

**FLORIDA BUILDING COMMISSION
EMBASSY SUITES BY HILTON
9300 BAYMEADOWS ROAD
JACKSONVILLE, FLORIDA 32256**

**Plenary Session
February 13, 2018
8:30 AM**

MINUTES

COMMISSIONERS PRESENT:

James Schock, Acting Chairman	David Gilson
Hamid Bahadori	Richard Goff
James Batts	Jeff Gross
Steve Bassett	Robert Hamberger
Bob Boyer	Brian Langille
Kelley Smith Burk	Bradley W. Schiffer
Oscar Calleja	Frederick Schilling
Jay Carlson	Jeff Stone
Kevin Flanagan	Brian Swope
Charles Frank	Don Whitehead
Shane Gerwig	Diana Worrall

COMMISSIONERS NOT PRESENT:

Donald Brown	David Compton
Nan Dean	Drew Smith

OTHERS PRESENT:

Thomas Campbell	Justin Vogel
Mo Madani	Jim Hammers
Chris Howell	Robert Benbow

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

Acting Chairman Schock welcomed Commissioners, staff, and members of the public to Jacksonville and the February 13, 2018 plenary session of the Florida Building Commission. He stated the primary focus of the February meeting is to consider 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 and workgroups the primary focus of the February meeting is to discuss the scope of work for the 7th Edition (2020) Update to the Florida Building Code.

Acting Chairman Schock stated that members of the public are requested 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 advised 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). Acting Chairman Schock stated that if they want 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 said that public input is welcome, but should be offered before there is a formal motion on the floor. Acting Chairman Schock asked that all please remember to keep all electronic devices turned off or in a silent mode and thanked them for their cooperation.

Acting Chairman Schock stated that there are also buff colored "*Public Comment Forms*" on the speakers' table that can be used to provide written comments. He said all written comments will be included in the Facilitator's Summary Report and asked that they please give their completed "*Public Comment Forms*" to Jeff Blair.

Acting Chairman Schock advised that 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 and stated if your board participates you may sign-in on the kiosk laptop provided in the meeting room.

Roll Call:

Acting Chairman Schock asked that Jeff Blair perform roll call, a quorum was met with 22 of 26 members present.

Agenda Review and Approval:

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

Jeff Blair welcomed participants to the February Plenary Session and introduced the agenda.

A motion was entered by Commissioner Schiffer to approve the agenda as posted. The motion was seconded by Commissioner Schilling. The motion passed unanimously with a vote of 22 to 0 in favor.

Approval of Previous Meeting Minutes and Facilitator Report for December 12, 2017 and Minutes for the Teleconference Call on January 5, 2018 and Minutes and Facilitator Report January 26, 2018.

Acting Chairman Schock requested a motion for approval of the December 12, 2017 Facilitator's Summary Report and Meeting Minutes, Meeting Minutes of January 5, 2018 and Meeting Minutes and Facilitators Report for January 26, 2018 Teleconference Calls as posted.

Commissioner Schilling entered a motion to approve approval of December 12, 2017 Facilitator's Summary Report and Meeting Minutes, Meeting Minutes of January 5, 2018 and Meeting Minutes and Facilitators Report for January 26, 2018 Teleconference Calls as posted. The motion was seconded by Commissioner Schiffer. The motion passed unanimously with a vote of 22 to 0 in favor.

Chairman's Discussion Issues and Recommendations:

Commissioner Resignation:

Acting Chairman Schock advised that Commissioner Charles Frank has tendered his resignation from the Commission effective tomorrow. He stated he would like to take this opportunity on behalf of the Commission to appreciate Charles for his service on the Commission. Commissioner Frank served from November 30, 2012 through February 14, 2018.

Appointments:

Special Occupancy TAC:

Acting Chairman Schock appointed Richard Hilburn to the Special Occupancy TAC to replace Ken Cureton as the Department of State, Division of Historical Resources' representative. He thanked Ken for his service, and welcomed Richard to the TAC.

Residential Construction Cost Impact Workgroup:

Acting Chairman Schock stated at the October meeting Chairman Browdy reported that at the request of stakeholders he was appointing a Residential Construction Cost Impact Workgroup.

Acting Chairman Schock advised that at this time is making the following appointments to the Workgroup: Lee Arsenault, Jay Carlson, Ed Dion, Rick Goff, Alan Gremillon, Mike Keese, Ray Puzzitiello, Bill Smock, and Jeremy Stewart.

Commission Milestones:

Acting Chairman Schock reminded everyone that the updated Commission Milestones documents are linked to the Agenda and on the BCIS.

Executive Director Announcements and Discussions:

Legislative update:

Mr. Campbell provided the Commissioner with an update on the proposed legislation. He advised that there has been no change to HB 299 at this time. Mr. Campbell stated that HB 23 has passed the House and was referred to some Committees in the Senate but has not been placed on any agendas to be heard at this time. He said that HB 725 and SB 1144 have been moving through both of their committees in the House and Senate and could be up for vote in the next few weeks. Mr. Campbell stated these are the bills that have had significant activity at this time.

Mr. Campbell stated the remaining Legislative Conference Calls scheduled for 2018 will be at 2 pm March 2nd, and the wrap up call on March 16th.

CE Kiosk:

Mr. Campbell stated that in the last year or so there have been several instances where the kiosk failed to capture everyone who had entered their information into the kiosk. He said that after some research, staff has come up with a solution to the issue if everyone agrees. Mr. Campbell stated that we are suggesting that DPPR eliminate the kiosk. He advised that the Commissioners will mark on the sign in sheet that they wish to claim CE for a meeting and staff will take the sign in sheet back and send the information to the Department's Bureau of Education and Testing. He advised that we will also have a separate sheet at the end of the table for members of the public to write their name and license numbers on and the staff will also send that information to the Department's Bureau of Education and Testing.

Mr. Campbell stated that attached to the sign in sheet today there is an additional page to review. He said that staff attempted to capture all of Commission member's licensing information that may be eligible for CE. Mr. Campbell requested that Commissioners check the information on the additional page and confirm that the information is correct. He indicated that the information would be used for sending information to the Department's Bureau of Education and Testing and noted that any needed changes should be provided to Chris after the meeting or sent to him or Chris by email. Tom stated that if all goes to plan, February's meeting would be the kiosk's last meeting.

Commissioner Schilling requested that staff research providing retroactive continuing education credit for attendance that was not captured by the Kiosk system during the current licensing cycle.

Mr. Campbell advised of the process for biennial renewal process, but if he would like to send an e-mail request for past CE we can review.

In addition, there was a request from Commissioner Gross for certificates of completion as there are Commissioners with license in other states that will accept Florida's continuing education credits with certificates.

Mr. Campbell stated he would review these request.

Meeting Dates for August and October Commission Meetings:

Mr. Campbell reported that staff is proposing August 14, 2018 and October 9, 2018 for the Commission's Plenary meeting dates for August and October.

Meeting Dates for August and October Commission Meetings (cont.):

Acting Chairman Schock asked for a motion to approve the August and October meeting dates.

Commissioner Boyer entered a motion to approve the August 14 and October 9, 2018 meeting dates. Commissioner Schilling seconded the motion. The motion passed unanimously with a vote of 22 to 0.

Accessibility Waivers:

Acting Chairman Schock advised that the Commission will now consider this month's requests for accessibility waivers. He stated Justin Vogel will serve as legal counsel and present the Accessibility Advisory Council's recommendations. Acting Chairman Schock asked that Mr. Vogel present the Council's recommendations regarding waiver requests.

College Station – Waiver 290 - 210 E. College Avenue Tallahassee 32301:

Mr. Vogel presented the waiver and advised that the Council recommended granting the request for waiver on the grounds of economic hardship.

Commissioner Worrall entered a motion to accept the recommendation of the Council to grant based on economic hardship. Commissioner Whitehead seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Schilling asked information on the two story buildings and on this request there is no access for handicap. He stated he has some issues with this waiver as he feels there should be access to both floors and he asked Mr. Vogel if the economic hardship would take out any further discussion on the accessibility.

Mr. Vogel stated yes according to 553.512(1) if they meet the threshold the waiver must be granted.

Commissioner Worrall stated she agrees with Commissioner Schilling. She asked if we could request more than one estimate for elevator and construction cost as they seem very high and perhaps there is a way to get more than one estimate.

Product and Entity Approval:

Acting Chairman Schock advised that Commissioner Stone would present the POC's recommendations for entity approvals and the consent agenda for products recommended for approval, and Jeff Blair would present the POC's recommendations for product approvals with discussion and/or comments.

Product and Entity Approval (cont.):

Commissioner Stone entered a motion to approve the 19 product approval entities as posted. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Product Approval Applications without Comments consent agenda under 2017 Code:

Commissioner Stone entered a motion to approve the 236 products for the 2017 code on the consent agenda list. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

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

10477 R7 - Commissioner Stone entered a motion for approval of 10477 R7. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at vote.

11847 R4 - Commissioner Stone entered a motion for conditional approval of 11847 R4. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at vote.

13061-R5 - Commissioner Stone entered a motion for conditional approval of 13061-R5. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at vote.

15099-R8 - Commissioner Stone entered a motion for conditional approval of 15099-R8. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

19715-R4 - Commissioner Stone entered a motion for approval of 19715-R4. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at vote.

21335-R2 - Commissioner Stone entered a motion for approval of 21335-R2. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at vote.

24226 – R1 Commissioner Stone entered a motion for conditional approval of 24226-R1. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

Product Approval Applications without Comments consent agenda under 2017 Code (cont.):

24227 – R-1 Commissioner Stone entered a motion for conditional approval of 24227 R-1. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

25570 - Commissioner Stone entered a motion for conditional approval of 25570. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

25571 - Commissioner Stone entered a motion for conditional approval of 25571. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

25621 - Commissioner Stone entered a motion for conditional approval of 25621. Commissioner Carlson seconded the motion. The motion passed unanimously with a vote of 22 to 0.

Accreditor and Course Approval:

Acting Chairman Schock advised Commissioner Flanagan would present the Education Program Administrators recommendations regarding applications for accreditor and course approval on behalf of Commissioner Dean.

Commissioner Flanagan entered a motion to approve advanced accredited courses 860.0, 859.0, 846.0, 877.0, 878.0, 871.0, 874.0, 875.0, 876.0, 869.0, 870.0 and 872.0. Commissioner Stone seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Flanagan entered a motion to approve the administratively approved updated course 740.1. Commissioner Stone seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Flanagan administratively approved self-affirmed courses 646.2 and 692.1 with one change to each. Commissioner Stone seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Legal Report:

Acting Chairman Schock advised that Justin Vogel will report on relevant legal matters of interest to the Commission.

Acting Chairman Schock stated that you all know the Florida Accessibility Code for Building Construction (FACBC) was ready for certification concurrent with the effective date of the new ADA Standards for Accessible Design (SAD, 2010), and as reported numerous times since submittal in September of 2010 we continue to wait for a decision by the DOJ. He advised that the Commission requested that Mr. Vogel periodically communicate with the DOJ regarding the

Legal Report (cont.):

status of the Commission's application for certification of the FACBC, and to provide updates to the Commission. Acting Chairman Schock then asked Mr. Vogel if there was anything new to report.

Mr. Vogel advised at this time there is nothing new to report as his phone calls are still not being returned.

Acting Chairman Schock stated at the January 26, 2018 Teleconference Meeting Mr. Vogel updated the Commission on the status of the rule challenge reporting that both parties submitted recommended orders to the Division of Administrative Hearings (DOAH) on January 18, 2018, and it is anticipated that the Administrative Law Judge (ALJ) will issue the final order in mid-February. He said that Mr. Vogel indicated that he would brief the Commission on what the impacts to the development of the 7th Edition (2020) Florida Building Code would be relative to both parties' recommended orders at today's meeting.

Mr. Vogel advised the Commission depending on how the ALJ ruling comes out if the proposed rule is upheld we will seek certification from the Joint Administrative Procedures Committee. He further stated that at that time we will proceed with rule adoption using the work plan that we have currently have in place. Mr. Vogel stated if the proposed rule is entirely or partially invalidated a hearing will be held at DOAH to determine if awarding of attorney's fees would be warranted. He said our next steps would be to evaluate of contents of the ALJ's order and determine the best way to proceed in order to comply with the ruling and with the statute and in that case another rule hearing would be required. He said the ruling should be in within the next two weeks.

Mr. Campbell stated the conference call on March 2 will also include discussion on this rule and asked that all attend if possible.

Recognition of Chairman Dick Browdy:

Acting Chairman Schock stated in recognition of the outstanding leadership of the Commission by Chairman Dick Browdy, who served on the Commission and its predecessor body the Board of Building Codes and Standards, from June 28, 1988 until October 23, 2017, and as chair of the Commission from October 2011 through October of 2017, I would like to read a proposed Resolution of Appreciation from the Commission. Chairman Browdy provided outstanding leadership and guidance to the Commission while maintaining a commitment to consensus-building and collaboration.

Acting Chairman Schock then read the Resolution. He asked for a motion from the Commission to adopt the Resolution of Appreciation for Chairman Dick Browdy.

Recognition of Chairman Dick Browdy (cont.):

All 22 Commissioners present entered a motion to adopt the Resolution of Appreciation for Chairman Dick Browdy. All 22 Commissioners seconded the motion. The motion passed unanimously with a vote of 22 to 0.

Chairman Browdy addressed the Commission with his appreciation for the support and hard work the group has provided during his service on the Commission. He thanked everyone for their continuing thoughts and support during his illness and provided a brief update on his health status. He closed by encouraging the Commission to continue the goals of the Code for the citizens of the State of Florida.

Tom Campbell presented Chairman Browdy with a framed copy of the Resolution along with a plaque for his service to the Commission and a plaque for his service as Chairman to the Commission.

Acting Chairman Schock stated that any Commissioners wishing to make any remarks could do so at that time.

A short recess was imposed by Acting Chairman Schock

Petition for Declaratory Statement:

Acting Chairman Schock stated if anyone wished to speak on the declaratory statement please come to the public comment table once the specific declaratory statement is introduced. He advised that Justin Vogel will serve as the Commission's counsel. Acting Chairman Schock stated that after legal counsel reviews the petition, he will ask for public comment on the petition.

DS2018-002 by James P. Brown, WRS Development, LLC:

Mr. Vogel presented the declaratory statement and advised the Commission that he is recommending that the Commission deny the petition as legally insufficient.

Commissioner Schiffer entered a motion to deny the petition as legally insufficient. Commissioner Batts seconded the motion. The motion passed unanimously with a vote of 21 to 0 with one Commissioner out of the room at the time of the vote.

Scope of Work for the 7th Edition (2020) Florida Building Code Update Process:

Acting Chair Schock remarked that a notable change for the next Update Process is that it will mark the first time the Commission will be using the Florida Building Code as the Base Code and not the I-Codes. He said specifically, the 6th Edition (2017) FBC will serve as the Base Code for the 2020 Update Process. Acting Chair Schock said that during the meeting staff provided an overview of how the proposed I-Codes review phase of the process will look, including the NEC review for the Electrical Code. He advised that at the April meeting a Scope of Work detailing the Code Update review process for the 7th Edition (2020) FBC will be presented for the Commission's review and approval. Acting Chair Schock stated following a briefing on the proposed process and a matrix containing two examples of how the TAC's will review the I-Code changes, an opportunity was provided for questions and comments from the Commission and stakeholders. It was noted that the specifics of the Code Update Process would be dependent on the outcome of the Rule Challenge.

Mr. Madani provided a power point presentation that spelled out the code process for the development and adoption of the 7th Edition (2020) Florida Building Code. In addition he provided a sample matrix (tracking chart) of how the section would look including the Code change number, section, code change summary, cost impact and a section for staff comments.

Commissioner Gross asked under step one if it gets approved or denied or could it be challenged.

Mr. Madani said under step two you could request a code change. He said step one is a review.

Commissioner Calleja asked when they go through the first step would they be debating whether to accept without language change or are they assuming they will be voting yea or nay and then in the second step there will be opportunity for language change. He stated his concern is debating twice.

Mr. Madani stated we need to wait until the rule challenge is complete.

Mr. Vogel stated yes a substantial part of the challenge is dealing with the criteria that would be in place for acceptance of I Code changes under step one.

Commissioner Calleja stated he understood the first step was to accept or deny and then at the second step would allow for language changes.

Mr. Campbell said in the review we will be looking at the I Code changes, so you will vote yes or no and then at the second phase the changes could be requested.

Commissioner Swope asked if we are waiting to find out the ruling for the time line.

Scope of Work for the 7th Edition (2020) Florida Building Code Update Process (cont.):

Mr. Madani stated yes.

Mr. Campbell stated the prior work plan included dates in June for the TACs to meet to allow time for reporting to the Commission in October.

Commissioner Bassett said he is glad to see the South Florida Building Code process in place for the Code reviews.

Acting Chairman Schock stated the law required certain items to be addressed will these be marked.

Mr. Madani stated yes with reference to the law.

Committee Reports:

Education Program Oversight Committee;

Commissioner Flanagan provided a brief summary of the Education POC February 2, 2018 teleconference meeting.

Commissioner Flanagan entered a motion to accept the report from the February 2, 2018 teleconference meeting. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Energy Technical Advisory Committee

Commissioner Calleja provided a brief summary of the Energy TAC teleconference meeting held January 19, 2018.

Commissioner Calleja entered a motion to accept the report from the January 19, 2018 teleconference meeting. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Lightning Protection Workgroup:

Jeff Blair presented the Lightning Protection Workgroup reports and recommendation.

Commissioner Schiffer entered a motion to accept the Lightning Protection Workgroup report. Commissioner Batts seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Product Approval Program Oversight Committee

Commissioner Stone provided a brief summary of the Product Approval POC meeting held February 1, 2018 via teleconference.

Commissioner Stone entered a motion to approve the report of the Product Approval POC meeting held February 1, 2018 via teleconference. Commissioner Batts seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Public Comments:

There were no public comments.

Commissioner Comments:

Commissioner Calleja inquired if there will be a glitch for 2017.

Mr. Madani stated only if needed.

Commissioner Bassett stated the FBPE is working get engineers more involved in the Code development process. He noted that he would be making a presentation to the FBPE regarding the FBC process.

Commissioner Worrall noted that she is concerned with how the disproportionate cost exemption is used. She asked whether the Commission could require specific documentation for substantiating the costs used to qualify for receiving a waiver from vertical accessibility requirements based on disproportionate cost. Commissioner Worrall stated specifically, the renovation/construction costs and the cost of lifts. She suggested perhaps requiring 3 estimates for lifts could be considered.

Mr. Vogel stated if the applicant demonstrates an economic hardship pursuant to the provisions of the Statute, then the waiver must be granted.

Mr. Campbell noted that the online application form was adopted by Rule, and any changes would require a revision to the Rule.

Acting Chairman Schock asked if the issue could be assigned to the Accessibility Council for evaluation.

Mr. Campbell stated that DBPR staff will evaluate the issue and report back to the Commission at the April meeting.

Commissioner Comments (cont.):

Commissioner Hamberger: stated that it is easy to game the system in acquiring waivers. One strategy is to only develop a small percentage of the space in order to qualify for disproportionate cost, and then later complete the project with another permit.

Acting Chairman Schock stated that there is a requirement for building officials to review past permits pulled on a project for a three-year period in order to prevent efforts to circumvent the requirements of the Code.

Commissioner Hamberger: stated he agreed, but stated most jurisdictions simply doesn't have the resources/time to review for any previous permits on a project.

Adjournment:

Acting Chairman Schock thanked Commission members, staff and the public for their attendance and participation, and adjourned the meeting at 10:30 A.M. on Tuesday, February 13, 2018.