prepared to adopt the next edition of the ICode as the foundation for the Florida Building Code.

Commissioner Schock stated that he wanted to make a statement that listening to the discussion, he supports that this process move to the Code Implementation Workgroup. He said it is unthinkable that we use the International Code and we should not be involved in the promulgation of the code and feels it is going against our purpose.

Chairman Browdy clarified the request of discussion for the Code Implementation Workgroup.

Commissioner Tolbert asked Ms. Hammonds if they are prohibited from making individual code change recommendations for the ICode.

Commission Participation with the ICC Code Development Process (cont.):

Ms. Hammonds stated they are not prohibited, but would need to disclose it if they participate.

Jim Richmond clarified that we do not prohibit anything, we advise. He stated the Sunshine Law would be indicated if more than one Commissioner were involved in a subject that likely would come before the Commission for future action. Mr. Richmond provided an example if you make a code proposal and another Commissioner is at a hearing then that would likely implicate Sunshine Law and the fact that it is televised and recorded does not preserve it, it would have to be a noticed meeting of the Florida Building Commission in the Florida Administrative Register and open to the entire public. He said that is a regular circumstance we regularly encounter with the Building Officials Association Florida Meetings; it is just one of the difficulties that exist and volunteering your time to better the state on the Florida Building Commission.

Commissioner Bassett stated he had two points to make. One he said goes back in history, if we adopted the South Florida Building Code we would not have this problem today and the only reason we adopted the ICC was there were too many Building Officials on the Commission and one became president of the ICC. He further stated that nothing was ever said to them. He said that we notice the ICC as a meeting of the Florida Building Commission.

Commissioner Calleja stated he had two points, number one is that this is statutory problem, if he understands it correctly that the way that the law was written is the one that prohibits us from submitting modifications to the International Code and has to be Florida specific and that is the whole argument. He further stated that anything we change from the International Building Code which we adopted is our code also, if we submit a regular modification as Florida specific to the International Code, the concern is it considered as non-Florida specific, but only because the law is written that way, if the law was changed, this would become an automatic process and they can reject or approve, if approve would be our code, ones that are disapproved would then be addressed locally in Florida. He said the only thing holding us back is the law and the Committee should address the language in the law and review what needs to be changed. Commissioner Calleja said his second point, the Building Code Officials can do this and the Sunshine law does not apply to them.

Ms. Hammonds advised BOAF are not gubernatorial appointees charged with performing a duty, they are an Association.

Commission Participation with the ICC Code Development Process (cont.):

Mo Madani stated a few years ago this issue came up and staff had 350 code changes that were prepared working with BOAF and ICC was in Orlando and we submitted to ICC and none of the codes were accepted by ICC as they were Florida specific and is for local issues and should not be in National Code. He said you will see the same thing if we try this again, they do not look at State issues but National issues. Mo stated he felt that we will not make a difference even if we go.

Commissioner Stone stated he is a Codes and Standards Consultant and has been so for over a quarter of a century and as he understands there is nothing prohibiting me from as a Codes and Standards Consultant from submitting all of Florida modifications to ICC. He said he would not submit them as a Florida specific modification but modification along with the argument that goes along with it. Commissioner Stone further stated that it appears that the issue that we are discussing is of concern is active participation in hearings and not the evaluation of the code change proposals. He further stated since most of the code change proposals would be affected that we are discussing would be of concern in 2016, it would be a small list that would be involved in the code change process in 2015 so unless he hears an objection from our attorney I will also find out if one of my clients would fund my participation in submitting the code change proposals would that be a violation of Sunshine.

Chairman Browdy advised he did not think that was an issue, both April and Jim advised Commissioners can attend meetings and do what they please. He said the discussion should center around the Commission as a Commission in the International process. Chairman Browdy further stated is the Commission an advocacy group for its own agenda to bring forward to an International body like that. He advised the Commissioners that they are sitting around the table appropriately representing different interest groups and no-one is debating your right to do whatever you want to do on behalf of that interest group, the real issue is what is within the scope, the legislative scope for the Florida Building Commission. He said at times it is difficult for us to think that way because we come from so many different ways with different interest, but at this table we are talking about the Florida Building Commission and the policy, now if you want to change that or move to change that, the venue for that is the Workgroup.

Commissioner Stone wanted the clarification as to why Mo is attending.

Chairman Browdy advised he is there to primarily observe with respect to time tables and other issues but is not participating in advocating anything on behalf of the Florida Building Commission.

Ms. Hammonds provided a legal response stating that the only members on the Florida Building Commission are the 27 authorized members although there are vacant seats. She said even though people think that Mo is a Commissioner however, he is not a Commissioner, and he is the

Commission Participation with the ICC Code Development Process (cont.):

Planning Manager of the Code and a state employee and is an expert on the Code and a staff member.

Commissioner Compton referenced Mr. Richmond's comments; he stated even though we are Florida Building Commission and represent Florida, however, he feels we have a vested interest in the National Codes as any changes affect Florida. He further stated we should be more involved in the National Code.

Commissioner Boyer stated that Mo is correct, we submitted many proposals and had them handed back. He said that right now he has been asked from other parts of the country and they made comments that they made a mistake that was Florida specific, but realized it affected them also. Commissioner Boyer stated that he was asked to resubmit some of the proposals and he told them no, they had copies they could re-submit on their own. He also said the only way to move forward any time it is Florida Specific and it is in the Code then we do not have to do anything because it is already there.

Commissioner Calleja said we are by statute forced to re-hear all of the Florida specific amendments each cycle, if we did not have that and grandfather the code and just add and delete it would be simpler. He said now we spend so much time and effort as well as cost, if we added to International Code we would be able to save the State of Florida a lot of money.

Commissioner Bassett stated a while back, he served on the Broward County Mechanical Committee for the Board of Rules and Appeals and they had an issue come up to that committee first then the board of rules and appeals and then it came to the Florida Building Commission and because he sat in on that Committee, he had to leave the discussion because he participated in the decisions on the prior committee.

Chairman Browdy stated this issue will be added as an agenda item for the Workgroup.

Robert Fine, stated he represents builders and developers all of whom are consumers of the Code and the work that the Commission does and from his point of view the Florida Building Code when you adopt it is a Florida specific code regardless of where the parts came from when it is done that book on the shelf states the Florida Building Code. He further states it is the Florida Building Code and the issue is Legislative and the fix is Legislative. Mr. Fine stated since the move to DBPR there has not been a Florida Building Commission Bill going forward. He said prior to that time there were specific bills out there, there were some changes to the ethics, there is no reason you could not ask for an exemption on the ethics to allow participation with ICC. Mr. Fine stated again that this is going to require a legislative change. He provided many examples of how this could be fixed.

Committee Reports and Recommendations:

Chairman Browdy asked Committee Chairs to please confine their TAC/POC reports to a brief summary of key issues and recommendations, emphasizing any issues requiring an action from the Commission. He asked that they please frame any needed Commission action in the form of a motion. There is no need to read the TAC/POC minutes since the complete minutes will be linked to the committees' subsequent meeting agendas for approval by the respective committees.

Accessibility Technical Advisory Committee

Commissioner Gross provided a brief summary of the TAC meeting held via teleconference on December 2, 2014.

Commissioner Gross entered a motion to approve the TAC report, Commissioner Schilling seconded the motion, the motion passed unanimously.

Education Program Oversight Committee

Commissioner Dean provided a brief summary of the POC meeting held via teleconference on December 4, 2014.

Commissioner Dean entered a motion to approve the POC report, Commissioner Meyer seconded the motion, the motion passed unanimously.

Mechanical Technical Advisory Committee

Commissioner Bassett provided a brief summary of the TAC meeting held via teleconference on December 2, 2014.

Commissioner Bassett entered a motion to approve the TAC report, Commissioner Calleja seconded the motion, the motion passed unanimously.

Product Approval Program Oversight Committee

Commissioner Stone provided a brief summary of the POC meeting held via teleconference on December 1, 2014.

Commissioner Stone entered a motion to The POC recommends the Commission revise the product approval deadline completion date for application submittal to provide additional time for the process, per the revised deadline dates posted. Commissioner Compton seconded the motion. The motion passed unanimously.

Committee Reports and Recommendations:

Product Approval Program Oversight Committee

Commissioner Stone entered a motion to approve the POC report, Commissioner Compton seconded the motion, the motion passed unanimously.

Special Occupancy Technical Advisory Committee

Commissioner Phillips provided a brief summary of the TAC meeting held via teleconference on December 2, 2014.

Commissioner Phillips entered a motion to approve the TAC report, Commissioner Flanagan seconded the motion, the motion passed unanimously.

General Public Comments:

Tom Allen, ICC advised the Commission that the ICodes 2018 submittal period is open now and open until January 12th.

Jamie Gascon, Miami Dade County asked the timing for all product approval provision when the Code is updated in January.

Mo Madani stated this will occur after the rule hearing, soon after we will open the system for approving products for the new code.

Joe Crum, Building Official for Winter Springs, referenced the ICC and provided his historical background with Codes and changes. He stated the Florida Code was developed to cover Florida, ICC came out later. Mr. Crum stated he felt that the changes for Florida were to keep in line with other states. He stated he is glad to be back before the Commission.

Commission Member Comments:

Commissioner Tolbert stated if the South Florida Code goes through for Florida, North Florida will be succeeding.

Commissioner Flanagan asked about the notification of the January 30 meeting in Tallahassee.

Mo Madani stated yes, there will be notification.

Commissioner Bassett advised Commissioner Gross that they really do need to look at residential buildings. He thanked the staff for the seating list. He asked if the chart could list who the Commission is representing.

Commission Member Comments (cont.):

Commissioner Schock addressed the issue of failure to have quorum for the Accessibility Advisory Council. He asked if there could be an outreach prior to the meeting.

Jim Richmond stated the staff person Mary-Kathryn Smith does send e-mails and phone calls to remind them of the meetings. He stated there are members that have disabilities and illnesses that have prevented attendance and it is not due to lack of staff trying to make attempts to contact the members. Mr. Richmond stated it is important not only for the Commission but for the applicants to give them a full and fair opportunity to be heard and something he is certainly sensitive to.

Commissioner Schiffer stated a thought on the Binding Interpretations it may be better to wait until appeal time has passed before hearing that it occurred.

Chairman Browdy stated that it is important that the Commission be notified that it had occurred.

April Hammonds stated that when this process was handled by BOAF, the only thing that would happen was that the Commission was notified and that was the end of it. She said the idea is the same and still done in coordination and you are free to view it. Ms. Hammonds stated this process is separate, the Commission hears only declaratory statements. She said the only time the Commission would be involved is if there is an appeal.

Chairman Browdy stated he was very proud of the work product in 2014 and how much he wants to wish all a hearty thank you for your contributions to the effort to make houses and buildings safer in the State of Florida.

Adjournment:

The meeting adjourned at 10:24 am