



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

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Secretary

**MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION MINUTES
APRIL 7, 2010**

APPROVED JUNE 8, 2010

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:36a.m., Wednesday, April 7, 2010 at the Hilton Hotel, Gainesville, Florida.

COMMISSIONERS PRESENT:

Raul L. Rodriguez, AIA, Chairman
Richard S. Browdy, Vice-Chairman
Jeffrey Gross
Jeff Stone
James E. Goodloe
James R. Schock
Herminio F. Gonzalez
Robert G. Boyer
Hamid R. Bahadori
Drew M. Smith
Christopher P. Schulte
Mark C. Turner
Randall J. Vann
Scott Mollan
Anthony M. Grippa
Jonathon D. Hamrick
Kenneth L. Gregory

Joseph "Ed" Carson
Raphael R. Palacios
Nicholas W. Nicholson
John "Tim" Tolbert
Dale T. Greiner
John J. Scherer

COMMISSIONERS ABSENT:

Angel "Kiko" Franco
Donald A. Dawkins

OTHERS PRESENT:

Rick Dixon, FBC Executive Director
Ila Jones, DCA Prog. Administrator
Jim Richmond, DCA Legal Advisor
Jeff Blair, FCRC Consensus Solutions
Mo Madani, Technical Svcs. Manager

WELCOME

Chairman Rodriguez welcomed the Commission, staff and the public to Gainesville and the April 2010 plenary session. He then stated the one-day Commission meeting format provides time for workgroup meetings to be held in conjunction with Commission meetings and reduces travel and meeting costs. He further stated the primary focus of April's meeting was to consider recommendations from the Commission's various committees, to decide on product approvals, declaratory statements and accessibility waivers, and to conduct a rule development workshop on Rule 9B-70 Education.

Chairman Rodriguez stated if anyone wished to address the Commission on any of the issues before the Commission they should sign-in on the appropriate form(s). He then stated the Commission would provide an opportunity for public comment on each of the Commission's substantive discussion topics. He further stated if anyone wanted to comment on a specific substantive Commission agenda item, they should come to the speaker's table at the appropriate time so the Commission knows they wish to speak. Chairman Rodriguez concluded by stating public input was welcome, and should be offered before there was a formal motion on the floor.

Chairman Rodriguez then conducted a roll-call of the Commission members.

REVIEW AND APPROVE AGENDA

Mr. Blair conducted a review of the meeting agenda as presented in each Commissioner's files. He amended the agenda stating there would be no Mechanical TAC report.

Commissioner Carson moved approval of the meeting agenda as amended. Commissioner Palacios entered a second to the motion. Vote to approve the motion as amended was unanimous. Motion carried.

REVIEW AND APPROVE FEBRUARY 2, 2010 MEETING MINUTES FACILITATOR'S REPORT

Chairman Rodriguez called for approval of the minutes from the February 2, 2010 Commission meeting and the Facilitator's Report.

Commissioner Boyer stated there was an error in the minutes from the meeting in committee appointments. He then stated Commissioner Tolbert had been appointed to the Roofing TAC not the Fire TAC.

Commissioner Boyer moved approval of the minutes from the April 2, 2010 Commission meeting, as amended, and the Facilitator's Report. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez announced the following appointments to the TACs and workgroups:

Product Approval

Nick Nicholson was appointed to the Product Approval POC.
John Scherer was appointed to the Product Approval POC.

Mechanical TAC

Raphael Palacios was appointed as chair of the Mechanical TAC, replacing Gary Griffin.

Electrical TAC

Mark Turner was appointed as chairman of the Electrical TAC, replacing Ed Carson, who will stay active as a member of the TAC.

Code Administration TAC

Nick Nicholson moved from the Code Administration TAC to the Product Approval POC.

Angel Franco was appointed to the Code Administration TAC.
Anthony Grippa was appointed to the Code Administration TAC.

Special Occupancy TAC

Scott Cannard was appointed to the Special Occupancy TAC, replacing Steve Watson.

Education POC

Mark Stone was appointed to the Education POC.
Drew Smith was appointed to the Education POC.
Anthony Grippa moved from the Education POC to the Code Administration TAC.

Roofing TAC

Larry Schmidt was appointed to the Roofing TAC.

Chairman Rodriguez next addressed the teleconference calls. He reminded the commissioners of the three remaining calls scheduled.

The teleconference schedule dates remaining are as follows:

Monday, April 12, 2010 at 10:00 a.m.

Monday, April 19, 2010 at 10:00 a.m.

Monday, April 26, 2010 at 10:00 a.m.

REVIEW AND UPDATE OF COMMISSION WORKPLAN

Mr. Dixon conducted a review of the updated Commission work plan. (See *Updated Commission Work plan April 7, 2010*).

Mr. Dixon stated the Florida Building Code development was the largest task on the workplan for the next year. He then reviewed in detail the development process.

Commissioner Greiner asked if accommodations were not made for allowing the NEC to coincide with the rest of the Code.

Mr. Dixon responded by stating the Electrical Code component of the Florida Building Code was based on a NFPA document rather than a ICC document. He then stated the document development cycle was one year off the I Codes development cycle. He explained that by the time the new Florida Building Code is finished it is already behind the latest edition of the NEC. He continued by stating the way the issue was handled was through the glitch amendment cycle. He further stated part of the purpose of the glitch amendment cycle was to allow the adoption of the latest edition of the NEC.

Commissioner Greiner stated he wanted to make sure everyone understood the problem had been addressed.

Mr. Dixon stated there were many new Commissioners. He then stated he was not sure who had heard or had not heard the information in past. He continued by stating if any Commissioner was unclear or had questions the staff would be happy to explain the history of the issue and the reason the planning was done the way it was.

Commissioner Hamrick stated traditionally the Special Occupancy TAC had met in Tallahassee to consider code amendments prior to the start of the Commission meeting. He asked if it would be the same for the upcoming cycle.

Mr. Dixon responded by stating yes. He stated the Special Occupancy TAC was created for a different reason than other committees. He then stated the TACs were recognized in law and the rules of the Commission establish them based on the American National Standards Institute guidelines for regulatory standards development committees which have certain representation for producers, consumers and general interest groups. He further stated for those committees who develop regulatory standards the guidelines provide for more weighting towards general interest representatives. He continued by stating under the Commission's process general interest groups were building officials and building departments although at times there were other general interest persons on those committees. He stated there were three members who represent producers, i.e. contractors and product manufacturers, three members who represent consumers, i.e. building owners, insurance companies, and building designers, and five members of the TAC who represent general interest, i.e. building officials.

Mr. Dixon further stated the Special Occupancy TAC was created to state agencies, who were directed by their laws and the Chapter 553 Building Code Law, to integrate their facility licensing regulations, related to building design and construction, into the Florida Building Code. He stated it was a place to bring those regulations for review and a process by which they would be integrated into the Florida Building Code. He then stated because the committee consisted of representatives from ten different state agencies and one general interest group representative the committee would continue to meet and do its' work in Tallahassee separate from the Commission meetings. He further stated the Special Occupancy TAC would meet before the August TAC meetings but very close to the time period to review the proposals sometime after the 45-day comment period required by law.

Commissioner Stone stated he had a couple of concerns. He then stated the first concern was that the time allotted for the August and December meetings would not be adequate given the number of comments that had been received and the complexity of the comments. He further stated he was familiar with the I Code hearings which can go on for two weeks from 8am to 10pm. He then stated he had not been able to find procedures by which the reviews were conducted, i.e. how much time is allowed for each proponent. He expressed concern that the public was not given an adequate amount of time to provide input. He then asked how much time was allocated for each proponent, rebuttals and the procedures. He requested staff review the issue and reconsider the amount of time given. He then suggested the Commission get the procedures used in the hearings.

Mr. Dixon stated staff would bring back the documents used in the past for the code development hearings. He then stated Mr. Blair had a set of those documents and staff would make sure the commissioners had a set of those documents before the next Commission meeting so they could be discussed. He stated regarding the timing it was difficult, but one of the constraints that had to be dealt with were the economic resources. He then further stated ideally the Commission and TAC meetings should be scheduled separate weeks but due to budget problems it was necessary to combine them into one single meeting. He continued by stating there would be an evaluation of how many proposals each TAC has to review by the next meeting. He stated the Legislative process was designed to limit the number of bills that pass.

Mr. Dixon explained there are thousands of bills proposed and only a couple of hundred pass every year. He then stated the framers felt there was not a lot of justification for many Florida specific amendments and a list of criteria was crafted which had to be applied to any Florida specific amendment specifically to limit the number that might get approved over time. He further stated the process that was designed and used over the past tried to apply those principles in a way the proposals would be rejected quickly and outright. He stated obviously there were some proposals which address major issues of concern or differences Florida has which were not necessarily unique but because the way the model code was crafted are not adequately addressed in the model code because it applies to a nation and whereas the Commission was trying to target a small geographic area in comparison to the rest of the nation. He then stated if a proposal does not match the requirements that are in the law up front they could be rejected irrespective of their technical validity. He further stated most discussions are based on technical validity.

Commissioner Carson moved approval of the updated workplan. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER ACCESSIBILITY WAIVER APPLICATIONS

Chairman Rodriguez directed the Commission to Jack Humberg for consideration of the Accessibility Waiver Applications.

Mr. Humberg presented the waiver applications for consideration. Recommended approvals were presented in consent agenda format with conditional approvals, deferrals and denials being considered individually.

Recommendation for Approval with No Conditions:

#4 K-8 School "EE"

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval based on technical infeasibility.

#6 City of Miami College of Policing

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval based on technical infeasibility.

#7 Ruby Diamond Auditorium, Florida State University

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval because it was determined unnecessary to provide full vertical accessibility.

#8 FIU PG5/Classroom, Modesto A. Maidique Campus, Miami

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval based on technical infeasibility.

#9 University of South Florida Baseball/Softball Complex

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval because it was determined unnecessary.

#11 Ivy Hill Academy

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval because it was unnecessary.

#14 Epic Theaters

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval based on technical infeasibility.

#15 University of South Florida Interdisciplinary Science Facility

Mr. Humberg explained the petitioners' requests for waivers as described in each Commissioner's files. He stated the council unanimously recommended approval because it was determined unnecessary to make all levels accessible.

Commissioner Carson moved approval of the council's recommendation for approval for items 4, 6, 7, 8, 9, 11, 14 and 15. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Deferrals

#1 Pine Creek Sporting Club

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the application was recommended for deferral as requested by the applicant.

Commissioner Greiner moved approval of the council's recommendation for deferral. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Recommendation for Approval with Conditions:

5 Hernando High School "EEE"

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended approvals of the following waiver requests:

1. Football field – with the condition the applicant provide a companion seat next to each accessible seat and the accessible seats not be located at the end of the row.

Commissioner Nicholson moved approval of the council's recommendation. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

2. Baseball stadium – with the condition the applicant provide one additional accessible seat and companion seat because the number of seats had been increased from the original application. The applicant is to provide drawings clearly showing the companion seating located next to the accessible seating.

Commissioner Nicholson moved approval of the council's recommendation.

Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

3. Gymnasium – with the condition the applicant provide companion seats next to each accessible seat and plans should be shown to staff.

Commissioner Nicholson moved approval of the council's recommendation. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#12 Waldorf Towers Hotel

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended approval provided the applicant submit documentation of the historic nature of the building.

Commissioner Carson moved approval of the council's recommendation. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Recommendation for Approval

#13 The Woods Laser Tag

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended approval based on extreme hardship.

Commissioner Carson moved approval of the council's recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#17 Phillard Art Hotel

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended approval based on technical infeasibility and the building is historic.

Commissioner Carson moved approval of the council's recommendation. Commissioner Greiner entered a second to the motion.

Commissioner Gonzalez posed since there was a change of use from an apartment to a hotel whether the Commission would be allowed to grant a waiver.

Ms. Stern stated yes, if she understood Commissioner Gonzalez' question correctly, the Commission was allowed to grant a waiver because it was a historic building.

Chairman Rodriguez stated the waiver was not being granted based on the change of use. He then stated it was being granted because it was a historic building.

Commissioner Browdy stated he believed Commissioner Gonzalez' question was well taken. He then stated in the past rather than site the reason for non-compliance as the historic nature of the building, the Commission sited hardship, which was a true statutory reason for waiving accessibility. He continued by stating the hardship could be the lack of ability to comply or the cost of compliance as a result of the building being historic. He further stated it was technical in nature, but he did not believe there was a statutory reason or a reason under the rule which would allow the Commission to waive just for historic purposes.

Ms. Stern stated the other alternative was the request was similar to The Pink House.

Chairman Rodriguez stated he did not believe any Commissioner was opposed to granting the waiver, but there was concern with the wording of the motion.

Commissioner Browdy stated the reason the Commission historically viewed hardship as the inability to comply as a result of hardship and the cost associated with it. He then stated regardless of what the hardship was for as long as the hardship was legitimate and in this case one of those legitimate reasons for hardship was the requirement to comply with the historic nature of the building.

Mr. Madani stated Commissioner Gonzalez' question had to do with the change of occupancy from and apartment to a hotel. He then stated the use was still the same occupancy and if there was no alteration involved it would not trigger the accessibility requirements.

Commissioner Gonzalez stated his question was which reason applied, the change of use or the historic building.

Chairman Rodriguez answered stating it was actually the third option of hardship, which was based on the historic nature of the building.

Vote to approve the motion was unanimous. Motion carried.

Dismissals

#2 The Pink House

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended dismissal for lack of jurisdiction.

Commissioner Carson moved approval of the council's recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#16 Clear Track Productions

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended dismissal for lack of jurisdiction.

Ms. Stern stated in her opinion the Commission should vote to deny the request because waivers cannot be granted from federal statutes. She then stated she believed the Commission does have jurisdiction based on 553.512 of the Florida Statute which states "waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. She further stated by virtue of that language the Commission has jurisdiction and the waiver should be denied as opposed to dismissal.

Commissioner Grippa entered a motion to deny the waiver. Commissioner Hamrick entered a second to the motion.

Commissioner Gross asked how the Commission could deny something it was never allowed to approve. He stated it was his understanding the only items the Commission could grant waivers on was the 17 items in the Florida Statutes which were more restrictive than the federal requirements.

Ms. Stern stated in Chapter 11 there were requirements for water fountains relative to where they should be located and those rules had been incorporated into the Florida Law. She then stated if someone goes to build a new building, and does not want to follow those rules, the Commission states they have to follow those rules and if they can then they follow them. She further stated the case was sort of the opposite scenario i.e. if the rule will not be followed the waiver will be denied. She continued by stating it was not like the water fountain occurred in the federal law and not in the state law.

Commissioner Gross stated he disagreed. He then stated the section on the water fountain was found in the Plumbing Code, not the Accessibility Code. He further stated the Accessibility Code does not require any accessible element unless it was required by the Code. He continued by stating if a pay phone were provided then it would have to be accessible. He stated if a water fountain was provided or was required by some other section of the code it would be required to meet the Accessibility Code requirements. He then stated under equivalent facilitation many times in the past bottled water has been provided with cups instead of the drinking fountain. He further stated he believed a denial would set a very bad precedent.

Ms. Stern stated the variable heights for water fountains were in section 11-4.1.3(10). She then read from 553.502 *"The purpose and intent of Section 553.501 through 553.513 was to incorporate into the law of this state, the accessibility requirements of the Americans with Disabilities Act of 1990 and to obtain and maintain United States Department of Justice Certification for the Florida Accessibility Code for building construction as equivalent to federal standards for accessibility of buildings, structures and facilities"*. She further stated she believed that meant this was incorporated into the law of the state. She continued by stating if it was incorporated into the law of the state the Commission has jurisdiction and wouldn't want to move to dismiss for lack of jurisdiction because it would be giving away some of the authority the Legislature has given the Commission.

Commissioner Gross stated he understood. He then stated the fact was the applicant did not want to put a water fountain in, which meant the applicant had to petition for a declaratory statement through the Plumbing TAC. He further stated if there was to be no water fountain it does not have to be accessible. He continued by stating if a water fountain was to be installed the applicant would have to provide accessibility. He stated the issue was the Commission was denying a water fountain could be installed. He then stated that was not correct because if the Code requires a water fountain to be put in, it would be put in and would have to be accessible.

Mr. Madani stated Commissioner Gross relative to where the requirement was coming from which was the Plumbing Code. He then stated if it was not required by the Plumbing Code and it was not provided then the Accessibility Code does not get triggered. He further stated the issue was first with the Plumbing Code and then an accessibility requirement. He stated dismissal for non-compliance with the Plumbing Code may be the way to resolve the issue.

Commissioner Browdy stated he believed the outcome would be the same however the Commission gets there. He then stated there was a precedence which the Commission may or may not want to uphold which was historically these types of issues were dismissed because there were consequences with a denial which were not the same as the consequences in a dismissal. He continued by stating a denial would preclude a reapplication within a certain amount of time under the same

conditions and a dismissal does not have that. He then stated for many years the Commission's counsel had written letters for dismissal with regards to lack of jurisdiction. He further stated that was how the Commission had operated and if it was going to be changed it would make a significant difference in the way the Commission does business with respect to the waivers. He stated that was more the issue than this particular situation than an unrequired water fountain which had to be accessible if it was there. He further stated he was more comfortable with the dismissal rather than the denial. He then asked what the current motion was.

Chairman Rodriguez stated the motion, based on the council's recommendation was to deny but it had not been voted on at that point and was still in discussion.

Mr. Dixon stated The Pink House was the subject of a major in-house discussion which was exactly what Commissioner Browdy had referred to. He then stated the technical staff had been advised by the legal staff the Commission can change a longstanding approach to doing something when it finds it necessary and it does so by issuing a final order. He further stated a waiver is a final order so the Commission could make that change if it found it more appropriate. He continued by stating it appeared the applicant was asking for a waiver of the Plumbing Code not the Accessibility Code. He stated the issue was whether the applicant had to provide any water fountain not if it was the right height therefore the wrong question was asked. He then stated it should not go to the Accessibility or Plumbing TAC however he pointed out in the statute the Commission was not authorized to waive any requirement of the Building Code.

Ms. Stern stated she would like to reiterate the building is new construction and when there was new construction the requirements of the Accessibility Code must be followed. She then stated there may also be requirements in the Plumbing Code to be followed as many other parts of the Code. She stated she was certain there were for many things such as elevators.

Chairman Rodriguez stated he believed everyone agreed, from what he had heard. He then stated the problem was the wrong question was asked because the request for a waiver from a water fountain and not the height for which it was installed. He further stated the requirement for a water fountain would come from the Plumbing Code. He continued by stating the question was not if the Commission had the right answer for the wrong question but which method should be used to dispose of the waiver application. He stated he believed there was a split between those who believe it should be denied and those who believe it should be dismissed.

Commissioner Greiner stated whether or not a drinking fountain was needed was a Plumbing question and it was up to the local jurisdiction to deal with it. He

then stated, because it was the wrong question to the wrong TAC, he would request the maker of the motion change it from denial to dismissal if they would.

Commissioner Grippa stated, yielding to the experience of the commissioners who have dealt with the issue previously, he did not have any problem changing his motion from deny to dismissal. He then stated he only had a question to counsel relative to the possibility for any negative legal ramifications dismissing the issue for now.

Ms. Stern responded by stating it seemed to her the Commission would be seating some of its authority under the Accessibility Code, but from the logic being applied, the Commission would be gaining it in the Plumbing Code.

Commissioner Grippa amended motion to dismissal as it seemed more of a technical issue

Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Denials:

#3 Xixon Café

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended denial due to lack of sufficient information.

Commissioner Browdy moved approval of the council's recommendation. Commissioner Gregory entered a second to the motion.

Commissioner Greiner asked if the applicant had appeared before the TAC.

Mr. Humberg stated the applicant had not appeared.

Vote to approve the motion was unanimous. Motion carried.

#10 Clearwater Beach Lifeguard Station Remodeling

Mr. Humberg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended denial and the Final Order should stipulate that toilet facilities on the second floor must be accessible.

(Missing audio begins. Actions taken from Accessibility Advisory Council recommended action records and staff notes on Commission actions)

#4 K-8 School EE

Waiver approved.

#6 City of Miami College of Policing

Waiver approved.

#7 Ruby Diamond Auditorium Renovation and Expansion

Waiver approved.

#8 FIU PG5 Classroom

Waiver approved

#9 USF Baseball/Softball Complex

Waiver approved.

#10 Clearwater Beach Life Guard Station

Waiver denied.

#11 Ivy Hill Academy

Waiver approved.

#14 Epic Theaters Deltona

Waiver approved.

#15 USF Interdisciplinary Science Facility

Waiver approved.

CONSIDER APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL

Chairman Rodriguez directed the Commission to Commissioner Carson for presentation of entity approvals.

Commissioner Carson stated the following ten entities were recommended for approval by the POC:

TST 1657 Fenestration Testing Lab

TST 1667 PSI/Pittsburgh Testing Laboratory

TST 1691 Hurricane Engineering and Testing, Inc.

TST 2609 Architectural Testing Inc. – California

TST 2707 Testing Engineers, Inc.

TST 4744 National Certified Testing Laboratories-York

TST 3892 Hurricane Test Laboratory LLC – Georgia

TST 6485 ENCON Technology Inc

TST 8697 Architectural Testing, Inc. – Massachusetts

QUA 1844 Architectural Testing Inc.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated there was a consent agenda for all those issues that were posted with the same result from all four compliance methods either for approval, conditional approval or deferral. These were the ones without comment or there was no change to the recommendation as proposed presented. He stated if no commissioner wished to pull any if the products for individual consideration he asked for a motion to approve the consent agenda for all four compliance methods for approval, conditional approval and deferral.

Commissioner Carson entered a motion to approve the consent agenda as amended for all four compliance methods for approvals, conditional approvals and deferrals. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair presented the following products for consideration individually:

3337-R2 Henry Company

Mr. Blair stated the product was recommended for denial of the affirmation application and recommended the initiation of revocation procedures under the 2004 application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

8354-R1 Tremco Incorporated

Mr. Blair stated the product was recommended for denial of the affirmation application and recommended the initiation of revocation procedures under the 2004 application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

8917-R1 Tremco Incorporated

Mr. Blair stated the product was recommended for denial of the affirmation application and recommended the initiation of revocation procedures under the 2004 application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

8961-R1 Tremco Incorporated

Mr. Blair stated the product was recommended for denial of the affirmation application and recommended the initiation of revocation procedures under the 2004 application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

11741 Master Wall Inc.

Mr. Blair stated the product was recommended for denial.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13055 YKK AP America

Mr. Blair stated the product was recommended for approval with condition of: provide gasket letter providing testing of gasket as used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13255 YKK AP America

Mr. Blair stated the product was recommended for approval with condition of: provide gasket letter providing testing of gasket as used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13340 Kawneer Company, Inc.

Commissioner Grippa stated he thought if it was voted on in a certain condition there needed to be first a motion to reconsider by the prevailing party then the item comes up and the second part would be a motion to amend once it was on the table. He stated he just wanted to make sure it was being done procedurally correct.

Mr. Blair stated Commissioner Grippa was correct. He explained a motion to reconsider could not be taken unless it occurred in the same meeting but since the meeting was adjourned the proper motion would be a motion to amend an action previously taken.

Commissioner Grippa stated he was still confused. He asked if the Commission was amending an action that had already been taken.

Chairman Rodriguez stated the reason for that was because it was taken at another meeting. He then stated if it had been taken at this meeting then a motion

to reconsider would be appropriate. He further stated the reason an action previously taken was being amended was because a condition was placed on the approval because the applicant argued and prevailed in front of the TAC.

Commissioner Carson moved approval to amend an action previously taken. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13055 YKK AP America

Commissioner Carson moved approval to reconsider. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson moved approval to amend an action previously taken. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide gasket letter providing testing of gasket as used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13255 YKK AP America

Commissioner Carson moved approval to reconsider. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson moved approval to amend an action previously taken. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide gasket letter providing testing of gasket as used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

(Resume Audio)

13531 PlyFASTner LLC

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant remove the use of ½” plywood and mention an approved opening protection panel.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

7694-R1 CELLOFOAM NORTH AMERICA INC

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant indicates on limits of use that approval is for roofing use only as a component of an approved roofing assembly.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

6902-R1 Intertape Polymer Group / Central Products Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant updates the Certification Agency Certificate with final version NOA.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Jamie Gascon, Miami Dade County

Mr. Gascon stated he had understood the applicant had addressed the comment before. He then stated the matter had come before the POC and the POC had recommended approval of the product.

Mr. Berman (inaudible)

Mr. Gascon stated the comment at the NOA was the comment had been uploaded

Mr. Blair stated if the comment had been uploaded it would be approved. He asked Mr. Berman if that was correct.

Mr. Berman (inaudible)

11429 United States Gypsum Corporation

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13299-R1 Rolsafe

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant (1) Revise contact information of Technical Rep and QA Rep name/address. (2) On limits of use indicate "Not" for use within HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13534-R1 Madena

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide a document in English that indicates the ownership of the test report by applicant.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13535 Madena

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide a document in English that indicates the ownership of the test report by applicant.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13536 American Shutter Systems Association, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate On limits of use: "Not" for use within HVHZ.

Mr. Carson stated in his notes he had the product was recommended for approval.

Mr. Berman stated the recommendation was for conditional approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion.

13572 Tapco, Inc

Mr. Blair stated the product was recommended for deferral with the condition the applicant provides the test report with deflection of screen for impact. Revise evaluation report in accordance with test report values.

Commissioner Carson moved approval of the POC recommendation. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

4856 KC Metal Products, Inc.

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER APPLICATIONS FOR ACCREDITOR AND COURSE APPROVAL

Accreditor Approvals

Commissioner Browdy stated there were no accreditor approvals.

Course Approvals

Commissioner Browdy stated there were seven courses being submitted for consideration by the Florida Building Commission that have been reviewed by the Education POC:

2007 FBC Advanced Electrical Class, BCIS Course Number #410.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

2007 Fla. Building Code Administration Advanced Code Training, BCIS Course #397

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced 2007 FBC Roofing Checklist Construction, BCIS Course #405.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced Fair Housing Act OR The Seven Deadly Sins of FHA, BCIS Course #413.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced Florida Building Code (Egress Flow), BCIS Course #408.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Florida's Advanced Energy Code, BCIS Course #414.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Internet 2007 Building Code Residential With 2009 Supplements Advanced Course, BCIS Course #415.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER LEGAL ISSUES AND PETITIONS FOR DECLARATORY STATEMENT: BINDING INTERPRETATIONS: REPORTS ONLY DECLARATORY STATEMENTS:

Legal Issues:

None

Binding Interpretations:

None

Declaratory Statements:

Second Hearings:

DCA09-DEC-259 by Robert S. Fine, Counsel for Malibu Lodging Investments, LLC

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Carson moved approval of the committee's recommendation to defer as requested by the applicant. Commissioner Nicholson entered a second to the motion.

Chairman Rodriguez stated this was the third deferral.

Commissioner Carson asked how many deferrals were allowed per request.

Mr. Dixon stated the issue was the subject of litigation. He explained the applicant kept requesting deferrals thinking the litigation would be through in time for the next meeting. He further stated Mr. Richmond indicated that after the April meeting the petition should be dismissed and refiled if the applicant could not get the case through litigation.

Commissioner Browdy asked when someone requests a declaratory statement when does the Commission decide to be accommodating one way or the other if there was a pending piece of litigation and there was a concern the Commission's action would influence the outcome of the litigation how and why does the Commission alter its deliberative process to accommodate a civil lawsuit. He stated he did not expect an answer but believed the Commission should not be used in that fashion. He further stated once an application was received it should be moved through rather than not allow its decision to not be rendered as in the usual process.

Ms. Stern stated there was a body of law which states a declaratory statement should not be issued when litigation was pending relative to the same issue.

Chairman Rodriguez stated Mr. Dixon had stated Mr. Richmond indicated one more deferral and then that should be it for the declaratory statement. He asked Ms. Stern how does that change or did he mean he thought one more time and the issue would be resolved.

Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-351 by Joseph Belcher, Code Consultant

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Mr. Madani stated the Commission should focus on point one as point two did not materialize. He then stated the action would be AHMA 2100 was more specific than NFBA70 and the Commission should go with AHMA2100.

Joe Belcher, JDB Code Services

Mr. Belcher stated he was not going to make a comment until he heard something that did not sound right but it had been corrected. He then stated he supported the Commission's action from the last meeting.

Commissioner Greiner moved approval of the committee recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-375 by Tim Johnson of SnappBatt

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Question #1: Does the product in question fall outside the scope of Rule 9B-72?

Commissioner Carson moved approval of the committee recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Question #2: Are there requirements for product approval as related to the use of the product in question?

Commissioner Carson moved approval of the committee recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-419 by Kenneth Gregory of Holland Pools

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Greiner moved approval of the committee recommendation. Commissioner Goodloe entered a second to the motion.

Commissioner Gregory stated there was a great deal of confusion on 424.1.3.1.9 "*All public comment pools surrounded by a minimum 48 inch height fence to be continuous around the perimeter where there is access through the barrier other than the door to the adjacent building, self-closing, self-locking gate of 48 inch minimum height latch near the top.*" **He then stated all other in 515 ...54 inches...that has been in there...the code used in Section 10 ? (inaudible not speaking in microphone).** He if that section was reviewed the section every facility listed was an indoor facility, although the word indoor was not there. He further stated an indoor swimming pool had the panic hardware doors to get out of the building in case of a fire or an emergency but there was no requirement. He stated Commissioner Goodloe pointed out at the last meeting there was nothing specific in the Code that really applies in this case. He continued by stating it had gone through the state and he received more and more requirements from other contractors that other building officials were now using the interpretation to require the panic hardware. He stated as a contractor of 36 years who has been working with the Commission for 8 years for child safety and swimming pool safety he believed it degrades safety. He then stated the United Pools Association had a

change into the Code to try to correct it. He continued by stating during the next year facilities will be built which are less safe than the ones built now.

Mr. Blair asked Commissioner Gregory if he would be abstaining from the vote.

Commissioner Gregory responded by stating he would abstain from the vote.

Vote to approve the motion resulted in 18 in favor, 4 opposed (Carson, Goodloe, Browdy, Gross), one abstained (Gregory). Motion passed.

First Hearings:

DCA09-DEC-411 by Jon Manny Sanchez, of Fenestration Testing Laboratory, Inc.

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Greiner moved approval of the committee recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA10-DEC-002 by Derrek Runion of Greenbuilt, Inc.

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Carson moved approval of the committee recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA10-DEC-034 by C.W. (Ben) Bentley

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Carson moved approval of the committee recommendation. Commissioner Greiner entered a second to the motion.

Commissioner Palacios stated he wanted to speak against the declaratory statement. He then stated there were a couple of items which bothered him. He then stated the first was the question "Is the installation of the PRV valve allowed?" He then stated many things we were allowed such as installation of pipes. He continued by stating it seemed the declaratory implied that it was not necessary to use temperature relief in a solar system because the installation manual of the Florida Solar Energy Center states not to, which was completely contrary to what the Code states in Chapter 12 of the Residential Mechanical Code. He stated Chapter 20 addresses boilers which do not require the temperature relief valve and only requires a pressure relief and low water cut off. He stated in Chapter 21 CVCP pipe was allowed and polypropylene pipe was allowed as well as other types of pipe material. He further stated in the Solar Chapter it states "system components containing fluid shall be protected with pressure and temperature relief valves. He continued by stating in any of the attachments filed with the declaratory statement indicate "shall" or "must". He further stated nowhere in the Code does it state the pressure and temperature relief valve was not necessary. He stated if the Code was wrong a modification should be done but if it clearly states a temperature relief valve was required it seemed the applicant was just trying to bypass the Code. He reiterated he was against the declaratory statement.

Commissioner Greiner asked if it would be possible to hear from the chairman of the Plumbing TAC for a possible explanation.

Commissioner Palacios stated he was the chairman of the Mechanical TAC.

Commissioner Greiner asked if it was the Plumbing or Mechanical TAC.

Mr. Madani stated it was a Mechanical issue. He then stated when declaratory statements are addressed all code sections involved with the issue need to be considered. He further stated when the Code requires a pressure and temperature relief valve but does not address where, when or how. He continued by stating in a prior section of the Code it stated such installation was subject to the manufacturer's installation instruction and was subject to "as listed" and "as certified". He stated the systems were known to be reviewed and certified by an entity for the Solar Energy Center which determined where the pressure relief valves should be installed. He further stated each declaratory statement should not consider just one section of the code to address and ignore all other sections. He stated the solar chapter did not have the specific language relative to how the valve was supposed to be distributed and how it was supposed to be installed.

Commissioner Palacios stated he disagreed. He referenced 2301.2.3 stated "shall be protected" and at the end it states "sections cannot be "valved off or isolated from a relief device". He then stated if that portion of the solar panel valved off, pressure could build inside and cause a possible rupture. He stated the Code

was clear and all references indicated either “shall”, “must”, “are necessary”. He further stated there was not one place in the Code that allows the pressure relief device not to be installed. He stated when the declaratory statement was before the committee there were six votes in favor and three votes against (including one code official).

Commissioner Gonzalez stated he was in agreement with Commissioner Palacios. He then asked the chairman of the Mechanical TAC how the question should be answered in order to be in compliance according to his comments.

Mr. Blair stated Commissioner Gonzalez asked Commissioner Palacios, as chairman of the Mechanical TAC, what his answer to the declaratory statement he would like approved by the Commission.

Commissioner Palacios stated he believed the Commission should deny the declaratory statement. He then stated he believed the declaratory statement was asking if only a pressure relief device and no temperature relief device.

Chairman Rodriguez stated he understood Commissioner Palacios concerns, but it was not a decision of approving or denying it was what his answer would be to the question being asked.

Mr. Dixon stated staff understood what was being requested, and what was in the wording of the declaratory statement response, was within the isolatable loop where the solar collector, which was not usually turned off but could be for maintenance purposes, if only a pressure leak valve could be provided in that section because the declaratory statement response states both pressure and temperature relief at the tank so the suction, which may have cpvc piping, would be protected which may have cpvc piping to distribute hot water around the house. He then stated he believed in one section of the **???** Code if there was a boiler then having a pressure relief valve only was allowed.

Commissioner Palacios stated the boiler section was found in another chapter. He then stated what he was trying to imply was the Mechanical Code addresses where temperature relief devices were needed and where they were not needed. He further stated in a boiler room it would seem much more important and the Code states it was not necessary but on the solar collector if a section can be valved off which can be done, both pressure and temperature relief valves were required. He continued by stating the applicant was trying to circumvent that by using “allow” and he believed the question should be more clear i.e. install only a pressure relief device and no temperature relief device on the solar collector side. He stated he would still vote against it but it would be clearer. He further stated he believed the question with “allow a device was a completely meaningless question.

Mr. Blair stated, for the record, the answer did indicate as long as it was according to the certification manufactured instructions and there was a temperature and pressure relief valve provided at the tank to protect the system.

Commissioner Palacios stated no one was arguing about the temperature relief valve on the house portion of the system. He then stated a temperature relief valve on the solar collector was the issue.

Mr. Dixon stated the staff's response and recommendation was it be deferred to the entity that evaluated the system. He then stated in the state of Florida no one can sell a solar system unless it was certified by the state. He further stated the entity who does the review and certification is the Florida Solar Energy Center, according to law. He then stated, like any other fire rated product, or fire rated assembly, and that fire rated assembly's listing or approval is good as long as is installed according to the conditions of that listing. He continued by stating it was the same parallel as the Solar Collector System. He stated there is a PT relief within the system located at the tank. He further stated what it stated was a pressure relief only in a boiler section, which a solar collector isolated or turned off the water running through it turns, was sufficient according to the listings by FSEC.

Commissioner Palacios stated he thought the Florida Solar Energy Center was putting out a manual which was contrary to the Mechanical Code and if the Commission approves the declaratory statement it would be stating it was okay to do something that was not in the Code if it was okay with the FSEC.

Commissioner Schulte stated he did not know anything about the issue. He then stated he wanted to clarify from what Mr. Dixon had stated it sounded like an additional pressure relief valve in a separate section of the loop where it could be done but it must comply with the basic requirements of the Code which meant at the tank pressure and temperature were required.

Commissioner Carson asked for clarification on what the answer was asked in the declaratory statement and what had been distilled down from staff to the question asking "if it was the intent of the Code in the section to allow installation of a PRV valve."

Mr. Madani stated when the issue came up and he did the analysis on the declaratory statement he talked to the FSEC, who certified the product. He then stated according to them, through experience, they found when installing a temperature and pressure relief valve on the collector's side the devices fail prematurely and because of frequent exposure to high temperatures. He further stated they determined with this type of system a temperature and a pressure relief valve at the tank and a pressure relief valve on the collector side. He continued by stating that was how this type of system had been certified and approved. He stated

when he reviewed the Code all of the sections pertaining to the issue were referenced “as certified or listed”, “according to manufacturer’s installation instructions”, and “a pressure and a temperature relief valve” and after consideration the answer was to defer it to the certification and listing of FSEC. HE further stated the pressure and temperature relief valves had to be installed. He concluded by stating all of those items were considered and the recommended answer was to defer the petition to the certification and listing entity. He then stated in addition the temperature and pressure relief valves were to be installed at the tank, which met the Code requirements, along with the listing and certification requirements.

Chairman Rodriguez asked Mr. Madani if he saw a conflict between the Code and the FSEC.

Mr. Madani stated he did not see a conflict.

Commissioner Palacios read from the last sentence from the referenced portion of the Code “A *PT valve (pressure and temperature) shall be installed in the sections of the system so that the system cannot be valved off and isolated from the PT valve*”. He stated if the solar collector was upstairs on the roof and that portion of the system can be valved off from the house system, even though the house system has a pressure system relief valve, the solar collector side was required to have a pressure relief valve. He further stated the Code was very straightforward. He stated if the FSEC defers to the Code then the FSEC should recommend a code change and make a Florida specific change then there could be a vote to determine the validity of the making a change was a good idea or not. He reiterated he felt it was an attempt to circumvent the code because the FSEC says it was not needed.

Chairman Rodriguez stated he heard Commissioner Palacios’ argument but he asked him if he felt there was a conflict between what was written in black and white in the Code and what the answer to the declaratory statement was.

Commissioner Palacios stated there was also a conflict between what the FSEC says and what the Code says.

Chairman Rodriguez stated that was not inconsistent with Mr. Madani’s comments.

Commissioner Palacios stated he agreed with Mr. Madani but he also knew the FSEC stated there was no need to have the temperature relief valve but it would be contrary to the Mechanical Code.

Chairman Rodriguez asked Commissioner Palacios how he would word the answer.

Commissioner Palacios stated his answer would be no. He then stated he would rephrase the question to ask “if only a pressure relief valve was needed and not a temperature relief valve on the solar collector side of this system.”

Commissioner Gregory asked for clarification if Commissioner Palacios was asking for PT valves on both the solar section and the hot water heater side.

Chairman Rodriguez stated it was not what Commissioner Palacios was asking it was he believed the Code required.

Commissioner Gregory stated he had installed several of the domestic hot water and solar systems. He then stated solar systems operate as a pool solar system whenever the temperatures are reached and the valve is shut off to **quit** the water to go through the solar collectors. He continued stating the water in the collector is drained by an automatic siphon, because the water is not wanted there is no concern with pressure venting up.

Commissioner Greiner stated his only comment was this was a declaratory statement. He then stated it seemed to him the Commission was answering the question in the declaratory statement and that is all it could do as it relates to the Code. He further stated Mr. Madani’s answer was correct.

Chairman Rodriguez stated if the Commission found a conflict it could be taken up in the amendments.

Commissioner Greiner stated if there was a conflict with the Code the Code should be changed, which was the purpose of the code change process. He then stated in this situation a specific question was asked and it should be answered in accordance with the current Code.

Commissioner Schulte asked Commissioner Palacios in the answer listed “as long as the installation was in accordance with the system’s listed manufacturer’s installation instructions and there was a temperature and pressure valve at the storage tank.” He then stated putting extra language in there was to capture the temperature gauge in that valved off area as well.

Commissioner Palacios stated he did not know how to amend the answer because the way he reads the question was presented was to circumvent the use of the temperature relief valve on the heat exchanger side of the system.

Commissioner Schulte stated the question was asking if a pressure valve could be installed at the loop area and his point was it could be as long as there is a temperature valve with it.

Commissioner Palacios stated again the question “are you allowed to put a pressure relief valve?” was a poor question.

Chairman Rodriguez stated if raising the question had brought the Commission to recognize if there was a conflict the Code.

Commissioner Vann stated his company had installed between 1,500 and 2,000 solar systems over the years. He then stated the industry’s standard had been a pressure relief valve up on the roof. He continued by stating, like Commissioner Palacios had stated, the Code was very clear i.e. if the section can be isolated then it would have to be a temperature and pressure release. He further stated it was a small dilemma that there seemed to be some conflict with solar energy and perhaps it should be dealt with as Chairman Rodriguez had indicated.

Vote to approve the motion resulted in 15 in favor, 7 opposed (Vann, Smith, Grippa, Stone, Palacios, Gonzalez, ??.) Motion passed.

DCA10-DEC-038 by Ray Habic of Gillette Generators

Ms. Stern explained the issues presented in the petition for declaratory statement and the committee’s recommendations as they appeared in each Commissioner’s files.

Commissioner Carson moved approval of the committee recommendation to defer. Commissioner Greiner entered a second to the motion.

DCA09-DEC-045 by George Merlin of George Merlin Associates, Inc.

Ms. Stern stated the petition had been withdrawn.

CONSIDER OTHER LEGAL ISSUES

Chairman Rodriguez stated the Energy TAC was asked to consider a request for relief from Energy Code Compliance method due to the uniqueness of the structure, a baseball complex. He then stated the TAC had reviewed the request and had recommendations for the Commission.

Commissioner Greiner stated the TAC had considered using Section 13101.1.5 of the Florida Building Code and the Florida Energy Code where the Commission was allowed to make a determination and provide some relief with respect to the Energy Code being used on unique buildings. He then stated this particular case it would be used for the stadium with a removable roof being built for the baseball team in Miami. He continued by stating the question from the petitioner was whether or not the Energy Code had to apply to the entire building and all of its

structures. He stated the TAC determined the Energy Code did apply to all of the structures that were going to be conditioned with the exception of the stadium itself, with the removable roof, for which the TAC recommended allowing the use of the whole energy method as long as it met the 15% requirement and could meet Chapter 11 of ASHRAE 90.1 as opposed to using Appendix G. He further stated all other spaces would be handled with the energy gauge FL.com and the actual stadium with the removable roof would use E quest computer program and would still have to meet the 15%.

Commissioner Greiner moved approval of the TAC's recommendation that the stadium would use the whole energy method as long as it met the 15% requirement and Chapter 11 of ASHRAE 90.1, but for all other structures of the building the Energy Code would apply.

Commissioner Palacios stated he was unable to attend the TAC meeting. He then stated he was very disturbed by the letter when he first saw it because it stated 60 days was 5% of the year. He further stated since there are 365 days in a year it was more like 16%. He continued by stating baseball season included approximately 81 home games out of 162, therefore 60 home games was approximately 2/3 of the home games. He stated he was very happy to see the 12% was not allowed and the 15% would be required. He further stated if the Florida program does not suit the baseball stadium and E quest had to be used for that area it was the best that could be done.

Commissioner Greiner stated the TAC did discuss the timing and questioned it which led to much discussion of the issue. He then stated he believed the recommendation was the right way to go because the Commission was tied in to the 15% and no one was in favor of the 12%.

Commissioner Palacios entered a second to the motion. He then stated it was disturbing to him that there was an engineering firm with an office in Dade County put up \$300 million for the stadium actually putting such a request.

Vote to approve the motion was unanimous. Motion carried.

CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:

Accessibility Code Work Group

Mr. Blair presented the report of the Accessibility Code Workgroup. (See *Florida Building Commission Accessibility Advisory Council Meeting Minutes April 1, 2010.*)

Commissioner Browdy moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Education POC

Commissioner Browdy presented the report of the Education POC. (See *Education POC Conference Call Meeting Minutes April 1, 2010*).

Commissioner Browdy stated the POC had no comments on the most recently revised rule language and the POC recommended the current language for Rule 9B-70 Education Rule without any changes or additional comments. He asked if a motion were necessary.

Mr. Blair stated if that was the recommendation the comment could be made at the hearing.

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Energy Code Workgroup

Mr. Blair presented the report of the Energy Code Workgroup. (See *Florida Energy Code Workgroup Report, February 3, 2010*).

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Energy TAC

Commissioner Greiner presented the report of the Energy TAC. (See *EnergyTAC Teleconference Meeting Minutes March 30, 2010*,.)

Commissioner Greiner moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Green Roofs Subcommittee to the Energy Code Workgroup

Mr. Blair presented the report of the Green Roofs Subcommittee to the Energy Code Workgroup. (See *Green and Energy Efficient Roofs Subcommittee to the Energy Code Workgroup, February 2, 2010*).

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mechanical TAC

Commissioner Palacios presented the report of the Mechanical TAC (See *Special Occupancy TAC with the Structural TAC Teleconference Meeting Minutes March 30, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Product Approval/Prototype Buildings/Manufactured Buildings POC

Commissioner Carson presented the report of the Product Approval/Prototype Buildings/Manufactured Buildings POC. (See *Product Approval/Prototype Buildings/Manufactured Buildings POC Meeting Minutes April 6, 2010.*)

Commissioner Carson stated there were four respondents to the ITN for the Product Approval Administrator. He then listed them in order of ranking as follows: 4) Clemmons Rutherford, 3) Building Officials Association of Florida, 2) CAP Government 1) Berman and Associates. He stated Mr. Berman would be retaining his position as the product approval administrator.

Commissioner Nicholson moved approval to accept the report. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Special Occupancy TAC

Commissioner Hamrick presented the report of the Special Occupancy TAC. (See *Special Occupancy TAC March 30, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Structural TAC

Commissioner Schock presented the report of the Structural TAC. (See *Structural TAC Meeting Minutes March 30, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

RULE DEVELOPMENT WORKSHOP ON RULE 9B-70 EDUCATION

Chairman Rodriguez stated at the February 2010 meeting the Commission voted to conduct a rule development workshop on Rule 9B-70, Education, regarding allowing providers to make specific minor technical changes by self-affirmation to approved courses without going through reaccreditation. He then stated the April 2010 workshop provided an opportunity for public comment before the Commission voted to proceed with rule adoption.

Mr. Dixon opened the workshop.

Commissioner Browdy stated, as indicated in the Education POC Meeting Minutes, there were no comments. He then stated the members of the POC had no changes to the language as it was at the present time with regard to self-affirmation or the other rule language.

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated he was both a preparer of educational materials and a provider. He then stated he was very much in support of the rule change. He continued by stating the delays in having to have a course reaccredited for minor, insignificant changes, generally just hurts the ability to get education out in the field in a timely manner.

Doug Harvey, BOAF

Mr. Harvey stated echoed Mr. Glenn's comments.

Mr. Dixon closed public hearing.

Chairman Rodriguez stated a motion was needed to proceed with rule adoption for Rule 9B-70, Education by conducting a rule adoption hearing at the next Commission meeting only if requested, otherwise proceeding without a hearing, and filing the rule with the Secretary of State and authorizing the Secretary of DCA to sign-off on any required rule certification(s).

Commissioner Browdy moved approval of the motion as stated. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER LEGISLATIVE ISSUES

Chairman Rodriguez stated Mr. Richmond was in Tallahassee attending the committee meeting on the Building Code Bill SB648.

Mr. Dixon stated he had received an email from Mr. Richmond stating the bill had passed in the committee and would now be on its way to both houses. He then stated there had been a strike everything amendment earlier and all of the Commission's items and recommendations remained intact as he had reported at the previous meeting. He continued by stating the Broward County Board of Rules and Appeals' concern both ground mounted and other located mounted air conditioning equipment appliances as well as rooftop mounted equipment would be included in the delay of implementation and the Commission's authority to address any errors or complaints regarding staff approved certified products through the Product Approval Amendment.

Commissioner Greiner asked if any information on the fire sprinkler issue had been received.

Mr. Dixon responded by stating the fire sprinkler issue was amended into the bill with the exemption requiring sprinklers in single family residential buildings.

Commissioner Tolbert asked if the bill also included the surcharge.

Mr. Dixon responded by stating the adjustment to the surcharge was in the same bill.

Chairman Rodriguez reminded the Commission there was a scheduled teleconference meeting on April 12th at 10:00am for further updates.

COMMISSION MEMBER COMMENTS AND ISSUES

Commissioner Grippa stated he had researched the appropriate motion from earlier. He then stated it was not a motion to reconsider, as Mr. Blair had indicated. He further stated it was actually a motion to rescind if it was from a past meeting. He continued by stating a motion was not supposed to be amended from meeting to meeting unless the motion was currently on the floor. He then stated in order to call the question a member of the Commission, not the chairman, had to make the motion and it was non-debatable.

Mr. Blair stated the motion to rescind was correct. He further stated the use of "repeal", "annul", or "to consider an action previously taken" (which was the format the Commission's attorney, Mr. Richmond, preferred) are also correct.

Commissioner Grippa stated he never liked to use the alternative and preferred to use the original.

Chairman Rodriguez stated he appreciated Commissioner Grippa's comments.

GENERAL PUBLIC COMMENT

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated, as the proponent and author of approximately 25-30% of the code changes submitted in the current cycle, under the direction of a contract issued by the Commission, he would like to commend the staff on the workings of the electronic code submittal system. He then stated he had submitted over 200 changes basically with no problems. He continued by stating the conference calls ran the first couple of weeks of the cycle explaining the use of the system. He stated the reporting system available to users in use currently to track code changes far exceeds anything the Commission had done in the past. He further stated a compliment was due for having put that in place.

Chairman Rodriguez thanked Mr. Glenn for his comments.

Mr. Glenn then stated the June 7th, 8th, and 9th meeting was listed on the website as a 7, 8 meeting. He asked if the 9th was out.

Mr. Dixon stated the meeting could be expanded. He further stated the meeting would return back to Monday and Tuesday. He stated Wednesday would be added if necessary.

ADJOURN

11:09 a.m. adjourned.