

**MEETING  
OF THE  
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION MINUTES  
June 11, 2012**

**PENDING APPROVAL**

The meeting of the Florida Building Commission was called to order by Chairman Richard S. Browdy at 2:02 p.m, Monday, June 11, 2012, at the Hilton Hotel, Daytona Beach, Florida.

**COMMISSIONERS PRESENT:**

Richard S. Browdy, Chairman  
Jeffrey Gross  
Angel "Kiko" Franco  
Jeff Stone  
James R. Schock  
Herminio F. Gonzalez  
Robert G. Boyer  
Drew M. Smith  
Scott Mollan  
Jonathon D. Hamrick  
Kenneth L. Gregory  
Nicholas W. Nicholson  
Raphael R. Palacios  
John "Tim" Tolbert  
John J. Scherer

**COMMISSIONERS ABSENT:**

Hamid R. Bahadori  
Christopher P. Schulte  
Mark C. Turner  
Joseph "Ed" Carson  
Dale T. Greiner

**OTHERS PRESENT:**

Jim Richmond, FBC Executive Director  
Leslie Anderson Adams, DBPR Legal Advisor  
April Hammonds, DBPR Legal Advisor  
Jeff Blair, FCRC Consensus Solutions  
Ila Jones, Program Administrator  
Mo Madani, Technical Service ~~Supervisor~~  
Manager

**WELCOME**

Chairman Browdy welcomed the Commission, staff and the public to Daytona Beach and the June 11, 2012 Plenary Session of the Florida Building Commission. He stated in addition to deciding on regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, and recommendations from the Commission's various committees, the primary focus of the June meeting was to conduct a rule development

workshop on Rule 61G20-4.001 and Rule 61G20-4.002, the Accessibility Code, for waiver form and procedures, and Rule 61G20-1.001(1), the Florida Building Code.

Chairman Browdy stated if anyone wished to address the Commission on any of the issues before the Commission they should sign-in on the appropriate sheet(s). He then stated, as always, the Commission would provide an opportunity for public comment on each of the Commission's substantive discussion topics. He further stated if one wants 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. He concluded by stating public input was welcome, and should be offered before there was a formal motion on the floor.

Chairman Browdy stated some of the licensing boards (*Board of Architecture and Interior Designers; Building Code Administrator and Inspector Board; Construction Industry Licensing Board; Electrical Contractors Licensing Board, and Board of Professional Engineers*) 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. He then stated participants whose board participates may sign-in on the laptop located toward the left-rear of the meeting room.

Chairman Browdy 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.

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

#### **REVIEW AND APPROVE APRIL 3, 2012 COMMISSION MEETING MINUTES AND FACILITATOR'S REPORT AND FACILITATOR'S REPORTS FROM TELECONFERENCE CALL MEETINGS FROM MAY 4, 2012 AND MAY 18, 2012**

Chairman Browdy called for approval of the minutes and Facilitator's Report from the April 3, 2012 Commission meeting and the Facilitator's reports from the May 4, 2012 and May 18, 2012 teleconference call meetings.

Chairman Browdy stated the minutes were amended to include comments from the DOH from the April 3, 2012 meeting.

Commissioner Nicholson moved approval of the minutes, as amended to include comments from DOH, and the Facilitator's Report from the April 3, 2012 Commission meeting and the Facilitator's Reports from the May 4, 2012 and May 18, 2012 teleconference call meetings. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

### **CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS**

#### *Florida Building Commission*

Chairman Browdy stated he unfortunately was not able to report the Governor had taken any action on the current vacancies on the Commission. He then stated he had been assured there would be appointments made later in the day that will begin the process of those members who are retiring in addition to the vacancies currently existing.

#### *Appointments to TACs and Workgroups*

##### *Accessibility TAC*

Chairman Browdy appointed Bill Gerwe to the Accessibility TAC. He also appointed Jim Wollyhand to replace Chris Masal on the Accessibility TAC. He thanked them for their willingness to serve in a most critical, informational and important part of the work of the Commission.

##### *Swimming Pool TAC*

Chairman Browdy made the following appointments to the newly formed *Swimming Pool TAC (chaired by Commissioner Gregory)*:

*Tom Allen  
Jordan Clarkson  
Bill Dumbaugh  
Dale Greiner  
John O'Connor  
Mark Pabst(sp)  
Gordon Sheperdson  
Bob Vincent  
John Wahler  
Fred Williams*

Chairman Browdy stated the Swimming Pool TAC would now take its place alongside the other TACs as opposed to being a subcommittee of the Plumbing TAC. He then stated the stand alone TAC would meet and report to the Commission on a

regular basis. He thanked Commissioner Gregory for his willingness to chair.

*System Uniform Evaluation Workgroup*

Chairman Browdy stated as early as January the Commission discussed implementing this particular workgroup to discuss the effectiveness of the building code implementation throughout the state of Florida, to discuss the disparities within the state with respect to enforcement and interpretation.

Chairman Browdy made the following appointments to the *System Uniform Evaluation Workgroup*:

*Chairman Browdy (chairman)*  
*Jack Glenn, Florida Homebuilders Association*  
*Steven Bassett (former building commissioner) (Florida Engineering Society)*  
*Mark Zehnal(sp) (FRSA)*

Chairman Browdy stated there would be additional appointments made to the workgroup over the next few weeks. He then stated it was hoped the first meeting of the workgroup could be scheduled at the next meeting in Tampa.

*Legal Staff*

Chairman Browdy expressed, on behalf of the Commission and himself, appreciation to Leslie Anderson-Adams. He then stated Ms. Adams would be taking another position in the DBPR family. He further stated her work with the Commission had been appreciated and she was wished the best of luck in her new position. He continued by stating April Hammonds would be replacing Ms. Adams as the new Commission counsel. He welcomed Ms. Hammonds and asked her to introduce herself.

*April Hammonds, Legal Counsel, Florida Building Commission*

Ms. Hammonds stated she was with the Department of Business and Professional Regulations and the new legal counsel for the Florida Building Commission. She then stated she had recently been in private practice and prior to that she was the chief construction, lead prosecutor for the Florida Construction Industry Licensing Board, a position she held for two years. She further stated she had been a prosecutor for that board for 4-6 years and in between she did dependency law. She continued by stating her heart, skills and experience were within the building arena. She stated although she had not worked with the Commission she was looking forward to getting to know everyone and continue forward with the work Ms. Adams had been doing.

Chairman Browdy stated Kathleen Brown-Blake would be attending the Commission meeting on June 12, 2012 as a guest attorney. He then stated she was an attorney for the Department of Business and Professional Regulations.

#### *2013 Code Update*

Chairman Browdy stated the window for submitting proposed code modifications for the 2013 Florida Building Code Update Process will open July 1, 2012 and will close August 1, 2012. He then stated modifications should be submitted online using the BCIS system and must meet the criteria outlined in the statute for amending the code. He further stated, on behalf of the Commission and the Commission's staff, he thanked Mike Goolsby and Jim Diietro from Broward County for their work in the code update process. He continued by stating their work had been invaluable in facilitating the review by the Commission staff.

#### *FEMA Recognition of the Florida Building Commission*

Chairman Browdy stated FEMA had recognized the state of Florida for strengthening the statewide building code. He then stated during the 2012 National Hurricane Conference, Brian Koonunn(sp), of the Florida Division of Emergency Management met with FEMA's administrator Craig Fugate to review FDEM's initiative to incorporate the Flood Damage Resistance Provisions from the International Code Series into the new Florida Building Code, which became effective March 15, 2012. He continued by stating working with FDEM and funded by FDEM, the Commission convened the Flood Resistance Standards Workgroup to build consensus regarding integrating flood resistance standards into the Florida Building Code. He stated the workgroup's recommendations were approved by the Commission and subsequently adopted as code modifications during the 2010 Code Update Process. He then stated the flood provisions contained in the Florida Building Code were consistent with the National Flood Insurance Flood Resistant Design in Construction Consensus Standards. He continued by stating, similar to Hurricane Resistant Provisions, the inclusion of the Flood Resistant Standards into the Florida Building Code serves to further strengthen the efficacy of the code.

#### **UPDATE OF THE COMMISSION WORKPLAN**

Mr. Richmond conducted a review of the updated Commission work plan. (See *Commission Work Plan 2012*).

Mr. Richmond stated the document linked on the agenda reflected only the changes since the last Commission meeting.

#### *Annual Report*

Mr. Richmond stated the Commission has always run into difficulty with its legislative recommendations because in the typical schedule with state agencies the recommendations were reviewed and approved over the summer, allowing the sponsors to be identified and bills to be filed well in advance of the session. He then stated there were actually pre-session meetings that start as early as September and October. He continued by stating it had always been difficult with the Commission's schedule of its annual report, the final work product being delivered typically sometime in January. He further stated this was an attempt to reconcile those two things. He stated this year would be an off year, but he had revamped the schedule for the annual report. He stated he also renamed the report "An Annual Report of the Commission" rather than just a report to the Legislature to reflect what he believed to be its broader scope, informing the reader all of the Commission's activity during the past year. He then stated it establishes the report on a schedule that really dovetails with the state's fiscal year (July 1-June 30). He continued by stating it permits the Commission's final recommendations to be heard June 30 and go through the standard processes over the summer and hopefully makes it into legislation for the following session. He further stated for this year it meant the Commission would have to review legislative recommendations outside the annual report. He stated another benefit of joining the Department of Business Building and Professional Regulation (DBPR) was its very active and effective legislative arm. He then stated the agency has a very strong relationship with its substantive committees and it also has a process. He continued by stating if the Commission reviews and approves recommendations at its next meeting in August he believed the Commission could get into the DBPR process upon review by the governors office and the agency, as always. He further stated if those entities authorize the Commission to proceed, they would make it into a department package. He stated a motion was needed to approve the adjustment of the timetable for delivery of the 2013 annual report to June 30, 2013.

Commissioner Nicholson moved approval of the adjustment of the timetable for the delivery of the 2013 annual report to June 30, 2013. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### *Screen Enclosure*

Mr. Richmond stated the Screen Enclosure Workgroup had a very efficient and very effective conference call on May 16, 2012, with the document being finalized. He then stated there would be another conference call with the Screen Enclosure Workgroup after July 1 and before the August Commission meeting to approve the final draft of their recommendations.

#### *Building Code System Uniform Implementation Evaluation Workgroup*

Mr. Richmond stated the date changes reflected were due to the difficulty of getting the members together. He then stated changes the final recommendations that were listed for December 4 to actually being a status report to the Commission and eliminating the last item, Recommendations of Changes to Law to the 2013 Legislature.

*Hurricane Performance Standards for Hinged Entry Doors*

Mr. Richmond stated there would be a report of the meeting later in the agenda. He then stated the one thing stricken, based on that report, ~~was~~ it was coming to the Commission through the Structural TAC, and the days had been changed to reflect that.

*Determination of Equivalency of the 2010 Florida Building ~~Commission~~ Energy Code for Commercial Buildings to USDOE Designated Standard and Certification to the Department of Energy.*

Mr. Richmond stated the letter was on the agenda for approval. He then stated once it was approved it would go to 100% therefore no action was necessary.

Mr. Richmond stated this was a new entry for the amendatory process, which will commence during the rule development workshop, scheduled later in the agenda, with a timetable for its completion.

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

**CONSIDER ACCESSIBILITY WAIVER APPLICATIONS**

Chairman Browdy directed the Commission to Leslie Anderson-Adams, the Commission's legal council, for consideration of the Accessibility Waiver Applications.

*#1 Alan Waserstein*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the Council recommended the waiver be denied due to the lack of participation and non-submittal of requested additional information.

Commissioner Nicholson moved approval of the Council's recommendation for denial. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

*#2 Lotus Gun Range*

Ms. Adams explained the petitioner's request for waiver as it was described in

each Commissioner's files. She stated the Council's recommendation was for approval with the condition the turning radii in the accessible shooting range be increased to 5 feet and the revised plans be submitted to staff to confirm the changes.

Commissioner Hamrick moved approval of the Council's recommendation for approval with the condition the turning radii be increased to 5 feet and the revised plans to be submitted to confirm the changes. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### *#3 Camillus House Center Campus*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the Council unanimously recommended approval due to unnecessary hardship.

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

#### *#4 Indian River Networking*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the Council recommended deferral to the next Council meeting to allow involvement of the building's owner and for provision of further information regarding the nature and cost of the work that would actually be done.

Commissioner Tolbert asked if the petitioner would be providing information regarding disproportionate cost.

Ms. Adams responded stating she was not sure what the petitioner would be presenting. She explained the owner had not been involved in the process to date relative to the Council.

Chairman Browdy asked if it had been communicated with the owner what he needed to provide to the Council at the next meeting in order to have an action taken on the declaratory statement.

Ms. Adams stated she believed both staff and the tenant would attempt to contact the owner. She further stated the owner would receive a copy of the deferral order.

Chairman Browdy stated he was sure the deferral order would include, or it could be put into the motion, the necessary requirements for resubmittal to ensure a decision from the Accessibility Council one way or the other when the petition was next reviewed.

Commissioner Nicholson moved approval of the Council's recommendation for deferral with the amendment to include instructions on the information required for submittal in order to get an action from the Council. Commissioner Palacios entered a second to the motion.

Commissioner Tolbert stated his point was the Building Inspection Department, wherever the jurisdiction, could approve it with the disproportionate cost portion of the Code if the criteria were met, at which point a waiver would not be necessary.

Ms. Adams stated she believed there would be some communication with the building official because there was a question in this case whether a waiver was even necessary.

Commissioner Tolbert stated that was his point.

Ms. Adams stated from the tenant's perspective the only alterations involve the firewalls; therefore it might not trigger the need for a waiver.

Vote to approve the motion was unanimous. Motion carried.

#### *#5 Restaurant Renovations*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council recommended approval based on disproportionate cost and unreasonable hardship. She further stated his representative had already committed to spending at least 20% of the cost in accessibility upgrades.

Commissioner Nicholson stated if the petitioner had already committed to 20% cost in accessibility upgrades he would like to see plans submitted for those rather than just the verbiage.

Chairman Browdy asked Ms. Adams if that was part of the requirement for granting the waiver.

Ms. Adams responded stating those plans might have already been submitted.

Mr. Madani stated normally through the application process the necessary information was provided for staff to review and for the 20% therefore a specific cost was probably provided as part of the application ~~and the plans~~ before the Council reviewed the petition.

Mr. Blair stated the Council did not consider the information and it was discussed.

Mr. Richmond stated the petitioner specifically identified several areas that had been ramped, made restrooms accessible that had been previously inaccessible, and

an accessible deck and bar were added. He then stated there were considerable upgrades and there was no question by the Council if those upgrades amounted to 20% or not.

Commissioner Tolbert asked, again, if the criteria for disproportionate cost were met, why the petition was coming before the Commission for a waiver.

Mr. Richmond responded stating disproportionate cost was simply a threshold for a waiver from Florida specific requirements but it does not get by the necessity to obtain a waiver. He then stated disproportionate cost was available as a means to avoid Federal accessibility requirements but not Florida specific requirements, unless a waiver was obtained.

Commissioner Nicholson moved approval of the council's recommendation for approval based on disproportionate cost and unreasonable hardship. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### *#6 Phi Mu Sorority House*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council recommended approval based on disproportionate cost and unreasonable hardship.

Commissioner Nicholson moved approval of the council's recommendation for approval based on disproportionate cost and unreasonable hardship. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### *#7 A1A Burrito*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council's decision was split, with 3 members recommending approval based on unreasonable hardship and 1 member recommending denial of the waiver.

Commissioner Franco stated the Commission had heard the petition previously. He then stated he would repeat the same comments he had at the first hearing. He continued by stating the applicant claims the addition is 756 square feet addition to an existing building. He further stated he went to the calculator and for a two-story addition with a roof on the second floor his calculations equal almost 3,000 square feet. He stated if family members were doing the work to help to keep the cost down would that apply to all the buildings. He then stated i.e. he could go in and build whatever addition he wanted to and someone else could build it for free and then claim ~~an~~ the expense of

an elevator was an unreasonable hardship. He continued by stating he thought a reasonable cost of construction would be applied regardless of who built it. He further stated a two-story addition on the beach would not be \$20.00 per square foot as the applicant claims. He stated if that kind of waiver was to be granted it should be based on true information and not false data.

Commissioner Franco moved the waiver to be denied.

Commissioner Schock stated he agreed with Commissioner Franco's comments. He then stated he believed the waiver should be based on fair market value. He further stated the Commission had previously recommended the applicant bring in an executed and signed contract determining the scope of the work allowing the Commission to see the full scope of the proposed work and that information was not in the file.

Commissioner Schock entered a second to the motion.

Commissioner Boyer stated he agreed with Commissioners Franco and Schock.

Vote to approve the motion was unanimous. Motion carried.

#### *#8 Medical Offices for Prevecare*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council recommended deferral to the next Council meeting to allow involvement of the petitioner to answer the Council's questions about the project and the planned use of the space. She then stated the use of the space, based on clarification the Council received from the Accessibility Board, would potentially affect whether or not the project was exempt from federal requirements, which therefore would affect the Commission's ability to waive Florida specific vertical accessibility requirements.

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

#### *#9 The Upside Down Fun House*

Ms. Adams explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council recommended denial because the Council has no authority to waive the accessible path of travel because it was a federal requirement. She then stated the applicant had proposed the structure be entered via a set of stairs then people accessing the building would walk on a slanted floor to experience the feeling of walking on the ceiling.

*Kay Oster, potential owner*

Mr. Oster stated the architect was supposed to attend the Commission meeting but unfortunately had to cancel on short notice. He then stated he was hoping to show a presentation to the commissioners to allow them to see a few pictures and a short video he took from two upside down houses he has in Germany.

Chairman Browdy asked how long the presentation would take. He then asked if the material was shown to the Accessibility Waiver Council.

Mr. Oster responded stating it was submitted to the Council.

Chairman Browdy asked if the Council had reviewed the information prior to making its recommendation.

Mr. Oster stated he hoped so but the conference call connection was very bad and neither party could hear the other very well.

Chairman Browdy asked if denial was based on jurisdictional issues or technical issues relating to the architecture of the building.

Ms. Adams responded by stating the denial was based on jurisdictional issues and the Federal ADAG standards require an accessible route that includes an accessible entrance. She stated the Council did not believe the petition was something the Commission could waive.

Chairman Browdy stated the denial was not based on a better understanding of the project, but whether or not the Commission had the jurisdiction. He then stated the Council had determined the Commission did not have the jurisdiction. He further stated he did not know if it was better to deny or if there was another action connote any negativity. He asked of the petition could be dismissed without a denial.

Ms. Adams stated she asked Mr. Richmond if there was any precedent and one could not be recalled.

Chairman Browdy asked Commissioner Gross his recommendation.

Ms. Hammonds stated sometimes a withdrawal by the petitioner before a denial was entered and then bring it back to the Commission at a later date.

Chairman Browdy stated he did not want the Commission's action to create prejudice within any other agency the petitioner may have to appear before.

Commissioner Gross stated he recommended a withdrawal.

Mr. Oster stated he guessed so. He then stated he had been to the Miami-Dade Building Department and their recommendation was to submit an application to the Florida Building Commission for a waiver. He asked, if the Commission cannot make a decision, could someone tell him who to contact who can actually make the decision.

Ms. Adams responded by stating one option, and probably the best option, was to contact U.S. Department of Justice. She then stated if Mr. Oster would contact her or Ms. Hammonds after the meeting they would provide him with a link to the website. She continued by stating if the Department of Justice believed the Commission was incorrect and it was not a federal requirement they would give the petitioner something in writing stating so.

Chairman Browdy stated the Commission's communication back to the building department would indicate the Commission has no jurisdiction therefore there would be no prejudice there.

Mr. Oster withdrew his petition.

Commissioner Nicholson moved approval of the withdrawal of the petition. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### **CONSIDER APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL**

Chairman Browdy directed the Commission to Mr. Blair for presentation of entity approvals.

Mr. Blair stated the following 10 entities were recommended for approval by the POC:

CER 1773 - National Accreditation & Management Institute

CER 3916 - Quality Auditing Institute Ltd.

CER 7628 - Quality Auditing-Institute Ltd.

QUA 9110 - PRI Construction Materials Technologies, LLC

TST 2508- Momentum Technologies Inc.

TST 4317- Testing Evaluation Laboratories, Inc

TST 6781- Intertek Testing Services NA, Inc. - Middleton Lab

VAL 1786 - National Accreditation & Management Institute, QUA 6252 - Progressive Engineering Inc.

VAL 3120 - APA - The Engineered Wood Association

VAL 3920 - Quality Auditing Institute Ltd.

Commissioner Boyer moved approval of the POC recommendation. Commissioner Tolbert 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 Nicholson entered a motion to approve the consent agenda as amended for all four compliance methods for approvals, conditional approvals and deferrals. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**Mr. Blair presented the following products for consideration individually:**

10408-R3 - C.H.I. Overhead Doors

Mr. Blair stated the product was recommended for deferral with condition the Evaluation report shall not rely on tests accredited prior to Feb. 10, 2011 at the "in-house" test facility.

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

11031-R2 - C.H.I. Overhead Doors

Mr. Blair stated the product was recommended for deferral with condition the Evaluation report shall not rely on tests accredited prior to Feb. 10, 2011 at the "in-house" test facility.

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

15012-R1 - C.H.I. Overhead Doors

Mr. Blair stated the product was recommended for deferral with condition the Evaluation report shall not rely on tests accredited prior to Feb. 10, 2011 at the "in-house" test facility.

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

11398-R2 - Town and Country Industries

Mr. Blair stated the product was recommended for conditional Approval with conditions of: For product .1 provide certificate of compliance to the 2010 FBC and for products .2 and .3 provide evidence of testing performed.

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

- 14092-R3 Raynor Garage Doors
- 14529-R2 Raynor Garage Doors
- 14618-R2 Raynor Garage Doors
- 14859-R2 - Raynor Garage Doors

Mr. Blair stated the products were recommended for conditional approval with condition the applicant provide certificate of compliance to the 2010 FBC.

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

- 15087 - Ply Gem Siding Group
- 15108 - Ply Gem Siding Group
- 15138 - Ply Gem Siding Group
- 15147 - Ply Gem Siding Group

Mr. Blair stated the products were recommended for conditional approval with condition the applicant to provide tests reports and analysis to the administrator for his review and disposition.

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

15442 - JELD-WEN

Mr. Blair stated the product was previously left off. He then stated the recommendation was for approval.

Chairman Browdy asked if the product should have been on the consent agenda.

Mr. Blair responded stating the POC had to consider the product individually because it had been left off. He stated the application was listed by mistake on the DBPR agenda and there were no comments on the performance therefore it should've been on the consent agenda, but now had to be considered individually.

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

5631-R2 - United Steel Products Company

Mr. Blair stated the products were recommended for conditional approval with condition the applicant provide certificate of compliance to the 2010 FBC by an approved evaluation entity.

*Craig Chown, Creative Cool Roofs and Industrial Coatings Solutions, representing Epoxy*

Mr. Chown stated Epoxy supported the request for withdrawal. He then stated if anyone had any request for additional information or questions he would be available to provide either.

Mr. Madani stated Mr. Chown needed to wait until the declaratory statements.

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

6223-R2 - United Steel Products Company

Mr. Blair stated the product was recommended for conditional approval with condition the applicant provides consistent values on installation instructions as per the evaluation report.

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

13285-R1 - United Steel Products Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant remove incorrect AISI testing standard.

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

15143 - United Steel Products Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide correct evaluation entity and separate the two evaluation entities on individual applications.

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

15456 - United Steel Products Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant applies using Method 2.

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

15458 - United Steel Products Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant applies using Method 2.

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

578-R3 - United Steel Products Company

Mr. Blair stated the product was recommended for approval.

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

817-R3 - United Steel Products Company

Mr. Blair stated the product was recommended for approval.

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

10739-R1 - United Steel Products Company

Mr. Blair stated the product was recommended for approval.

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

11664-R1 - United Steel Products Company

Mr. Blair stated the product was recommended for approval.

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

14568-R1 GlassCraft Door Corporation

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide testing/certification of interlayer and foam filler; provide sealant and bite of glazing as tested.

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

15363 - Simpson Strong-Tie Co.

Mr. Blair stated the product was recommended approval.

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

15475 – JELD-WEN

Mr. Blair stated the product was recommended for conditional approval revise the limits of use and the evaluation report to match the design pressures indicated on the installation instructions for products 15475.3 and 15475.4.

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

5374-R3 - East Coast Metals, Inc.

Mr. Blair stated the product was recommended for approval.

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

5968-R6 - Hunter Panels

Mr. Blair stated the product was recommended for approval.

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

#### **CONSIDER APPLICATIONS FOR ACCREDITOR AND COURSE APPROVAL**

Chairman Browdy stated there was no quorum at the Education POC therefore the Commission would review each of the course individually as Commissioner Stone presented them for approval.

Commissioner Stone stated the following items were on the Education POC agenda to be heard: one accreditor application, twelve new advanced code courses, eight revised advanced code courses and a separately attached administrator's activity report. He then stated one item he wanted to add to the agenda was course 497.0, which was deferred two full months for the POC to take a definitive action to archive the

course. He further stated the applicant had submitted a brand new course with a new course number that addresses the issue therefore the old course was no longer needed.

Chairman Browdy asked if the recommendation of the POC had been to defer action.

Commissioner Stone stated he had intended to add it to the June 4, 2012 meeting but did not have the opportunity due to the lack of a quorum.

Chairman Browdy asked if there was any urgency prior to another POC meeting to take action on it without the benefit of their recommendation.

Commissioner Stone responded stating no.

Chairman Browdy stated he would rather wait on 497.0.

**Accreditor Approvals:**

*Stay Safe Enterprises, Roy Pollack*

Commissioner Stone stated his recommendation would be to approve the accreditor.

Commissioner Hamrick moved approval with limitations to fire alarms and security systems only, which were the areas of Mr. Pollack's expertise. Commissioner Boyer entered a second to the motion.

Chairman Browdy stated there was no POC recommendation as there was no quorum therefore the decision would be a Commission action based on Commissioner Stone and Commissioner Hamrick's comments.

Vote to approve the motion was unanimous. Motion carried.

**Course Deferrals:**

None

**Course Approvals:**

*2012 Florida Accessibility Code for Building Construction, Course# 518.0*

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

*Advanced ADA, PLG, & Mech Code, Course# 527.0*

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

*Advanced FBC Update – Ch. 1-16, Course# 515.0*

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

*Advanced Mechanical/Energy Code-On-Line, Course# 520.0*

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

*Advanced Module 2010 Florida Building Code, Building, Building/Structural Summary, Course# 511.0*

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

*Florida Building Code Chapter 9 Fire Protection Systems, Course# 517.0*

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

*One Hour Advanced Building Code Module, Course# 514.0*

Commissioner Stone stated he had some concerns, as well as Commissioner Hamrick.

Commissioner Hamrick stated he would move for conditional approval for staff to verify the correct exams had been added to the online course. He then stated the original application was like a storybook of what the course was. He continued by stating he was finally able to view the course but the two exams online were based on

something completely different than what the course covered. He further stated the provider was contacted but there had been no correction to the exam online to date.

Chairman Browdy asked if there was a revised motion.

Commissioner Hamrick moved for conditional approval of the POC recommendation upon staff verifying the correct exams had been uploaded to the course. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

*2010 Florida Building Code Administration, Course# 525.0*

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

*2010 Florida Building Code, Administration Advanced Course# 522.0*

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

*Chapter 1, 2010 Florida Building Code, Advanced Code Training, Course# 521.0*

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

*The ABC's of the New ADA and the FACBC-Advanced, Course# 531.0*

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

*Advanced Florida Building Code-Flooring, Course# 528.0*

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

**Courses Administratively Approved:**

*Advanced Code Requirements for Residential Construction – Online, Course# 444.1*

*Advanced Wind Mitigation Methodologies Pt. 2 – Online Retrofit Course, Course# 394.1*  
*Advanced Course for Pool Contractors: The 2010 Florida Building Code, Course# 359.1*  
*Advanced Code – Mechanical/Energy, Course# 224.2*  
*Advanced Wind Mitigation Methodologies Part 1 – Internet Course for Florida Contractors, Course# 365.1*  
*Florida Building Code 2010 Advanced Training: Indoor Environmental Quality, Course# 332.1*  
*ADV 2012 Florida Accessibility Code, Course# 316.1*  
*Florida Building Code Electrical Advanced Module, Course# 348.2*

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

**ACTIVITY REPORTS**

Commissioner Stone moved approval to accept the Administrative Activity Report, dated 5/23/2012. Commissioner Hamrick 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:**

**Appeals:**

None

**Binding Interpretations:**

None

**Revocations:**

None

**Declaratory Statements:**

**Second Hearings:**

**DS2011-096 by Jeffery Cooper of EPOX-Z Corporation**  
**DS2011-097 by Jeffery Cooper of EPOX-Z Corporation**

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

*Craig Chown, Creative Consulting Roots, Industrial Coatings, representing EPOX-Z*

Mr. Chown stated EPOX-Z Corporation supported the recommendation for withdrawal.

Commissioner Stone moved approval of the committee's recommendation for withdrawal. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DS2012-013**  
**DS2012-016**

Ms. Adams stated the petitioners withdrew the petitions.

**DS2012-019 by Lorraine Ross**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for approval.

*Lorraine Ross, InTech Consulting*

Ms. Ross stated she stood on Energy TAC recommendations and the previous action of the Commission.

Commissioner Boyer moved approval of the committee's recommendation for approval. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DS2012-012 by Lorraine Ross**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for approval.

Ms. Ross stated she urged approval and adoption of the staff recommendation. She then stated the two items would come up again later in the plenary session in the rule making hearing.

Commissioner Boyer moved approval of the committee's recommendation for approval. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**First Hearings:**

**DS2012-017 by Andrew Finlayson**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for dismissal due to lack of jurisdiction.

*Andrew Finlayson, petitioner*

Mr. Finlayson stated it was a Sumter County building official's opinion that the Florida Accessibility Code for building construction applies to new construction only. He then stated the Sumter County building official has declined to issue code violations to existing buildings for non-compliance of the Florida Accessibility Code. He further stated review of the Florida law suggests the Sumter County building official was responsible for enforcing Chapter 553 as it relates to existing construction in Sumter County. He continued by stating he had 3 points regarding that law: 1) The Florida Americans with Disabilities Implementation Act has been incorporated into the Florida building construction standards: Section 553.503 of the Florida Statutes states "*The Federal Americans with Disabilities Acts Standards for Accessible Design and related regulations provided in 28 CFR part 35 and 36 and 49 FCR part 37 are hereby adopted and incorporated by reference as this law states and shall be incorporated into the Florida Accessibility Code for building construction and adopted by the Florida Building Commission*", 2) The Florida Building Construction Standards states that each local government and each code agency shall be responsible for enforcing accessibility requirements of the Americans Disabilities Act: Section 55.513 of the Florida Statutes states "*It shall be the responsibility of each local government and each code enforcement agency to establish... to Section 55.80 to...the provisions of this part.*", 3) The Florida Building Construction Standards do apply to existing construction: Section 55.507 of the Florida Statutes states "*Buildings and facilities where original construction or any form of renovation or alteration was carried out in violation of...law.*"

Commissioner Gregory stated if he understood correctly at the time the facilities were built this particular provision was not enforced.

Chairman Browdy stated the conditions were preexisting ~~and do not relate to~~ and do not relate to an existing permit.

Ms. Adams stated that was correct.

Chairman Browdy asked Mr. Finlayson if the conditions he eluded to regarding the Sumter County building official not enforcing was on existing buildings.

Mr. Finlayson responded stating yes.

Commissioner Gregory asked until such time the facilities require renovations or a new permit there was no need to upgrade to the existing code.

Mr. Madani stated the Florida Accessibility Code only applies in two situations: 1) if there was new construction or 2) if there was an alteration. He then stated existing buildings were not covered under the Accessibility Code because there had been no alteration or activities. He further stated it would fall under barrier removal, which was under the restrictions of the U.S. Department of Justice. He continued by stating it was not the responsibility of building officials to make sure existing buildings meet the Accessibility Code.

Commissioner Tolbert stated he agreed with Mr. Madani's comments. He then stated it sounded like if the decision of the building official was being disputed it should have been presented to the local board first to appeal his decision. He asked Mr. Finlayson if he had gone before the local board.

Mr. Finlayson responded stating from the research he did he thought he was entitled to file for a declaratory statement, which was why he had gone through the process. He then stated if he did not get the results he was looking for at the Commission he would ask for judicial review.

Ms. Adams stated the Commission was limited to its authority to interpret by declaratory statements the Accessibility Code. She then stated Section 553.775(5) states "*The Commission may render a declaratory statements relating to the provisions of the Accessibility Code for building construction that are not attributable to the Americans with Disabilities Act Accessibility Guidelines.*" She continued by stating the issue Mr. Finlayson was asking about pertains to assisted-listening devices. She further stated that was not a Florida-specific requirement, but comes straight from ADAG, which was the main reason the Commission lacks jurisdiction to issue a declaratory statement.

Commissioner Gross moved approval of the committee's recommendation to dismiss based on lack of jurisdiction. Commissioner Gross moved Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DS2012-035 Broward County**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for dismissal because the construction of mobile and manufactured homes fall outside the scope of the Florida Building Code and the Commission has no legislative authority to address the question.

*Rusty Carroll, Broward County Board of Rules and Appeals*

Mr. Carroll stated he thought the recommendation from the committee was two-part: 1) dismissed it due to the lack of authority and 2) a second motion made at the TAC was a line of communication be opened from the Florida Building Commission to the Department of Highway Safety.

Mr. Madani stated the additional information added during the meeting would be included for discussion by the chair of the TAC when he presents the report to the Commission. He noted it would be a separate action in the report.

Mr. Carroll stated his board was asked a question from a city in Broward County, Florida. He then stated it was a similar board, but countywide jurisdiction only. He continued by stating their legal counsel and chairman decided to find out if it could get an answer from the state and therefore answer the city's request from their board. He further stated once the petition has a second hearing it would go back to his board and a jurisdictional decision would be made based on Broward County in of itself. He stated he had been involved since the Florida Building Commission was developed. He then stated the issue was a serious one and there were millions of these homes in the state of Florida. He continued by stating the windows or air conditioner in a home must be changed and a permit was required, but once a mobile home was installed there was no jurisdictional issue he illustriously disagreed with the TAC recommendation. He further stated he believed once a mobile home was installed a C.O. was issued by the local building official, a permit was received from the local building official to install it and then to say the Commission nor anyone else has any jurisdictional issue after that fact he personally disagreed. He stated with the communication line Mr. Madani mentioned, his powers-that-be felt it would address the issue. He then stated at the TAC meeting he was asked if there had been communication with Department of Highway and Motor Vehicles Safety and he had responded no. He continued by stating he had sent an email. He further stated he had one of their older handbooks and under repairs it stated the enforcement was the responsibility of the local building and zoning department. He stated the new handbook, available online, no longer contains that statement. He then stated he had asked why the old handbooks have it and the new handbooks do not and he did not receive a response.

Commissioner Scherer moved approval of the committee's recommendation for dismissal for lack of jurisdiction. Commissioner Schock entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DS2012-038 by Pinch-A-Penny**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for approval.

*John Thomas, Pinch A Penny*  
*Kathy McLead, Pinch A Penny*

Mr. Thomas stated he supported the recommendations of staff, the TAC and the Swimming Pool Subcommittee. He then stated he reserved comment based on the necessity of discussion.

Commissioner Gregory stated there were tens of thousands of existing swimming pools that have two large of pumps on them with too small of pipes. He then stated the velocity of the water is a danger for entrapment and it had been discussed for nine years. He continued by stating it had been corrected in the Residential Code and the new pools built during the last several years were safe. He further stated there were several pool installations out there that are less than safe. He stated when stating a problem was not created by changing like to like that was correct, but the danger or hazard already exists. He then stated pumps and motors are very complicated. He further stated not only were there different types of pumps but there could be three different pumps from the same manufacturer that were rated on horsepower but the pump-curve performance data was entirely different. He continued by stating he supported the recommendation because the issue was not clear at present whether the pump was part of the circulation system or the filtration system. He stated the way the staff and TAC recommendation was written he would support. He then stated he would ask the Commission to help rewrite the code in the 2013 edition to correct the issue.

Chairman Browdy stated the last paragraph deals specifically with the Commission giving an opinion about safety. He then stated in all of his years as a commissioner this was something he had not been involved in i.e. the opining of something being safe. He further stated the Commission could state if there was code compliance or non-compliance, but having the Commission opine if something was safe or had lack of safety thereof seemed to be something unusual. He then stated he did not know if any other commissioners had reservations regarding the issue, particularly building officials who were confronted on occasion with an issue regarding code compliance and the term safety comes up, an issue one guarantees. He further stated he understood there had to be a response to the question but he has concerns and would like legal staff to help him resolve the safety issue.

Ms. Adams stated she would defer to Mr. Richmond on whether the Commission had ever opined on safety. She then stated she recalled from the TAC meeting there was some discussion regarding available retrofits to address the entrapment issue, which the local building officials could approve with the retrofit over the suction drain.

Mr. Richmond stated he did not believe in the history of the Commission there had ever been a rendering as to whether or not a particular circumstance created or constituted a dangerous condition. He then stated the Commission's authority in the unsafe buildings area is extremely limited, in fact having no authority on a finding by a local government that an unsafe condition poses an imminent threat to life safety or property damage. He continued by stating the term was being used out of context. He further stated it was a defined term in the code but the question was not phrased as if it were to be defined in context. He stated if a building official had found something he constituted as a dangerous condition as defined in the code it might be an appropriate topic for an appeal to the Commission or if there was some concern that a particular set up involving an entire project might create a dangerous condition as defined in the code, the Commission could possibly give an opinion on that but to issue an abstract interpretation that simply changing out a pump in a swimming pool could be a little broad in scope and not based on sufficient facts and circumstances.

Mr. Madani stated when he answered the question he answered it from the standpoint the Code does give two definitions, one for what dangerous is and one for what unsafe is. He then stated looking at those definitions in the code and the circumstance of the question there was nothing that would apply to this case within those definitions and that is why he felt okay to answer it.

Chairman Browdy stated he believed in that particular instance the code speaks for itself. He then stated he did not want to speak for the Code.

Ms. Hammonds stated she concurred with Mr. Richmond. She then stated the Commission would not want to create something so broad. She further stated maybe something to the effect in language terms it would not be defined and whether or not something was unsafe would go directly to the building official who was examining it at that time. She continued by stating the answer sounds like the Commission was stating it was not an unsafe condition, which opens up some issues with legislature.

Chairman Browdy asked for a recommendation in the way the response could be altered, if any way at all.

Mr. Blair asked if the fact it does state as defined in Section 202 of the code in any way mitigate the concern.

Mr. Richmond stated he believed the issue was because it was out of context. He then stated the definition of dangerous refers *“to a building or structure that has collapsed, partially collapsed, moved off its foundation or lacks the support of ground necessary to support it or there exists a significant risk of collapse, detachment, or dislodgement of any portion, member or ornamentation of the building or structure under the service load.”* He continued by stating it does not make sense in the context that has been provided. He further stated in this circumstance the factual circumstances provided to the Commission was a pump was being changed out and those facts and circumstance were insufficient for the Commission to make an overall call on whether or not a dangerous or unsafe condition exists. He stated to that extent, if the Commission was so inclined, a declaratory statement could be denied and the remainder of the questions could be answered as proposed by the technical advisory committee.

Mr. Madani suggested the answer could be the replacement of one horsepower pump product in accordance with the manufacturer’s instructions was deemed to be in compliance with the code. He then stated leave the language discussing dangerous out of the answer.

Mr. Thomas stated Section 502 refers to new and replacement materials and states *“except otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs and alterations provided no dangerous or unsafe conditions, as defined by Chapter 2 was created.”* He then stated without the clarification the question provides down the road, should there be an injury on a swimming pool when the only alteration was changing the pump like for like and attorney could argue the Commission created an unsafe condition. He further stated the question provides the clarity stating the materials in and of themselves like for like do not create the dangerous or unsafe conditions.

Chairman Browdy stated that was correct. He then stated that is the issue and it was the Commission’s concern.

Mr. Thomas stated as a contractor if he was being told he could not create an unsafe or dangerous condition and it was not otherwise defined it leaves all in a position of not knowing to go left or right.

Chairman Browdy stated the concerns of the commissioners and the petitioners had been heard regarding whether or not the replacement pump creates an unsafe condition. He then stated the Commission’s response had been heard. He continued by stating clearly, the Commission was free to give whatever response it chooses to give. He further stated in many cases it was 100% responsive to the petition. He stated when the Commission felt it could not be responsive or chooses not to be responsive it has the authority to say it was not jurisdictional and does not want to respond or the

response would be in accordance with Mr. Madani's suggestion indicating the Commission's opinion was more relevant to code compliance than the subjectivity of what is and what is not safe.

Commissioner Gregory stated he tried to fix the issue in the last code cycle by stating if the circulation system was altered it had to comply with the existing code. He then stated in doing so more than the pump size has to be considered such as pipe size, the velocity and adding some type of protection to it. He asked Mr. Madani if the pump was part of the filtration system or circulation system, because if it was part of the filtration system it was not required to meet the present code, but if it was part of the circulation system it did have to meet the present code. He stated he did not see how a pool could be circulated without the pump, but he was advised if he listed it as part of the filtration it would be in violation of the code.

Mr. Madani stated Commissioner Gregory was right. He then stated the way the code was structured the filtration system, which would exclude the pump, would fall within the exceptions, but then would not meet the existing building code standards.

Commissioner Nicholson stated he agreed with Commissioner Gregory. He stated he knew a bit about hydraulics, having a master's degree in that area. He then stated just because a one horsepower pump was being installed it does not mean it was equivalent to the one being taken out. He further stated the process could be all over the place depending on the pump curve. He continued by stating it was not fair to say it was safe just because one horsepower pump is replacing another one horsepower pump because it might not be. He stated he agreed with Mr. Madani and would have just the statement indicating it meets the code. He then stated he agreed with Chairman Browdy and certainly did not want the Commission to say something was safe when it might not be.

Commissioner Tolbert stated he agreed with the statement Mr. Madani submitted but the local building official really needed to make that call. He then stated if the building official wanted to look at every one and make sure they all pump the same and have no safety hazard that was fine too. He further stated there was really no way to do this without the building official getting involved.

Commissioner Palacios stated he did not understand the answer to the question on the replacement of the pump. He asked if the pump was being replaced was a permit required.

Chairman Browdy stated his understanding was the building official could be consulted but a permit was not necessary.

Commissioner Palacios stated he did not have a problem not having to get a permit for the replacement of a motor because when replacing the motor it was basically

not changing the hydraulic factors of the pump at all. He then stated the pump curve could be very flat or very steep i.e. it was not known what would be pulled out or put back in. He further stated he did not think the Commission should state someone could put in a pump without having to get a permit. He continued by stating if the entire pump was being replaced a permit should be required.

Chairman Browdy stated there had been a recommendation by Commissioner Tolbert to qualify the declaratory statement as it relates to Question 7.

Mr. Blair stated the motion needed was to approve the TAC recommendation with the exception the answer to Question 7, which would be revised to state it was deemed compliant with the code and eliminate the statement regarding unsafe or dangerous conditions.

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

**DS2012-034 by Arnolando Artiles, P.E.**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for approval.

Commissioner Palacios stated he did not understand the answer to the 3<sup>rd</sup> question. He then stated he did not feel the Commission had answered anything.

Mr. Madani stated in the code there is a specific table, Table 1605.4, which gives specific occupancy risk categories 1-4 for buildings. He then stated the code references ASCE7-2010, which also gives a table with the list of categories 1-4 with minor differences in the description. He continued by stating the engineer was trying to find out which listing control was it in the code or in the standards because they are different. He further stated regarding the code the project, equipment and structure would fall under category 2, but in ASCE7-2010 it would be under category 3. He stated based on the code language in Chapter 1, which states "*if there was a difference between what the Code requires and what the standards requires, the Code will supersede.*" He then stated the answer to the question in this case, for the design, Category 2 buildings for the project based on what the code allows.

Commissioner Palacios stated the question was still not being answered. He then stated the petitioner was asking if there were two different categories for the same question in ASCE7-2010 or the Florida Building Code, which does he follow. He further stated the petitioner did not care if it was category 2, 3, 5, or 10 he only wants to know

which does he follow when there was a different category. He continued by stating he doesn't see any other answer necessary.

Commissioner Schock stated he believed, as Mr. Madani stated, defining in the response back to Section 101 does answer the question.

Commissioner Palacios stated that was the answer to questions 1 and 2, but not to 3.

Mr. Madani stated the petitioner was asking in question 3 "*If the risk category under ASCE7-2010 was more stringent than the risk category under the FBC, which risk category should be used for telecommunications equipment.*" He then stated the petitioner was still asking about the risk category and the answer was Section 102.4 of the FBC under risk category 2. He continued by stating the petitioner was asking which category, not just which standard.

Commissioner Schock moved approval of the committee's recommendation for approval. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DS2012-037 by Raymond Manucy of RM Enterprises Inc.**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was for approval.

*Ray Manucy, RM Enterprises, Inc.*

Mr. Manucy stated the petition pertains to Section 16 in HB704. He then stated not only mechanical equipment, but also outdoor appliances, along with stands, accessories, etc., do not have to meet the code until 2013. He continued by stating the strike out should be just through "mechanical equipment and outdoor appliances" and leave the rest in tact in Section 301.12 in the Wind Resistance Mechanical section of the Florida Building Code. He asked if the equipment manufacturers were not going to build equipment to hold up to 180mph or 160mph, why should the rest of the code be scratched out or turned back to the 2007.

Commissioner Palacios stated he has had the same question asked by cooling tower manufacturers because the way the statute was written it was difficult to understand what was meant. He then stated his understanding of the statute was the equipment does not have to be made to comply with the wind. He continued by stating before it was only applied to Chapter 304 of the Mechanical Code and cooling towers were in a different section of the code.

Commissioner Schock moved approval Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Manucy asked if the decision meant stands, wall brackets, tie down clips, etc will have to meet the current code.

Chairman Browdy stated his understanding was the stands do not have to meet compliance with ASCE7 until 2013.

Mr. Madani stated the declaratory statement request specific to a project or a situation. He then stated the situation submitted to the Commission was specific only to a bracket used to anchor the equipment. He further stated by issuing the declaratory statement and as per the language in HB704, the anchorage of the equipment would still have to meet the 2010 Code requirements. He continued by stating the housing for the equipment would continue to be exempt from compliance until the effective date of the 2013 Florida Building Code, which will be March 2014.

Chairman Browdy asked for clarification the date of the housing based on the manufacturer's ability to comply would be the effective date of the 2013 Florida Building Code.

Mr. Madani responded that was correct.

#### **DC2012-039 by the Florida Solar Energy Center**

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

*Rob Vierra, Florida Solar Energy Center*

Mr. Vierra stated the issue was when the Commission created the prescriptive method and the UA alternative method; the conversion to U values takes into account. He then stated the hall wall, ceiling or whatever construct to get the U value of the entire construct for the mass walls it was not done correctly and the declaratory statement was trying to correct that. He asked if the issue was scheduled later in the agenda of the plenary session.

Ms. Adams stated the issue would be addressed through the rule development process.

Mr. Blair asked if the correct action would be to dismiss the petition.

Mr. Madani stated staff had answers but if the petitioner was willing to withdraw the petition that would be fine.

Chairman Browdy stated the answer was the declaratory statement process was not the appropriate venue to answer the question and the rule development process was the appropriate venue.

Mr. Vierra withdrew the petition.

No action necessary.

**DS2012-042 by Rick's A/C, Inc.**

Ms. Adams explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files. She stated the committee's recommendation was to defer pending additional information by the petitioner.

Commissioner Nicholson moved approval of the committee's recommendation to defer pending additional information by the petitioner. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**CONSIDER OTHER LEGAL ISSUES**

None

**CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:**

Chairman Browdy requested the TAC/POC chairs to confine their reports to a brief summary of any key recommendations, emphasizing those issues requiring action from the Commission. He then stated if the TAC/POC requires Commission action, he requested the chair to frame the needed action in the form of a motion. He further stated this would ensure the Commission would understand exactly what the TAC/POC's are recommending and the subsequent action requested of the Commission. He explained the complete reports/minutes would be linked to the committee's subsequent agendas for approval by the respective committees.

**Accessibility TAC**

Commissioner Gross presented the report of the Accessibility TAC. (See *Accessibility TAC Teleconference Meeting Minutes June 1, 2012.*)

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

### **Code Administration TAC**

Commissioner Gonzalez presented the report of the Code Administration TAC. (See *Code Administration TAC Teleconference Meeting Minutes May 23, 2012.*)

#### *Action #1*

Commissioner Gonzalez moved approval of the TAC's recommendation for the Commission to consider reviewing the issue of oversight of permitting alterations, repairs and remodels of mobile/manufactured homes, by initiating conversations with the Department of Highway Safety and Motor Vehicles which does have oversight of the initial construction of such structures. Commissioner Tolbert entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

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

### **Education POC**

Commissioner Stone stated there were not enough members present for a quorum therefore the meeting was dismissed early. He then stated the Commission earlier in the plenary session voted the necessary actions.

### **Energy TAC**

Commissioner Palacios presented the report of the Energy TAC. (See *Energy TAC Teleconference Meeting Minutes, May 14, 2012 and May 24, 2012.*)

#### *Action #1*

Mr. Madani stated, regarding Item #4 of the TAC's agenda, there was an energy calculation tool submitted by the Florida Solar Energy Center with energy gauge UA3. He then stated the TAC reviewed the tool and recommended approval under certain conditions.

Mr. Blair stated the item was on the agenda as a separate item.

Mr. Madani stated he was not sure it was listed as a separate item.

Chairman Browdy asked if any separate motions were necessary to approve the actions of the TAC other than the software issue, which was Item #12 of the Commission's agenda.

Mr. Madani stated the DOE letter was mainly a letter that clarified the Florida Energy Code 2010 does meet and exceed 90.1, 2007. He then stated the letter needed to go to the DOE with supporting documentation.

Commissioner Stone moved approval for the chairman to send a letter to the DOE to ensure compliance with the applicable codes with the DOE and Florida Energy Code. Commissioner Schock entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

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

#### **Fire TAC**

Commissioner Schock presented the report for the Fire TAC. (See *Fire TAC Teleconference Meeting Minutes May 29, 2012.*)

##### *Action #1*

Commissioner Schock moved approval the findings of the TAC that there were no conflicts currently within the code that meet the established definition of a conflict. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

##### *Action #2*

Commissioner Schock moved approval the correlation of reference standards was not necessary. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

##### *Action #3*

Commissioner Schock moved approval that there was no need to perform similar studies for future code updates at this time. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

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

### **Hinged Door Wind Performance Workgroup**

Mr. Blair presented the report of the Hinged Door Wind Performance Workgroup. (See *Hinged Door Wind Performance Workgroup Report to the Florida Building Commission May 23, 2012.*)

#### *Action #1*

Commissioner Tolbert moved approval to adopt the workgroup's recommendations to not convene a workgroup process for hinged entry doors and to disband the Hinged Entry Door Workgroup. Commissioner Boyer entered a second to the motion.

Commissioner Stone asked why the Commission had not engaged the ASTM Committee E6 of building construction, which includes a technical subcommittee that would address the issue.

Mr. Blair answered stating staff did not feel there was any particular issue that needed to have a Florida stakeholder engagement at present.

Vote to approve the motion was unanimous. Motion carried.

Commissioner Stone moved approval to accept the report. Commissioner Franco 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 *Mechanical TAC Teleconference Meeting Minutes May 31, 2012.*)

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

### **Plumbing Swimming Pool Subcommittee TAC**

Commissioner Gregory presented the report of the Plumbing TAC. (See *Plumbing TAC concurrent with the Swimming Pool Subcommittee Teleconference Meeting Minutes June 1, 2012.*)

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

### **Product Approval POC**

Commissioner Gonzalez presented the report of the Product Approval POC. (See *Product Approval/Manufactured Buildings POC Teleconference Meeting Minutes May 31, 2012.*)

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

### **Screen Enclosures Workgroup**

Mr. Blair presented the report of the Screen Enclosures Workgroup. (See *Screen Enclosures Workgroup Report to the Florida Building Commission Meeting Minutes from April 3, 2012 and May 16, 2012.*)

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

### **Structural TAC**

Commissioner Schock presented the report from the Structural TAC. (See *Structural TAC, Teleconference Meeting Minutes, May 31, 2012.*)

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

### **CONSIDER APPROVAL OF ENERGY CODE COMPLIANCE SOFTWARE**

Chairman Browdy stated at the December meeting the Commission adopted the Energy Simulation Tool Approval technical Assistance Manual. He then stated the manual serves as the technical assistance manual for the computer tool vendors to use in a self-certification process for demonstrating their compliance with the Energy Code performance compliance options for both residential and commercial buildings. He further stated the Commission would consider approval of energy simulated calculation tools applications submitted by the vendors. He continued by stating vendors seek approval of their software by providing self-certification that the software submitted meets the requirements to demonstrate compliance of the 2010 Florida Energy Code for

residential and or commercial and proceed and the procedures for the energy simulation tool approval technical assistance manual (TAM2010-1.0). He stated the Commission approved applications in January, March and one application in June submitted by Energy Gauge USA 3.0 by FSEC. He then stated the Energy TAC reviewed the application and submitted conditional approval.

*Rob Vierra, Florida Solar Energy Center*

Mr. Vierra stated he was available to answer questions, if any.

Commissioner Schock moved conditional approval of the Energy Gauge USA 3.0 software for demonstration of code compliance for residential buildings with the condition FSEC work with DBPR staff to make any necessary corrections to ensure consistency with the code and to charge the chairman with working with the DBPR staff to prepare and transmit a letter of approval to the vendor, Florida Solar Energy Center, once staff determines the conditions with which the approval was met. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### **PUBLIC COMMENT**

None

#### **COMMISSION MEMBER COMMENTS AND ISSUES**

Commissioner Gregory asked if it was possible to form a workgroup to answer the existing swimming pool question. He then stated he knew it had been tried before but had not been successful. He continued by stating he believed it was important to get all of the interested industry shareholders involved in talking with UPSA and FSPA. He further stated Mr. Thomas had agreed to be a part of the group.

Chairman Browdy asked if a workgroup was necessary specific to the issue or should it be addressed within the new Swimming Pool TAC.

Commissioner Gregory responded stating it could be done either way. He then stated he was told a workgroup was the way to do so because a TAC could not discuss those issues.

Mr. Richmond stated the TAC could be, as well. He then stated he urged anyone with resolutions out there that could be done to put them into the code system, which would be opening in one month. He continued by stating the time frame does not leave much time for a workgroup or a TAC to weigh in on the issue. He further stated it would be the quickest way to get a fix in the pipeline for the Florida Building Code.

Chairman Browdy asked if Mr. Richmond's recommendation was to move the

issue directly to the Swimming Pool TAC, rather than appoint a separate workgroup.

Mr. Richmond responded stating yes. He then stated the mechanism could be to propose code modifications, even if it was a draft without consensus. He continued by stating the purpose of the TAC review was to develop consensus on code modifications.

Chairman Browdy stated if there was a workgroup it would eventually have to go back to the TAC.

Commissioner Gregory urged the industry stakeholders to start discussing the issue.

Chairman Browdy stated the issue needed to be placed on the agenda for the TAC.

**RECESS**

4:55 p.m.

**MEETING  
OF THE  
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION MINUTES  
DAY TWO  
June 12, 2012**

**PENDING APPROVAL**

**WELCOME**

Chairman Browdy welcomed the Commission, staff and the public to Daytona Beach and the June 12, 2012, Day 2 of the Plenary Session of the Florida Building Commission. He stated the primary focus of day two of the June meeting was to conduct a rule development workshop on Rule 61G20-4.001 and Rule 61G20-4.002, the Accessibility Code, waiver form and procedures, and Rule 61G20-1.001(1), the Florida Building Code, and to consider the remaining declaratory statement.

Chairman Browdy stated if anyone wished to address the Commission on any of the issues before the Commission they should sign-in on the appropriate sheet(s). He then stated, as always, the Commission would provide an opportunity for public comment on each of the Commission's substantive discussion topics. He further stated if one wants 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. He concluded by stating public input was welcome, and should be offered before there was a formal motion on the floor.

Chairman Browdy stated some of the licensing boards (*Board of Architecture and Interior Designers; Building Code Administrator and Inspector Board; Construction Industry Licensing Board; Electrical Contractors Licensing Board, and Board of Professional Engineers*) 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. He then stated participants whose board participates may sign-in on the laptop located toward the left-rear of the meeting room.

Chairman Browdy then conducted a roll call of the Commission members.

### **AGENDA REVIEW AND APPROVAL**

Mr. Blair conducted a review of the meeting agenda as presented in each Commissioner's files.

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

### **RULE DEVELOPMENT WORKSHOP, RULE 61G20-4.001 AND RULE 61G20-4.002, Accessibility Code**

Chairman Browdy stated the rule development workshop regarding Rule 61G20-4.001 and Rule 61G20-4.002, the Accessibility Code, waiver form and procedures was to consider changes to the 2010 Florida Accessibility Code by providing clarification that endorsement of the barrier removal requirement was solely within the jurisdiction of the Department of Justice and proposed revisions to the forms and procedures for applying for a waiver or a modification of Florida specific accessibility standards in the code. He then stated the workshop provides an opportunity for public comment before the Commission proceeds with rulemaking on proposed accessibility changes. He continued by stating once the rule development workshop was open and public comment concludes the Commission would then consider whether to make any changes to the draft rule. He further stated he would open and close the workshop. He stated Mr. Blair would facilitate the Commission's discussions and serve as a moderator for the public comment portion of the workshop.

Chairman Browdy opened the rule development workshop on Rule 61G20-4.001 and Rule 61G20-4.002, the Accessibility Code. He stated the relevant TAC had provided recommendations on the proposed code amendments and the files were linked to the rule development agenda items in the commissioners' laptops.

Mr. Blair stated there were three issues on the table:

1) Procedure

No Public Comments

2) Waiver Forms

No Public Comments

3) Changes to Accessibility Code

*Public Comments*

None

Mr. Madani stated the TAC had comments from the minutes that need to be entered into the record as part of the workshop.

Chairman Browdy called on Commissioner Gross, TAC chairman, to provide the TAC's review on those proposed amendments.

Commissioner Gross stated the TAC's recommendations as follows:

*Procedure*

- 1) to paragraph 7, add electronic notification. He then stated sometimes after the waivers were issued it would take a long time for the written order to be sent therefore there was a request to send electronic notification to the petitioner to allow them to get to work.
- 2) under the list of required information the TAC asked for one hard copy to be added into the waiver application.
- 3) under the ownership, the word tenant was added because there was a question whether the owner or the tenant could sign the application.

Mr. Bair stated the motion needed was approval of incorporating the TAC's recommendations and proceed with rule adoption.

Mr. Richmond stated, for clarification, the rules had been in flux, from the DCA to the DBPR. He then stated the actual text shown on the screen and had been incorporated into the materials was based on text in the old 9N-3 Rule that had been changed to reflect the DBPR. He continued by stating the Commission would be approving it in concept of it translated using the appropriate base language.

Chairman Browdy called for a motion to adopt the rule using and incorporating the recommendations from the Accessibility TAC.

Commissioner Gross moved approval to adopt the rule using and incorporating the recommendations from the Accessibility TAC. Commissioner Schock entered a second to the motion. Vote approve the motion was unanimous. Motion carried.

Commissioner Gross stated when he presented the report for the TAC meeting he missed one item he needed a vote from the Commission on.

Mr. Richmond stated if it was the fee issue discussed at the TAC, it was part of a package and was scheduled as part of the August agenda.

Chairman Browdy closed the workshop for Rule 612G20-4.001 and Rule

612G20-4.002, the Florida Accessibility Code.

**RULE DEVELOPMENT WORKSHOP, RULE 612G20-1.001(1) FLORIDA BUILDING CODE**

Chairman Browdy stated the rule development workshop regarding Rule 612G20-1.001(1), the Florida Building Code was to consider changes to the 2010 Florida Building Code regarding the 2010 Florida Building Code glitch fixes proposed pursuant to the statutory criteria allowing adoption without code development process. He then stated using Chapter 120 rulemaking procedures only the proposed changes should only be approved if they meet the statutory requirements for a glitch. He continued by stating amendments pursuant to Section 553.73(8), Florida Building Code, the Commission may approve amendments that are needed to address: a) conflicts within the updated code, b) conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to Chapter 633, c) unintended results from the integration of previously adopted Florida specific amendments with the model codes, d) equivalency of standards, e) changes to or inconsistencies with federal or state law, f) adoption of an updated edition of the National Electric Code if the Commission finds delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare. He stated the workshop provides and opportunity for public comment before the Commission proceeds with rulemaking on the Florida Building Code. He then stated once the rule development workshop was open and public comment concluded, the Commission would consider whether or not to make any changes to the rule.

Chairman Browdy opened the rule development workshop on Rule 612G20-1.001(1), the Florida Building Code. He stated the relevant TACs have provided recommendations on proposed glitch amendments and the files were linked to the rule development agenda item and the staff would provide an overview of those materials.

Mr. Blair review process (See *FBC Glitch Review Process June 12, 2012.*)

Chairman Browdy stated there was a court reporter present and she was unfamiliar with the names of the various commissioners and it was not easy to read the names from where she is. He asked the commissioners before they spoke to identify themselves so she could attribute the comments to the appropriate person.

Commissioner Smith asked if a commissioner wanted to pull any items from the consent agenda when would the appropriate time be to do so.

Mr. Blair stated the proposed amendments would be considered in order therefore when the item is to be addressed the commissioner would request the particular items be pulled at that time and they would be pulled and considered individually.

Chairman Browdy suggested perhaps Mr. Blair could once again explain the thresholds for approval in terms of the rule, the consensus thresholds for approval and the Commission's process on votes.

Mr. Blair stated in order to approve any amendment a 75% vote was required.

*Tracking Chart: Other: 18 Amendments*

Mr. Madani stated there were 18 proposed glitch changes. He explained the proposed changes had been noticed on the website for some time for everyone to review. He then stated the 18 proposed glitch changes could be broken down into 3 components: 1) those changes that came from HB704, specific to, for example, the definition of a bedroom, the exemptions for hunting cabins 2) certain items in the code have been found that require correction such as references to wrong code sections, a table dealing with fixtures? for a swimming pool facilities was in the wrong format and 3) approximately 3 code changes were required to make the code consistent with the Department of Health, Public Swimming Rule 64E - 9. He continued by stating those were mainly what was found within the 18 proposed changes, which was primarily resolving conflict within the code and also to be in compliance with the state laws or rules.

*Public Comment*

*Jack Glenn, Florida Homebuilders Association*

Mr. Glenn stated he had a general comment relative to the chairman and facilitator's use of the words the "TAC recommendations". He then stated he had attended those TAC meetings and it was made clear to those attending the TAC meetings the TAC had made comments and had not made any recommendations on the changes.

Mr. Madani stated he could clarify the comments did not go through the TAC.

Mr. Blair explained Mr. Glenn was not actually speaking in reference to the 18 on the "Other" chart. He then stated he was referencing the ones staff did make a recommendation on, whether the term was a comment or a recommendation.

Mr. Glenn stated he believed it did make a difference. He stated he believed the word recommendation had a lot more weight in his mind than a comment from the TAC. He then stated there were staff recommendations and TAC comments, not recommendations. He continued by stating they were not subject to technical review by the TAC. He further stated the TAC was asked to look at them and determine in its opinion if the changes met the glitch criteria. He stated the changes were not reviewed for technical correctness.

Chairman Browdy asked for clarification if the TAC made a comment and a comment was based on a consensus opinion of the TAC was Mr. Glenn suggesting the comment was not to be treated as a recommendation or an opinion but only as a comment.

Mr. Glenn responded stating he was indeed. He stated the TAC was asked to make a comment as to whether the change constituted a glitch, not to rule on the technical merits of the change.

Chairman Browdy stated he thought the discussion was if the comment was substantive. He then asked if Mr. Glenn were telling him the comment from the TAC was only whether it qualified as a glitch and not a specific direction or advocacy for some direction.

Mr. Glenn responded stating that was exactly what he meant.

Mr. Blair thanked Mr. Glenn for the correction.

*Doug Harvey, BOAF, Executive Director*

Mr. Harvey stated BOAF had distributed to the commissioners a position statement that covers this issue and other upcoming issues. He then stated in the interest of brevity and he would be as brief as he could in regard to the position statement. He further stated specific sections would be addressed as those particular sections come before the Commission. (See *Building Officials Association of Florida, Inc. – Position Statement, June 11, 2012.*)

*Bob Vincent, Florida Department of Health*

Mr. Vincent stated he was available to assist the Commission with the equivalency of standards and the inconsistency with the state law for 424.1 Citations to the Public Pool Code.

Mr. Blair asked for clarification if the commissioners had any questions Mr. Vincent would be available to help with those.

Mr. Vincent responded yes.

*Kari Hebrank, 4<sup>th</sup> Floor Advocacy*

Ms. Hebrank stated she would like to comment in response to Mr. Harvey's comments and what the staff was recommending with the glitch changes. She stated the Commission has a responsibility to address conflicts within the updated code, which the staff identified, and the inconsistencies with federal or state law, which the staff also identified. She then stated the Commission's obligation to the industry, to correct those inconsistencies when the opportunity presents itself, which was the reason for a glitch

code change. She further stated she supported the proposed changes.

Commissioner Smith stated he would like DOH pulled from the consent agenda for individual consideration.

Chairman Browdy stated asked which numbers were the DOH.

Mr. Blair responded stating there were no numbers, but sections.

Mr. Madani stated they were located on pages 3-4, Section 424.6.5.5.1, Section 424.1.9.2.6.1 and Section 424.1.6.5.16.3.

Mr. Blair stated the motion needed was for approval that the remaining amendments recommended for approval do meet the glitch criteria.

Commissioner Stone moved approval that the remaining amendments recommended for approval do meet the glitch criteria. Commissioner Schock entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated a motion was needed to approve the proposed amendments to correct the glitch.

Commissioner Gonzalez moved approval of the proposed amendments to correct the glitch. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DOH 6E - 9

Mr. Glenn stated he was representing himself. He then stated the changes from DOH were something he had wrestled with the Commission over for the last 12 years. He then stated the statute that created the Florida Building Commission unified Florida Code instructed state agencies to incorporate the construction regulation rules within the body of the code. He continued by stating DOH and AHCA continuously modify the rules, get their rule in place and then come to the Commission, beg forgiveness and ask the rule be incorporated into the code. He further stated he had been under the impression since day one that the agencies should be coming to the Commission with their changes first: modify the code and if a rule amendment was necessary, amend the rule. He stated he believed it was unconscionable a two year long code development process was just completed without word one from DOH on changes needed in the Swimming Pool Code and then they appear before the Commission in the glitch cycle asking to incorporate three provisions from their rule into the code. He asked the Commission to reject the changes and force DOH to go through the process as it was intended originally. He stated suspend the rule enforcement on rules they promulgated that do not reflect what was in the code, get the language in the code first and then the rules could be promulgated.

Mr. Harvey stated BOAF asked the Commission to preserve the rulemaking process. He then stated BOAF supported Mr. Glenn's comments.

Mr. Vincent stated Chapter 514 was Florida's Department of Health Statutes for Public Pools. He then stated it required a review of the code every two years and make necessary changes. He continued by stating in the past Chapter 514 also stated assist the Florida Building Commission with the Public Pool Code. He further stated the sequence DOH had done since 2001 was to pass the code itself, hand it of to the Florida Building Commission and then it was adopted into 424.1. He stated there had been three different cycles completed through the process and the fourth was underway when legislation was proposed which would require the building officials to implement all of the construction portions of the 64-E9 and 424.1. He then stated with the statute change, effective April 29, 2012, DOH was working with BOAF and DBPR staff to make a smooth transition of all of the permitting for construction for the construction of public swimming pools. He further stated there were still requirements in Chapter 514 to issue operation permits. He continued by stating pools were built for 50 years to continue to operate and each year an operating permit would be issued. He stated the pool had to be built in accordance to 424.1 and what DOH had found in the process of changing the code over, he had been on the Special Occupancy TAC for five years and his engineers had been on prior to that. He then stated DOH brings the code, after it was completed and promulgated through the joint administrative procedures council in the Chapter 120 process. He continued by stating it was all public record, there were workshops and hearings, and then it was adopted practically verbatim into 424.1. He further stated what DOH had found with the glitches was there were 4 or 5 places seen here today and he had a list of about 7 more places where they were inconsistent. He stated what happens now between April 29 and today and what will happen until most of the codes were exactly the same was a building official could issue a construction permit that has different criteria in it than what the operating permit will allow. He used the example of the filter size requirement shown on the screen. He explained it was a typo and instead of .075 gallons per minute it should be 3.75 gallons per minute. He then stated after April 29 the building departments would be issuing construction permits based on 424.1 and the operation permit, when the pool has been opened, after it was C.O.'d by the building official there would be inconsistencies.

Mr. Blair asked Mr. Vincent, for the record, he had submitted some additional proposed glitch changes to deal with inconsistencies with federal regulations or some other glitch criteria he would like the Commission to consider.

Mr. Vincent responded stating yes.

Mr. Glenn asked if someone could identify which federal or state law where the conflicts exist. He stated the criteria Mr. Vincent was using has conflicts with the federal or state legislation. He then stated it was conflicting with a rule adopted by the agency, which in his opinion they had no authority to adopt.

Chairman Browdy stated he believed the issues, especially the ones that had come in during the last 24 hours, have had no time to be vetted in front of the Swimming Pool TAC.

Mr. Glenn interjected stating nor the public.

Chairman Browdy stated nor the public. He then stated it was somewhat unusual from a procedural point of view and from the Commission's perspective very unusual. He asked to hear comments from Commissioner Gregory, chairman of the new Swimming Pool TAC. He stated his first reaction was prior to the Commission considering any change it would seem appropriate to send it back to the TAC, which was just formed, specifically with representatives from the DOH on the committee to give their input and reconcile the differences.

Commissioner Gregory stated after talking with FSPA and UPSA regarding the inconsistencies he did not necessarily agree with all of them or disagree with all of them. He then stated he did agree with Mr. Glenn. He continued by stating over the years 64E had been out of step with the Florida Building Code and it had been a source of confusion between the two documents. He further stated there was an opportunity now to use one document for construction. He stated he would rather see the issue vetted through the TAC rather than the Commission making a decision during the current meeting. He then stated regarding the typos, he agreed with Mr. Vincent on the .375 gallons per square foot on a cartridge, but it also indicates to comply with NS50 and NS50 was clear. He continued by stating the issue came up in Jacksonville recently with an engineer and the building department wanted to enforce the .075 gallons per minute but it was rectified with clarification within the code. He restated he would rather see the issue vetted before the TAC.

Mr. Blair stated based on that comment and public comment it sounded as though the Commission might consider referring the three on the tracking chart and the balance provided at the meeting to the Swimming Pool TAC for their recommendation for the Commission's consideration at the rule adoption hearing in August.

Chairman Browdy stated he believed, as the Swimming Pool TAC reviewed the issue, it should be anticipating the same questions the Commission does; i.e., if it qualifies as a glitch and the technical substantive changes that would be made.

Mr. Vincent stated for clarification the items were inconsistent at state code but also since Chapter 514 now had been changed to state "the building officials were going to do all construction permitting". He then stated the 2 codes were inconsistent with the operating permit later and the construction permit immediately. He asked if the items could not be included during the June meeting he would like to ask the board for some direction on how to best deal with the issue during the 6 month interim before DOH could change its code.

Commissioner Shock stated the filter size issue came up in his jurisdiction in Jacksonville recently for one his plans review engineers. He then stated, although he completely agreed with the need for the issue to go back to the TAC to be reviewed, he asked if one item could be pulled of and handled separately for clear understanding throughout the state the filtration rate should be .375. He continued by stating it ends up increasing the shoulder size by several times and he believed it would be a continual problem.

Mr. Blair stated the only issue was any action the Commission takes at the workshop would be the same action taken in August because there would have to be a rule development workshop and it would not resolve the issue any faster. He then stated whether it was approved during the workshop it would still have to be considered at the August meeting therefore nothing in time would be gained.

Commissioner Gregory asked if it was possible to put a notice on the website to the building officials clarifying there was a typo relative to the filtration size to avoid confusion. He had already talked to some building officials himself and clarified it and sending them to NS50. He reiterated it was an easy fix because it was just a typo.

Chairman Browdy stated he did not disagree with his Commissioner Gregory's perspective or the code enforcement perspective that the issue was something that needed to be done because it was a typo. He then stated he did not know what could be done procedurally that can remedy that other than advise people in an informal way advise the enforcement community of the technical error to avoid the repeat of what occurred in Jacksonville around the state.

Mr. Madani stated he agreed with Commissioner Schock. He then stated if the typo in the filtration were corrected during the June Commission meeting it would save frustration in the future. He then stated he did not see any other significant other than correcting a typo, which was badly needed.

Mr. Blair asked Commissioner Schock what number the typo was in.

Commissioner Schock stated it was the filtration rate, which needed to be changed from .075 to .375.

Mr. Richmond stated one of the features of the glitch changes was once the Commission approves actual code language and it was posted to the website building officials were authorized again to rely on the revised language and can be applied at that point.

Commissioner Tolbert stated if the recirculation rate was not a typo but the actual difference between the two codes. He then stated building officials were going to be using the 2-hour when DOH wanted the 3-hour. He continued by stating when someone builds a pool to the code but DOH comes in later and states the pump had to

be changed. He further stated, as an owner, he would have just had his pool approved and then DOH comes and says it was not right. He stated he would think DOH needed to honor the 2-hour if that happened. He then stated there was a lot of time to change this before this point.

Mr. Vincent offered clarification DOH was the 2-hour and the Florida Building Code was 3-hour.

Commissioner Tolbert restated he would think DOH would need to honor the 3-hour, because there was a lot of time to change it before this point.

Mr. Blair stated if the Commission wanted to take action on the filtration flow rate, there a motion was needed to refer the remaining 2 on the tracking chart plus the additional ones submitted in writing during the Commission meeting back to the Swimming Pool TAC.

Commissioner Schock moved approval to send back to the Swimming Pool TAC all remaining proposed amendments except the cartridge filter size from .075 in FBC and .375 in the 64E FAC. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Schock moved approval the filtration filter size was a glitch. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond stated, for clarification, the number of the last item the Commission took action on was 424.1.6.5.5.

Mr. Madani responded stating that was correct.

Commissioner Schock moved approval of the amendment to fix the glitch as drafted in the document. Commissioner Gregory entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

*Structural*

*Joe Belcher, JDB Code Services, International Hurricane Protection Association*

Mr. Belcher stated he submitted a change and the Structural TAC did recommend it as a glitch. He then stated he had a slight amendment to the amendment and he would like to get it into the record. He asked this was the proper time to do so or should he wait.

Mr. Blair stated this was the proper time to comment. He asked Mr. Belcher, for clarification, he was speaking on one of the eight amendments in the Structural section.

Mr. Belcher responded stating yes. He then stated there were two changes Section 1609.1.2.4, Florida Building Code Buildings and R301.2.1.2.1 Residential Code. He continued by stating there was a situation with the adoption of ASCE710, Eric Stafford attempted to change ASCME1996 to correlate the Building Code, ASCE710 and ASCME1996. He continued by stating the issue related to was the creation of Wind Zone 4 in the ASTM Standards. He further stated Wind Zone 4 came about in ASTM E1996, 2002 Edition to address Miami-Dade's special concerns. He stated Miami-Dade was on the committee and they were trying to get ASTM1996 to the point that Miami-Dade could use it and the industry was supporting the effort, because there would've been one standard to test by. He then stated in ASTM1996, 2009 Edition states "Wind Zone 4 was designed as wind speeds greater than 140mph and included Miami-Dade and some parts of Monroe County. He continued by stating when Mr. Stafford did his correlations He referenced the wind maps on the screen (See *2010 Wind Maps in Miami Dade*.) He showed the comparison between the wind maps, specifically the wind zone 4 area from the ASTM1996 and the 2010 Florida Building Code. He stated he had contacted Mr. Stafford, proponent of the changes, regarding the change and Mr. Stafford stated he did not intend to make that change and wrote a letter stating such, which was submitted to the commissioners in their packets. He then stated what it meant was all of the yellow shaded areas would have to meet the Miami-Dade standards for hurricane protection found in Section 201 and 203. He continued by stating wind zone 4 requires the two strikes and the deflection criteria, the total of the deflection plus 25%, which was the big issue when building a house. He further stated when looking to protect an existing building and the window was a flush mount the shutter would have to be built off of the window 3-8 inches. He stated the proponent did not intend this and he was certain the Commission had no intent to spread the Miami-Dade provisions. He then stated with the code change he was attempting to retain what was in the ASTM E1996 standard. He stated he had made a change in the Wind Zone 3 definition he needed to change 160 to 170 because it was not on his original submittal.

*Mike LaFeure, Custom Window Systems*

Mr. LaFeure stated as a Florida resident since 1988, having resided in Miami during Hurricane Andrew and the west coast during Hurricane Charlie he would feel more comfortable with the proper protection. He then stated since 2004 the wind speed maps have not changed. He continued by stating the 140mph line had been there. He further stated the Commission asked the university to create individual lines in each county and had them posted. He stated there was St. Lucie, Martin, Palm Beach, all of the heavily populated areas were covered and had the 140mph line there, which had to meet Method D of ASTM E 1996(?). He then stated to now decrease the effectiveness of impact areas would be devastating to the population. He continued by stating he could not agree with this going through as a glitch.

Mr. Harvey stated BOAF reiterated its earlier stated position regarding the

building code development cycle in Florida. He then stated he BOAF deferred to its previously submitted position statement and ask the Commission to preserve the code development process of Florida.

*Tom Johnston, Town & Country Industries and IHRA*

Mr. Johnston stated part of his comments were to reiterate Mr. Belcher's comments. He then stated it was very clear on the map, the 150 contour line from the 2001 map through the 2007 Florida Building Code map stops at the Palm Beach/Broward County line. He continued by stating Wind Zone 4 did not exist north of that line previously. He further stated it was an expansion, explaining there has to be a seaward line in order to do the interpolation between 140 and 150 and if it was not there it's not done. He stated it was not there and the change was dramatic. He then stated there were companies in attendance who provide products who do not have Wind Zone 4. He continued by stating it was the highest sales market share for hurricane protection products in Florida. He further stated by far Southeast Florida and Southwest Florida control the greatest volume of business. He stated this meant people were protecting themselves and complete product lines were stripped away on March 15<sup>th</sup> that working, available, providing insurance discounts and stopping rapid internal pressurization. He then stated the situation created was not intended. He continued by stating he stood on the ASTM E1996 committee and this change was not vetted through the committee and Mr. Stafford never brought the comments to the committee. He further stated the ASTM document was being modified for what they thought it would be and it never went through the committee. He stated another problem this would pose would be cost. He then stated everyone knows the cost of construction or modification these days. He continued by stating by letting this go through without stopping it will increase the cost of a homeowner putting opening protection on their home, which was what this was mostly about, in most cases by 2-3 times. He stated a heavier product had to be used then there were the build-outs Mr. Belcher described and there had to be a gap between the product and the glazing, which was not required anywhere else in the code except for the creation of Wind Zone 4. He then stated he had worked side-by-side with Mr. Gascon at Miami-Dade at the ASTM meetings trying to incorporate this and were actually almost there.

Mr. Johnston continued by stating there had been some comments about life safety and some pretty heavy design level events had come by and the amount of damage to a home or to the windows themselves was less than 2% and of the 2% most of the damage was pressure blowing the glass out while the product in front of it was still fully intact. He further stated there were no documented life safety issues except a life safety issue coming from a thought process because it was not a performance issue that has ever happened and materialized in the field. He stated if it had he had never seen any documentation then he stands corrected, but he had not heard it and was pretty in tune with the market. He then stated he could not describe the devastation to businesses in Florida who have followed the code and the Commission's requirements

for product approval, legitimate testing, legitimate labs, quality assurance and on March 15<sup>th</sup> their product lined were gone because of interpretation by someone who did not bring it to the committee he should've brought it to for their input. He continued by stating the ASTM committee was the committee who determined Wind Zone 4 criteria, not ASCE or anyone else. He stated the issue had been open and addressed with ASTM and it would take a number of years to get it corrected because it was a consensus process and nothing happens fast.

Commissioner Stone asked if it was a particular meeting of the E6 subcommittee.

Mr. Johnston responded yes it was that referred to by Commissioner Stone.

Commissioner Stone stated he could substantiate some of the statements just made because he had spoken to the Chair of that committee at an E6 meeting in Phoenix.

*Joe Johnson, PGT Industries*

Mr. Johnson stated he had handouts to pass out to the commissioners, as he was not able to make it in prior the cut-off. He then stated in the change request there were multiple references to the intent of ASCE-7 and the intent of ASTM. He referenced the handout "*Minimum Design Loads for Buildings and Other Structures*" and stated on the bottom of Florida there was a 150-wind speed line, which extends well past Palm Beach County and into Martin/St Lucie area, which were not on the map. He then stated the wind speed line then indicates those counties wind speeds should be 150 or allowed to interpolate from the 140-150.

Mr. Blair stated it would be helpful if Mr. Johnston could state if he were supporting or opposing the glitch.

Mr. Johnston stated he was opposed to the glitch amendment. He then stated the map was a little deceptive to the windborne debris area of Wind Zone 4 for the adopted wind zones. He continued by stating on the handout with the three maps of Florida, the center map has a shaded area of what would qualify for Wind Zone 4 per the current standard. He further stated it did not include the entire Okeechobee and across the state. He stated it followed the 160 contour line down to Miami-Dade and then back up along the coast. He then stated the statements made regarding this not going through the ASTM was correct, in his understanding, for the wind speed change. He continued by stating if looking at the correlation between the 140mph wind speed and the previous code and the 160mph line under the current code those two lines correlate very closely. He stated by adopting the amendment and going to the 170mph line it moves it all the way off the coast. He then stated he thought the requirements would be lessened and the intent of the code. He continued by stating the state of Florida adopted ASCE 7, 2010 edition and it was done for the latest and greatest science available for life safety of the citizens of the state of Florida. He further stated in

his opinion if the glitch was approved it would be lessening the safety value.

Mr. Belcher stated the map from ASCE 7 when you see a contour line and it stops you do not in your mind run an imaginary line and run it up the coast. He then stated the line stops where it was intended to stop. He continued by stating the 150 mph Mr. Johnston stated runs all the way to Palm Beach County does not. He continued by stating under the 2007 Code there was no contour line seaward of the 140 line. He further stated all the land seaward of the 140 line is 140, not greater than 140. He stated there was no interpolation there because there was nothing to interpolate. He then stated if you try to come up with something that way you would be extrapolating and the code does not allow for extrapolating.

Mr. Johnson asked if he could redirect.

Chairman Browdy stated no, if there were clarifying questions he would ask the commissioners to address Mr. Johnson specifically for it. He then stated he wanted to move through each issue separately and handle it on its own merits.

Commissioner Stone stated he would like to pull items 4 & 5 from the consent agenda.

Commissioner Gregory concurred and would like to pull items 4 & 5 from the consent agenda.

Mr. Blair stated a motion was needed for approval of the remaining glitch amendments.

Commissioner Schock stated he would like to pull the Flood Plain item #3 from the consent agenda.

Mr. Blair stated #3 was not on the consent agenda because it was recommended as not a glitch, and would be considered individually.

Commissioner Gonzalez moved approval the remaining items #1, #2, #6 and #7 under the structural section do meet the glitch criteria. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated a motion was needed to approve and proceed with fixing the glitch.

Commissioner Gonzalez moved approval of the proposed amendments to correct the glitch. Commissioner Schock entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

*#3 Flood Plain*

Commissioner Stone requested approve as a glitch based on conflict between the current code and FEMA regulations.

Mr. Madani stated currently if under the Flood Plain Management Program which was established by and supported by FEMA and allow dry flood proofing in Flood Zone A. He then stated at this point the Florida Building Code 2010 and using ASCE 24-5, dry flood proofing was not allowed i.e. if building in the Zone A, it would be necessary to elevate. He continued by stating it does not allow for dry flood proofing.

Chairman Browdy stated the Commission first needed to decide if it was a glitch. He then stated there were inconsistencies with the federal regulations.

Commissioner Schock moved approval #3 was a glitch. Commissioner Tolbert entered a second to the motion. Vote to approve the motion resulted in 13 in favor, 1 opposed (Stone). Motion passed.

Commissioner Schock moved approval of the proposed amendments to correct the glitch. Commissioner Tolbert entered a second to the motion. Vote to approve the motion resulted in 13 in favor, 1 opposed (Stone). Motion passed.

#4 and #5

Commissioner Stone stated he was caught in the horns of a dilemma. He then stated he was a member of E6 and he did talk to the chair of that committee on the issue at the ASTM meeting in Phoenix. He continued by stating what the Commission adopted in the update code was not necessarily in compliance with ASTM E1996. He further stated he believed in the code process and sometimes things happen during the code process. He continued by stating he did not believe this was a glitch and he wondered whether or not the Structural TAC heard all of the facts the Commission had heard today.

Commissioner Schock stated relative to what the TAC opined on during the course of the telephone conversation. He then stated this was one of those areas where he believed TAC meetings should be done in person instead of over the telephone because he believed some things get lost in the communication process that way. He stated he couldn't answer the question directly but it wouldn't surprise him if some people didn't grasp that whole thing. He continued by stating the 2<sup>nd</sup> question was one of the criteria was the wind design criteria could not be reduced through the code process. He further stated no matter how the Commission got to this point, on purpose or not, could it be construed as one of those issues where the change could not be made.

Mr. Richmond stated from the background it duplicates a lot of different things and he thought probably includes some measure of technical review of that law's effect with a particular reference where the wind protection could not be reduced any lower.

He then stated it was a far more complicated question he believed than just a single change and what impact that has. He then stated there was an analysis when the entire change was moved into the code because of the various effects of the pressures and wind speeds in concert. He continued by stating by changing the wind speed it was being made less stringent.

Mr. Madani elaborated on Mr. Richmond's comments. He stated in terms of reducing the standards the answer was no. He then stated the standard was ASCE 7, 2010 edition, which was what the Commission adopted. He continued by stating the Commission attempted to correlate the wind speed between what was in the code, which was based on the old map and the new map. He further stated the intent was to correlate the numbers and by doing the correlation it seemed what happened was an amendment to the scope of the standard for Zone 4. He stated rather than being limited to Miami-Dade through the correlation it has extended to a larger area. He then stated to be fair during the discussions when the issue came up he did not recall any discussion on it although there was intent to do that. He continued by stating there was a dilemma because it would have an impact on the industry.

Chairman Browdy stated the real question now was if the Commission believed this was a glitch, which would certainly influence how each member voted on the substantive change. He then stated if it was not a glitch then there's nothing to discuss.

Commissioner Stone asked if a motion to send back to the Structural TAC, for additional information at a meeting that was not a teleconference, would give the Commission additional insight on the issue by the August meeting.

Chairman Browdy responded stating according to Mr. Richmond any action taken by the Commission, if acting positively on the change the enforcement official could rely on that language and start enforcing the lesser requirement.

Commissioner Stone stated he would like the Structural TAC to revisit the items for additional information for the committee to make a determination whether it was a glitch and the coordination between ASTM E1996 and ASCE 7.

Commissioner Stone moved approval to send #4 and #5 to the TAC for additional information and for the committee to make a determination whether it was a glitch and the coordination between ASTM E 1996 and ASCE 7. Commissioner Franco entered a second to the motion.

Commissioner Gregory stated it appeared to him the Structural TAC had voted unanimously by the Structural TAC that it was a glitch. He asked if that were correct.

Mr. Blair responded stating yes. He then stated he thought Commissioner Stone thought there was additional information he would like the TAC to consider whether it diminishes the requirements, etc.

Commissioner Stone stated he got the feeling by this meeting the Commission heard things that maybe the Structural TAC did not consider. He then stated it was a complicated issue, a potential interpretation between ASCE 7, edition 2010 and ASTM E1996.

Commissioner Gregory stated the TAC should've looked a little closer, if it was determined to be a glitch he did not know what could change.

Mr. Glenn reminded the Commission the charge to the TAC was to comment on whether the subject was a glitch, it was not asked to make a recommendation based on technical merits. He stated there was a unanimous vote that it was a glitch, but it did not make a recommendation based on technical merits.

Mr. Blair stated that was the reason Commissioner Stone wanted it to go back to the TAC.

Mr. Glenn stated the TACs were all advised throughout the process they were not to review the technical merits because it was outside of the glitch process and the TAC's responsibility. He then stated none of the changes the Commission would see were recommendations from the TAC based on technical merits. He continued by stating whether there was sufficient amount of evidence given that it was indeed a glitch, but there was no determination on the technical merits of the change.

Mr. Glenn stated he had come to ask about #3. He then stated after the Commission discussion and before the vote there was no opportunity for public comment provided. He continued by stating the rules of the Commission state after a motion was made and before the vote an opportunity for public comment was supposed to be provided. He further stated he had a concern with the change.

Mr. Blair asked Mr. Glenn to hold the discussion on the previous item until after #4 and #5 were completed.

Commissioner Stone amended his motion to have the committee also review the technical merits.

Chairman Browdy stated there was a motion to re-refer #4 and #5 back to the TAC for a discussion to determine if it was a glitch and also to discuss and advise the Commission on the technical merits if it was a glitch. He then asked the Commission to amend the motion or it could be done administratively for the Structural TAC to have a face-to-face meeting in Tampa to discuss the matter. He continued by stating staff would do some correlating to arrange that prior to the Commission meeting.

Mr. Blair stated, for clarification, the motion was to re-refer back to the Structural TAC to review and determine whether it was a glitch and also to review its technical merits.

Commissioner Franco accepted the amendment to the motion.

Vote to approve the motion resulted in 10 in favor, 4 opposed (Boyer, Gregory, Tolbert, and Browdy). Motion failed.

Mr. Harvey asked if the item were being referred to the TAC to look at the technical merits, would it not be more appropriate to send it back to the TAC and have the TAC propose a code change during the month of July when the code change cycle opens to go ahead and move the issue forward.

Mr. Belcher stated ASCE 7, 2010 does not address the ASTM E1996 wind speeds other than to indicate they need to be adjusted. He then stated he had spoken to Mr. Stafford and he never even looked at what the impact of changing the wind speed was going to be. He continued by stating Mr. Stafford also stated the 140 and the 160 wind contours were pretty close to being the same. He further stated under the new maps other wind speeds seaward of the 160 line. He stated under the new map if it was kept a lot of Palm Beach County would not be Wind Zone 4, which previously was not. He then stated the requirements were not being reduced, only changing the testing requirements and establishing the testing requirements on hurricane protection items, the shutters for example. He continued by stating if there was a mass deflection in those Wind Zone 4 25% had to be added to the deflection. He further stated it was not intended shutters would not be required any longer all that changes was the testing requirements in Wind Zone 4. He stated in ASTM original standard in 2002 and since had been intended for Miami-Dade. He then stated Mr. Gascon, who was on the committee, actually put in the request and it was an effort to get one standard for the state. He continued by stating Wind Zone 4 was being vastly expanded and it was not the intent by the proponent, nor was it the intent of the Commission to expand the Wind Zone 4 beyond what the ASTM wanted it to be.

Chairman Browdy stated the issue could be split for expedience sake. He then stated the Commission needed to determine if there was a consensus and determine if this were a glitch or not. He then stated if it was not a glitch the discussion was over. He continued by stating if it was a glitch the Commission could decide to fix the glitch at this point or return it to the TAC for discussion regarding the technical merits and how to fix it, because the Commission would've decided it was a glitch before it was sent back.

Chairman Browdy asked if there was a motion to determine if this was a glitch.

Commissioner Gonzalez moved approval #4 and #5 under the structural section do meet the glitch criteria as glitches. Commissioner Boyer entered a second to the motion.

Commissioner Schock asked if the proponents of the motion could identify what criteria it was under to qualify as a glitch.

Commissioner Gonzalez stated the committee had a unanimous vote from the TAC that it was a glitch. He then stated it was not a code change he then stated one of the original questions was why was it going down when it was not supposed to. He continued by stating it did not matter if it went up or down, it was not a code change, but an actual glitch, as it was before with the typo.

Ms. Hammonds stated the criteria would be unintended results of a previously adopted Florida specific amendment with the model code.

Commissioner Gregory asked if he understood the consensus board of ASTM did not intend for the 140 line to be expanded.

Mr. Belcher stated that was correct.

Commissioner Gregory asked if it was a consensus standard board that worked together.

Mr. Belcher stated it was ASTM E1996.

Vote to approve the motion was unanimous. Motion carried.

Commissioner Stone stated he would like the Structural TAC to give a recommendation. He then stated, for example, there was a modification just submitted during the workshop and he was not sure if they considered the 160 versus the 170. He continued by stating there appeared to be two interpretations, from Mr. Belcher and PGT, which differ on where the line should be. He further stated he would like the Structural TAC to advise the Commission based on the technical merits of the proposal or come back with an alternate proposal.

Commissioner Stone moved approval to re-refer the issue back to the Structural TAC to review for technical advice to the Commission regarding the proposed substantive change. Commissioner Gross entered a second the motion.

Commissioner Boyer stated his concern was the Commission was now asking the TAC to make a technical judgment on the issue whereas before it was only to determine if it was a glitch.

Mr. Blair it was a different direction, the Commission was asking its technical committee for guidance.

Commissioner Gregory stated if ASTM standard committee did not intend the change he did not see what the TAC would supersede that interpretation from a consensus standard writing board.

Vote to approve the motion resulted in 9 in favor, 5 opposed (Smith, Boyer, Tolbert, Gregory and Boyer). Motion failed.

Commissioner Stone moved approval to fix the glitch as modified. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Glenn stated in as much as the TAC recommended it was not a glitch, now the TAC chairman had made a motion to make it a glitch. He then stated he would like to know the criteria for it now being a glitch.

Commissioner Schock stated there was a conflict between the code and the federal regulations allowing the dry flood proofing.

Ms. Hammonds stated it was unintended results.

Mr. Glenn stated that was not a Florida specific amendment.

Mr. Madani stated as indicated by the petitioner it was mainly a conflict with the federal regulations. He then stated the proposal was submitted by DEM.

Mr. Blair asked Commissioner Schock if his rationale was to propose a code change within glitch criteria permitted for inconsistencies with the federal regulations.

Commissioner Schock responded stating yes.

#### *Energy*

Mr. Blair stated there were 21 amendments. He then stated the one that received the most interest, the fenestration, was not on the consent agenda and would be considered individually. He continued by stating if there were comments regarding the fenestration issue the speakers should hold those comments until the individual consideration of the issue to avoid repetition and the comments would be more relevant to the issue at hand.

#### *Fred Dudley, Holland and Knight, RECA Consultants*

Mr. Dudley stated there were also fenestration issues within those items recommended by the TAC. He then stated there was a number of people present who would like to speak on the fenestration issue and would have to be allowed to speak on both.

Chairman Browdy stated Mr. Blair was attempting to group those comments together but was not precluding anyone the opportunity to speak on both issues.

#### *Arlene Stewart, AZS Consulting, Inc.*

Ms. Stewart stated it seemed as though the outcome of those other fenestration comments and proposals would have an effect on at least 1 and 2. She then stated

perhaps the consent agenda should be tabled until the fenestration issues were heard, which would allow edits to be made to the tables to be done.

Mr. Blair stated it seemed the easiest thing to do was to follow the Commission's usual order of business i.e. public comments on any of the items was open.

*Public Comment*

Mr. Harvey stated BOAF reiterates its previously submitted position statement regarding building code development in Florida. He then stated in the interest of time BOAF deferred to its written statement and asks the Commission to preserve the code development process in Florida, which opens July 1<sup>st</sup>.

Mr. Vieira stated he wanted to point out one was submitted following the TAC meeting based on discussion at the TAC meeting.

Mr. Blair stated that one would be considered individually.

*Eric Lacey, RECA*

Mr. Lacey asked if the first order of business was to have any necessary pulled from the consent agenda.

Mr. Blair stated the members of the public could offer which item they would like to have considered individually and after public comment, the commissioners would pull any items decided on from the consent agenda to individual consideration after the consent agenda was approved.

Mr. Lacey stated he would like item #1 removed from the consent agenda. He then stated there was one that did not receive a TAC recommendation; also in item #1, he would like the Commission to consider it after the merits of the table in #1 was considered, as the two were related. He then stated the #1 had no resolution to for #1, 402.3.6 standing alone does not make a lot of sense until the table was resolved.

Ms. Hebrank stated she did not see the need to pull #1 off of the consent agenda. She then stated it did relate to another issue but was within the same scope of as all of the other amendments on the consent agenda dealing with the 30% threshold. She continued by stating it dealt with another issue and she did not see the need to pull it off of the consent agenda.

Mr. Blair asked if there were any other members of the public who wished to have additional items removed from the consent agenda to be considered individually. He then stated the items pulled were #1, #1 No Resolution and the item relative to the Florida Solar Energy Center, received post TAC meeting.

Ms. Hebrank stated regarding the item #1 No Resolution, the vote was 5-2 and

there were 11 people on the TAC, therefore it was more of an issue of not enough people involved in the 4 hour conference call.

Mr. Blair stated the item would be considered individually and hear public comment on the issue.

Ms. Stewart stated she would like item #2 pulled from the consent agenda.

Mr. Belcher asked for clarification the fenestration issue Mr. Blair first mentioned was item #5 relative to 402.3.6.

Mr. Blair stated it was not and #5 was still on the consent agenda.

Ms. Hammonds asked which amendments were still on the consent agenda.

Mr. Blair stated #'s 3, 4, 5, 6, 7, 8, 9,10, 11, 12, 13, 14, 15, 16 and 17 were still on the consent agenda. He then stated there was another table "Glitch with Changes from the TAC" which was also labeled #1 and #2 but they were 101.4.7, 403.2 - Ducts. He continued by stating all of those would also be considered individually because the TAC had some suggested changes. He further stated 402.3.6 – Replacement fenestration was not on the consent agenda.

Mr. Blair asked if any commissioner wished to pull items #1 and #2 from the consent agenda, as requested by the public.

Commissioner Smith stated he would like items #1 and #2 pulled from the consent agenda.

Chairman Browdy asked if any commissioner had any additional items they would like pulled from the consent agenda.

Commissioner Gross moved approval of the remaining items #'s 3, 4, 5, 6, 7, 8, 9,10, 11, 12, 13, 14, 15, 16 and 17 under the energy section do meet the glitch criteria. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gregory moved approval of the proposed amendments to correct the glitch. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated he thought next the Commission would consider the two items the TAC provided comments on individually in a separate chart titles "Glitch". He then stated after take the order of either #1 or #2 and lastly the item that resulted in a split vote at the TAC.

Ms. Stewart stated she thought she had heard in previous testimony the

Commission could implement tomorrow what was decided on today. She asked if that was a correct understanding.

Chairman Browdy stated Mr. Richmond would respond to the question, as he had responded earlier to the issue and his response includes the reliance in the absence of the Commission for enforcement immediately upon publishing on the website. He then stated he would let Mr. Richmond give the citation that gives enforcement agencies the authority.

Mr. Blair asked Mr. Richmond to explain under the rule amendment as well.

Mr. Richmond stated he did not know if he could provide from memory, except for 553.73, paragraph 8. He then stated the citation does provide the Commission can approve changes under the specifically identified criteria utilizing only the Chapter 120 Rule Adoption Process. He continued by stating in addition it provides once modifications were approved by the Commission and posted on the website, building departments may begin to rely on those changes.

Ms. Stewart stated for the two proposals that were pulled off of the consent agenda, Items #1 and #2 she would like to confirm which criteria for the glitch were met by those two.

Chairman Browdy asked Ms. Stewart if she was speaking directly to those specific amendments, not a general question.

Mr. Lacey stated he believed it would make more sense to deal with #1 (the Table) because he believed the other two #1's follow from the table. He then stated he believed it would be the easiest way to address them and also speed things up.

Mr. Blair asked Mr. Lacey his recommendation on which to consider after the #1's.

Mr. Lacey stated he thought both were very similar but perhaps next consider the item with recommendations from the TAC and then the one with no resolution.

Mr. Blair asked if addressing #1 (the table) have any impact on the two items the TAC made comments on.

Mr. Lacey stated he believed the two items would follow from the table. He then stated if the two items were considered individually without resolving the table.

*#1 (Table 101.4.1 Nonexempt Existing Buildings)*

Mr. Lacey stated he had circulated handouts and also a screen for the projector of the same handout. He then stated relative to Ms. Hebrank's earlier comment relative to the Commission's responsibility to correct inconsistencies between the Florida

Building Code and Florida Statute. He continued by stating he absolutely agreed with her that it was the responsibility of the Commission to make sure there was consistency with Florida Statute. He further stated he had heard a lot about the statutes and how it was applied to existing buildings, but unfortunately a lot of that had taken place in a vacuum without actually looking at the language of the statutes. He stated he had tried to help clarify how the process works and although it was very text heavy, he would walk the Commission through the different points. He stated an attempt to rewrite the statute through proposal #1 (the table) actually makes it worse and more inconsistent with the statute. He then stated RECA's position was still did not think a glitch change was needed. He continued by stating if the Commission was going down the path of amending the code RECA wanted to see it become more consistent with the statutes and not less. He then presented information included in the handout "*Keeping the 2010 FBC EC Consistent with the Florida Statues*" – RECA

Mr. Dudley asked if the two handouts Mr. Lacey had submitted could be referred to as Exhibit 1.

Chairman Browdy stated the Commission had no objection to that.

Mr. Blair stated the public comment would be heard as suggested by the chair, the proponent, and opponent strategy with an opportunity for rebuttal. He then called for any other proponents, those who agree with RECA, and then the opponents would be heard.

Chairman Browdy stated based on Mr. Lacey's comments he seemed to believe there was a glitch and it could possibly be repaired with this particular handout by readjusting the definitions within the table.

*Mike Nau, PGT Industries*

Mr. Nau stated he supported RECA's modification of Table 101.4.1. He then stated he believed it provided a lot of clarity and the idea of combining statutes leaves no question.

Ms. Stewart asked for clarification if Mr. Blair had just stated there would be an opportunity for rebuttal.

Mr. Blair stated he might have stated there would be one opportunity each way for a rebuttal.

Ms. Stewart asked if a clarification could be given on the glitch reason for this proposal.

Mr. Blair stated the Commission was hearing public comment on the issue, i.e. if a member of the public considers it a glitch and what the fix might be, the Commission

would then make the determination on that issue.

Chairman Browdy stated at present the Commission was hearing from the people who agree with Mr. Lacey

Ms. Stewart stated she understood what the Commission was doing, but the TAC made a recommendation that the item met glitch criteria and she would like to confirm what the glitch criteria was that the TAC cited.

Mr. Blair stated the Commission would do that when they consider whether it was a glitch. He then stated not to go off of their suggestion. He continued by stating the Commission wanted to hear the public on what they think of whether it was a glitch and their thoughts on revisions on the technical component.

*Richard Wright, Custom Window Systems*

Mr. Wright stated Custom Window Systems was located in Ocala and had been in business since 1986, manufacturing windows in Florida. He then stated Custom Windows supported the modification Mr. Lacey had suggested as being an excellent clarification to the code. He continued by stating they felt a window was a building component. He further stated by adopting the Florida Building Code, the Florida Building Commission had established a standard for windows. He stated the 300 employees at Custom Window Systems have attempted to build energy efficient windows. He then stated there was only a slight difference in construction of windows. He continued by stating as a manufacturer he could say there was only a slight cost difference between manufacturing a window that meets the code as established by the Florida Energy Code and ones that do not. He further stated essentially insulated glass must be used, i.e. an extra piece of glass and a spacer to create an insulated air space between the two pieces of glass. He stated for not much difference in cost the benefits were tremendous. He then stated every study that had ever been done proved the additional cost was paid back very quickly through lower utility bills. He re-stated Custom Window Systems' strong support for RECA and its modification.

*Roxanne Greeson, Southeast Energy Efficiency Alliance*

Ms. Greeson stated she was an energy policy associate at SEEA. She then stated on behalf of SEEA she respectfully urged the Commission to support proposed modification proposed by Mr. Lacey. She continued by stating SEEA was a 501C3 that promotes energy efficiency across a 12 state region, which includes Florida. She stated she was particularly vested in this because Florida was her home state and her family still resides there. She then stated SEEA was a non-partisan interested party in the proposed rule development. She continued by stating SEEA was there to provide cutting edge energy efficiency in the southern east as well as to help Florida take advantage of its substantial benefits. She further stated according to SEEA's research through 2008 regional energy savings were just shy of 4000 average mega watts, which

was equivalent energy to supply power to the entire state of Florida for over a year, a monetary savings of \$1.8 billion dollars in savings. She stated additionally in January 2012 a report released by HC Tripoli on the long-term effects of energy potential concluded that energy efficiency by 2050, if properly invested, could save consumers as much as \$415 billion dollars annually. She then stated by including window systems replacements in the definition of the renovation, instead of the building system, Florida would miss an essential opportunity to decrease the use of energy in existing buildings as most, if not all, replacement windows would cost less than 30% of the assessed value of the structure. She continued by stating ultimately it would cause undo strain on the power grade because of the continued ineffective use of energy over the course of the buildings lifetime. She further stated by not including windows as part of the building system the invested efforts of the window manufacturers to produce more energy efficient windows would be in vain and diminish future Energy Code support as reinforced by the two present window manufacturers, Custom Window Systems and PGT. She concluded by stating as a result the RECA proposal presents an opportunity for Florida to secure substantial benefits for the citizens for generations to come and SEEA urged the Commission to support Mr. Lacey's proposal.

*Jamie Gascon, Miami-Dade County*

Mr. Gascon stated he wanted to make sure the committees and the Commission were aware of the implications the proposal also had on other systems and components, not only fenestration but also roofing. He then stated if all of the different aspects needed to be considered under the modified definition it would have a tremendous impact on roofing.

*Mark Zehnal, FRSA*

Mr. Zehnal stated he agreed with Mr. Gascon's comments. He then stated there was a big concern if a component of the building envelope, such as roofing, comes into play with this it would enforce people to arbitrarily put R-38 insulation or R-30 every time they re-roof, which would skyrocket their prices and would not give the people the opportunity to put the proper roof on.

Mr. Blair asked Mr. Zehnal if he was opposed to Mr. Lacey's proposal.

Mr. Zehnal stated if it draws the component to a roofing situation, yes he was opposed to the proposal.

Mr. Dudley stated he was representing both RECA and Custom Windows systems. He then stated both would agree there were some glitches in the table, but it was their position that all glitches, all inconsistencies with state statutes, in keeping with the statutory test of glitches. He continued by stating it was a legal conclusion a court has to make. He further stated he wanted to make it clear in Exhibit A Mr. Lacey had discussed the extent of the glitches. He stated if the table was adopted those changes

to the Table 101, whatever statutory glitches existed would be fixed. He then stated if the Commission went beyond that, accept the TAC or staff recommendations, it would be going into areas far afield of any consistency of the statutory requirements for a glitch.

Mr. Belcher stated he was representing Aluminum Association, AWP Windows & Doors and CBI Windows and Doors. He then stated during the discussion a couple different times the proposal was referred to as his proposal. He continued by stating this was not a proposal of his. He further stated they were rising in support of what the staff presented to the TAC and the TAC agreed with except for one issue. He restated he was supporting the recommendation from the TAC and nothing else brought forward. He stated there were comments made relative to windows that comply with the code. He then stated the windows do comply with the code even though they were not complying with 402.3.6, they do comply with the default values contained within the code. He continued by stating the code has tables for default values in case there was an unlabeled window relative to energy. He further stated there was a lot of people talking about law not many of them seem to be reading the code. He stated he did not want to talk about the law; instead he wanted to talk about what the code says. He then stated the code states "*For existing buildings, you shall comply with Table 101.4.1.*" He continued by stating renovations were defined by both the code and the law as exceeding less than 30% of the assessed value of the structure. He further stated if 30% was not exceeded the reference should not be Chapter 4 or Chapter 5, but those default tables for renovation and that was all there was to do. He stated he believed 99% of the building officials would do that and BOAF has an informal interpretation, which basically states that. He then stated it was a glitch yet there was wide catechism of people's position, some even stating the opposite. He continued by stating there must be some type of glitch that just needs fixing. He stated the idea the windows do not comply with the code, by complying with the default values contained within the code. He then stated the stuff about system component, yes a window was a component, systems were not, and in the definition of system it was equipment they were talking about. He continued by stating when looking at the statutes 553.906 thermally efficient renovated building. He further stated regardless of Mr. Lacey's argument, those were not renovated buildings because under the renovated building section the envelope was discussed. He stated when the windows were being discussed the envelope was being addressed; therefore the building was being renovated. He then stated 553.906 was the only place in statutes the word window was used. He continued by stating window replacement had to be put under renovated buildings.

Ms. Hebrank stated she was representing AWP and CGI Windows. She then stated their support of staff's recommendation on Table 101.4.1. She continued by stating it does not affect other products, not just windows in the application of the 30% threshold. She further stated to reiterate one more time S 553.902 defines renovated buildings and includes the 30% threshold, provided the estimated of the cost of the

renovations exceeded 30% of the assessed value of the structure. She then stated the current building code clearly defines renovations in Chapter 2 and it included the 3% threshold again over a one year time period. She stated the definition for renovated buildings had been in place since 1978 and had been maintained by the Legislature since that time. She then stated additionally the Table 101.4.1 gives direction. She continued by stating they do believe it was a glitch fix in that conflicts existed within the update code because of the provisions in Chapter 4 as well it addresses inconsistencies with federal or state law when looking at the definition of renovations. She further stated, relative to a code compliant window, on March 14 the windows were efficient windows then on March 15 they were no longer compliant. She then stated all new construction would meet those provisions in Chapter 4, not only with windows but with all other products as well.

Mr. Lacey stated he wanted to make three points relative to issues raised: 1) Mr. Gascon raised a point regarding roofing and insulation. He stated the proposed amendment would not change that. He then stated in order for there to be a requirement for a system or a component to have to meet the new construction requirement in existing buildings the Commission would have to set a specific replacement requirement. He continued by stating when fenestration was replaced, including fashion frames, it was very clear the provisions for new construction must be met. He further stated currently in the code there was no replacement requirement for roofing. He stated if the roofing was replaced, to his knowledge there was not a specific requirement to meet a certain standard when replacing the roof. He then stated it was in the Commission's jurisdiction, if it decided in moving forward to require a certain level of insulation in the roof or certain products or whatever. He continued by stating he was not currently aware of any current requirement for replacement roofing. 2) Mr. Belcher stated he did not want to talk about statutes, but a lot of the justification used by Ms. Hebrank was based on the statutory terms. He stated his purpose was not to try to focus on what those terms were. He then stated Ms. Hebrank pointed out there was a definition for renovated building in 553.902 that defines the 30% threshold and he agreed. He continued by stating she then referred to a definition in Chapter 2, which was inconsistent. He stated the RECA proposal would make those two definitions the same and make them consistent with the statute. 3) Relative to staff's recommendation, he stated the main issue RECA has with the recommendation was that it takes the two categories, renovated buildings and replacement systems and components, and applies the 30% threshold to both categories. He then stated that was why it runs away from the statutes in trying to rewrite the statutes. He continued by stating the 30% threshold was only ever intended to apply to a specific renovated building, not to all the systems and components that get changed out of the building.

Ms. Stewart stated she had been talking about windows for the last 12 years. She then stated if there was an energy meeting she would be at it. She continued by stating she respectfully disagreed with Ms. Hebrank's statement this was the result of unintended consequences. She further stated over the last 2 days she had gone over

all of the facilitator's minutes for this process. She stated there had been 6 meetings, 2 TAC meetings and 2 Commission meetings where there were opportunities to bring up the impact of replacements, renovations, and anything being considered on existing buildings. She then stated she found in August of 2009 the Energy Workgroup, which was the predecessor to the TAC, was tasked with combining Florida specific amendments with the Florida Energy Code with the ICC at the time did consider the impact of replacement windows and the provisions contained within the code. She continued by stating the impact was discussed therefore it was not an unintended consequence. She further stated it might be a consequence, but it went from the Energy workgroup to the TAC twice and to the Commission twice and the issue was not raised prior. She stated it was dealt with in the workgroup and she respectfully requested the Commission rely on the workgroup and what they had agreed on.

*Larry Olson, Lawson Industries, Inc.*

Mr. Olson stated he was a major window supplier for the southern half of Florida. He then stated he supported Ms. Hebrank's comments. He continued by stating Florida was a separate state than the rest of the union and the last time he checked the constitution it could act within the state rights. He further stated he did not know why people from outside of Florida inside of Florida trying to change things or direct things to the Florida Building Commission.

Chairman Browdy stated there had been some comments regarding the additional cost of the currently manufactured energy efficient window, post March 15 window. He then stated in the past he had heard around 15% and during the workshop 30% had been heard. He asked for clarification if Mr. Olson was a window supplier.

Mr. Olson responded he was.

Chairman Browdy asked how much would the cost of an average window increase for the homeowner increase per window, in his opinion, if he had to supply a window that was compliant for replacement purposes.

Mr. Olson stated he had just done a study himself and found the cost to be 20-30%, depending what was existing and the replacement.

Chairman Browdy stated it was consistent then somewhere between the 15% he heard up to the 30%.

Commissioner Palacios asked the cost was manufacturing costs or installed cost. He stated if the manufacturing cost went up 20% and the cost of the windows may be 50% of the cost of the job could increase up to 70%.(?)

Mr. Olson stated it was the manufacturers cost based on the list price, whatever percentage it was when the dealer for their branch sells that product would be equal in

cost relative to sales pricing.

Mr. Blair asked for clarification the increase per window was 20-30%.

Mr. Olson stated yes.

Chairman Browdy asked if the cost was to the homeowner or the contractor.

Mr. Olson answered stating the end user.

*Joe Escribano, AWP Windows and Doors*

Mr. Escribano stated he believed the code and the statute with the 30% threshold had been in existence since 1977 and had served the residents of the state well, has kept outside interested parties from coming in and switching the intention of the Legislature. He then stated he believed the Commission should maintain the current statute as it reads. He continued by stating relative to the comments on cost, he believed it was a difficult thing to ascertain from one manufacturer to another. He further stated a differential was looked for anywhere between 30-40% to the end user. He stated the difference in products range from a single pane glass, code compliant and gives the homeowners the opportunity to maintain a safe product when replacing during hurricane season, to insulated glass, double-paned glass, which requires a frame. He then stated in order to meet some of the Energy Code requirements being tossed around individuals should also have energy efficient glass, even with the glass lowered the 2010 requirements.

Mr. Wright stated when expressing cost as a percentage he believed it was important to clarify the difference between an impact window and a non-impact window. He then stated when talking about a non-impact window it is an insulated panel, two sheets of glass separated by air space and a spacer. He continued by stating if those pieces of glass were non-impact glass they are fairly inexpensive, however if seeking to create an impact-resistant window using laminated glass the cost goes up dramatically, consequently the percentage of costs goes down dramatically to add an additional piece of glass. He stated the highest cost in an impact resistant window was the laminate glass, which was usually more expensive than the frame of the window and any other components put together in the window. He then stated incremental cost to make a window that meets the energy code and was impact resistant was probably in the 15% range and the incremental cost to manufacture an energy compliant window that was non-impact resistant was higher as a percentage but the absolute dollars are the same because in both cases a spacer and sheet of annealed or tempered glass.

Chairman Browdy stated he would like to get to the individuals who have not had chance a chance to speak, then during the Commission comments he would have Mr. Belcher and Mr. Lacey available at the speakers table should any of the commission

Ms. Ross stated she had intended to remain silent on the issue due to the heavy focus on window issues. She then stated in previous testimony it seems to include other products and other components. She continued by stating she would like to bring it back to what this was all about. She stated it was about energy conservation and the other code that addresses replacement, repair, alteration, etc. were continued within the existing Florida Building Code. She then stated every one of those classifications of work listed there has an energy conservation component to it. She continued by stating it was just a matter of judging at which point improvements would be done in the existing building. She stated if the staff recommendation was adopted as written, and looking at the renovation and the change there, the addition of where a building meets the definition of a renovation and that is a 30% threshold; it would now create a new conflict between the Energy Code and the existing Florida Building Code. She then stated she would urge the Commission to adopt Mr. Lacey's proposal because it made it very clear on when changes have to be made and harmonizes it completely with the Florida Statutes. She concluded by stating she thought the Commission should look at it in a holistic way i.e. if the staff recommendation in item #1 was adopted there will never be improvements in existing buildings from an energy perspective and that was where the biggest energy gaps lie.

*Amanda Hickman, Intercode, Inc., International Window Film Association*

Ms. Hickman stated she was representing herself on the issue and although had not intended to speak, after hearing all of the commentary, she concurred with Mr. Belcher and Ms. Hebrank and would like to extend their support.

*Dwight Wilkes, representing himself*

Mr. Wilkes stated he had not intended on speaking and had been confused with his clarification because he had heard people state when looking at a replacement window if it was not over the 30% threshold does not apply. He then stated he had spoken with building officials around the state who have said he was exempt because it says so in the Energy Code. He continued by stating earlier in the meeting Mr. Belcher said he was not exempt there was a default table you were supposed to go to. He further stated the default table had more U factors and solar heat gain than the table being discussed. He stated he was confused on why the default was where to go, if no NFRC or a tested, approved, and labeled window. He asked how the default would be known for that window. He stated his understanding was if a structure was being built that had, for energy rating purposes, on a prescriptive method or on the compliance side, if not known the default rating was entered and the difference was made up somewhere else. He asked if he wanted to replace a window what was U factor and the solar heat gain requirement, even if it was under the 30% threshold.

Ann Stanton stated the default table was to be used if a tested window label was not on the window. She then stated she did not believe it was a minimum standard, as Florida has had no minimum standards and had not for as long as the code had been

active.

Commissioner Gregory moved approval items #4 and #5 do meet the glitch criteria and qualify as a glitch. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gregory stated on a renovated building he would like Mr. Lacey to explain to him how a window was not part of the building envelope. He then stated he understood if a window was lost in a storm the structural integrity would be greatly diminished. He further stated he hardly believed it could be said a window was not part of the exterior envelope.

Mr. Lacey stated he agreed a window was a component of the thermal envelope. He asked Commissioner Gregory if he was referencing Section 553.906.

Commissioner Gregory stated he was looking at Chapter 2, Renovated Building, *"a residential or non-residential building undergoing alterations that varies or changes insulation, HVHZ systems, water heating system or exterior envelope conditions provided the estimated cost of the renovation costs exceed 30% of the assessed value of the structure."*

Mr. Lacey stated he agreed with Commissioner Gregory. He then stated that was the Florida Statute definition from 1977 and it had been mostly unchanged over the years. He continued by stating he agreed windows were part of the thermal envelope and if they were part of the alteration to the house, if it met the 30% requirement, it would be considered a renovated building. He asked Commissioner Gregory if he had answered his question. He then stated he assumed windows were a part of the envelope.

Commissioner Gregory asked if he had a homeowner who wishes to replace one window and it would be less than 30%, why would the homeowner be required to install an energy efficient window, one that on March 14<sup>th</sup> was more efficient than the one he had but now he had to go much further.

Mr. Lacey stated the area on the bottom right (issue #2) of the front page of RECA's proposal was what Commissioner Gregory was referring to in which one window was being replaced and would not meet the 30% threshold, therefore it was not a renovated building. He then stated if a system or a component of a system were being changed and the Commission had set a specific requirement for it then there would need to be code compliant. He then stated in the 2010 Code replacement fenestration was regulated.

Commissioner Gregory stated the window was part of a renovated building therefore it was a renovated building, because replacing the window made it a renovated building. He understood the Commission was requiring an additional

requirement on the citizens to improve. He then stated he liked choices. He continued by stating if there was going to be so much saved by energy efficiency sell that to the citizens and they will demand those products. He further stated the case could be made with the public. He stated he had a problem with the government coming in and saying, "do this it is good for you". He then stated what was next an electric car he would have to buy whether he liked it or not. He further stated he believed there was a bigger issue.

Chairman Browdy stated the discussion would now be within the body of the Commission unless questions were directed to either Mr. Lacey or Mr. Belcher.

Mr. Blair stated there were two proposals more or less on the table. 1) it was ruled a glitch and 2) there were two separate recommendations for the glitch fixes (staff recommendation or RECA' proposal). He then stated the Commission needed to discuss and make a determination which fix was appropriate for the glitch.

Chairman Browdy stated both the proponent and the opponent raised issues related to the statutory requirements, how those issues relate to the building code and the Commission's obligation to reconcile those two. He then stated the Commission could get a legal opinion from its own staff regarding whether each of the fixes comply with whatever the Commission requirements were with respect to the statute and the code.

Ms. Hammonds stated the issue was the statute seemed to not be clear and when the statute was unclear it was not up to the Commission to determine what the statute meant as that was judicial and legislative in nature. She then stated she believed the best thing the Commission could do in this case was try to make the rules and the code as compliant with the statute as it was being interpreted, because there would not be an answer that was "right" or "wrong" until the legislature clarified what was meant by the statute. She continued by stating there were competing interpretations regardless of which side was supported. She further stated the rules would not fix the statute but do help interpret them to continue to administer and proceed with building, etc. She stated fixing the statute was outside the Commission's purview and was strictly within legislative and judicial purview to determine what the statute meant. She then stated the Commission could only do its best to fit the rules in to interpret the statute as the testimonies, opinions and positions have been put before the Commission. She continued by stating whether the Commission wanted to develop the rule or table the issue until the next meeting was the Commission's determination but it was a statutory glitch (if there were such a thing) and although it would be ironed out somewhere, until then the Commission could only do its best within the statutory guidelines as those were laid out. She further stated she did believe they had been laid out as clearly as they could be other than from someone outside the Commission.

Ms. Adams stated it was within the Commission's purview and its responsibility, in her opinion, to try to harmonize the code to the existing statute as best as it can,

giving effect to each statute if possible.

Commissioner Schock stated he was speaking in favor of the glitch amendment submitted by staff. He then stated Mr. Gascon had a good point relative to the situation would ultimately be extended into roofing and some other issues that were pretty far reaching. He continued by stating the cost had to be considered, because for someone not to be able to afford to fix up their house because they need to replace some broken windows and the additional cost was thrust upon them was unfortunate. He further stated he believed the intent of the Florida Building Code existing buildings was not to always require complete upgrades to the new building code, to not make matters worse but to do what it could under those circumstances to rehabilitate buildings and housing that were depressed without bringing those completely to the new code.

Commissioner Tolbert stated he would like to add to Commissioner Schock's comments. He then stated in the exiting building code everything has a percentage threshold when new construction requirements were considered even impact debris windows have the 25% and that was a life safety issue. He continued by stating it was hard for him to believe that an energy requirement would be more astringent than a life safety requirement.

Commissioner Smith stated the Commission had heard a lot of comments and testimony regarding windows and the window replacement part, but he felt the issue had a more outreaching impact if looking at replacement of an HVAC or insulation upgrades. He then stated he could relate to the issue of one broken window but from the energy side, his representation on the Commission, he was looking at other things such as air conditioning replacement or replacement of a pool pump. He continued by stating when replacing a current system and bringing it up to code but not bringing it up to the new energy code did not make sense to him. He further stated it was almost like the fenestration needed to split from some of the other replaceable components.

Chairman Browdy stated he understood Commissioner Smith's comments but the Commission was specific on the table and the two proposed fixes after determining it was a glitch.

Commissioner Franco stated he agreed with Mr. Lacey. He then stated from the point of view of the design industry he believed they were constantly looking for improvement on energy conservation in the state. He continued by stating there was a mandate from the governor to increase the energy conservation. He further stated, from testimony given, there was a concern there were more replacements than what was sold, more than 1,800,000 windows of which 75% were replacement. He stated it had also been mentioned a lot those windows would not have to meet the energy code and that did not make much sense, in his opinion. He then stated Mr. Gascon had commented that other components would be affected. He continued by stating he agreed other components would be affected, but if it meant improving the energy conservation of the existing buildings, which was the great majority of buildings in the

state, he thought it would be irresponsible of the Commission not to support the energy conservation feature. He stated in time, with the competition of having that as a standard, the cost would come down and it would be more and more affordable. He then stated the more done for existing buildings to comply with the Energy Code the standards that have been set for new buildings the better it would be for the state as a whole and for its citizens.

Commissioner Palacios asked if staff had looked at the table Mr. Lacey had submitted during the workshop and if they had did they agree with his proposal in lieu of what they had recommended to the TAC previously.

Mr. Madani responded stating staff had looked at the proposal by Mr. Lacey. He then stated his proposal was the reversal to the staff proposal. He continued by stating he believed it was very important to remember it was going to change how certain things had been addressed through renovations. He further stated there would be additional cost impact for small businesses and products, which needed to be considered, but had not been presented in the proposal, because it was the reversal to the common practice. He stated if the Commission chooses to go with Mr. Lacey's proposal the cost impact had to be justified. He then stated it would extend to other components that previously were not required to meet the Energy Code and those would create additional cost.

Mr. Blair asked if Mr. Madani would still recommend the staff recommendation.

Mr. Madani stated he would recommend the Commission to follow the recommendation of the Energy TAC.

Commissioner Palacios asked if the table presented by Mr. Lacey match the statute. He stated he understood it was the opposite of what staff had recommended and what the TAC had voted on. He then stated if his proposal matched the statute what choice would the Commission has.

Chairman Browdy stated Commissioner Palacios wanted to know if Mr. Lacey's proposal for Table 101.4.1 was more or less consistent or in a direction that matched the statute.

Ms. Hammonds stated she had not had a chance to review either the existing table or Mr. Lacey's table to determine which one would be "more in compliant with" the statute. She then stated she had to see Mr. Lacey's proposal, but not the existing table prior to the workshop.

Ms. Adams stated it depended on which part of the statute they were asking if they were in compliance with or more correctly matched with.

Mr. Madani stated, regarding whether it was in sync with Florida statutes or not,

staff tried to harmonize and look at the statutes all together along with the Code. He then stated he believed Mr. Lacey's proposal takes away the 30% approach, which had been utilized throughout the years.

Commissioner Boyer stated he was leaning toward Mr. Lacey's proposal for quite a few reasons. He then stated if he were going into an existing building that was 60 years old and one window was being changed out, structurally the window would meet the current code and the efficiency of that one window was going to be far superior than what was currently in there. He continued by stating he had not seen any economic studies to show what the costs are, but he was wondering what it would take to get an attorney general's opinion on the statute.

Mr. Richmond stated it was not a quick process, but the chairman could request one as a state officer, directed by the Commission. He then stated it was not something that could be turned around conceivably by even the August Commission meeting. He continued by stating the Commission had participated with the attorney general's office and assisted on a few issues and it was an extended process.

Commissioner Scherer stated he agreed with Mr. Lacey's proposal, but had a question regarding the additional components required to meet the new energy conservation. He asked if Mr. Lacey could clarify those additional components.

Mr. Lacey stated when short of a 30% renovated building under the statute it was only for those systems and components for which the Commission has set certain requirements. He then stated there were not a lot of them. He continued by stating there were HVAC requirements that would have to be met, irrespective of the cost of the project. He further stated the fenestration requirement was the one the Commission added in the 2010 Code and was consistent with the International Energy Conservation Code and had been there for 12 years or so, but that was the first time Florida had added it. He continued by stating to his knowledge there was not a very long list of specific components that would have to meet the Energy Code when they have to be replaced. He further stated the Commission could set those, as it was in its purview to do so.

Commissioner Gregory stated, in response to Mr. Lacey's comments that windows were systems. He then stated he did not believe windows were systems.

Commissioner Gregory moved approval to accept the staff recommendation for fixing the glitch. Commissioner Hamrick entered a second to the motion.

Chairman Browdy stated he believed the issue was a significant one and two of the commissioners had stepped out of the room. He then stated he would like to have the benefit of all commissioners attending voting to realize the Commission votes on these issues with a 75% requisite requirement to pass any glitch amendment. He then called for a 10-minute recess and vote on the motion after the break.

## **Break**

Commissioner Stone stated he would vote against the motion and if a motion was made for the other he would vote against that one, as well. He then stated after listening to all of the testimony he did not believe it was a glitch anymore and was too controversial and substantive.

Vote to approve the motion resulted in 10 in favor, 4 opposed (Smith, Franco, Stone and Scherer). Motion failed.

Commissioner Stone moved to reconsider this was a glitch.

Chairman Browdy stated a motion to reconsider also requires a 75% to pass.

Commissioner Boyer entered a second to the motion.

Vote to approve the motion resulted in 6 in favor, 8 opposed (Smith, Boyer, Gonzalez, Browdy, Tolbert, Hamrick, Gregory, and Scherer). Motion failed.

Commissioner Franco moved approval to send back to the Energy TAC for a technical recommendation to reconcile the differences in Table 101.4.1. Commissioner Stone entered a second to the motion.

Commissioner Tolbert asked if this was sent back to the TAC, would the building official determine if he was going to honor the 30% statute or not. He stated, for example, if someone applied for a permit to renovate but it was not over the 30% the building official would still enforce that.

Chairman Browdy asked if Commissioner meant until a decision was reached.

Commissioner Tolbert asked for clarification it would just be postponing.

Chairman Browdy stated it would be deferring Commission action.

Vote to approve the motion the motion resulted in 13 in favor, 1 opposed (Gregory). Motion passed.

### *#2 101.4.8 Exempt Buildings*

Mr. Blair stated the TAC had provided a comment they thought it was a glitch and fix was recommended.

Ms. Stewart stated she would recommend the Commission send back to the TAC. She then stated she also thought it included information about the duct testing to incorporate what the Legislature did for 489.

Mr. Madani stated item #2 does not have anything in it pertaining to duct systems. He then stated there was one proposal submitted at the end which did not go through the TAC.

Ms. Stewart stated let's take one at a time. She then stated exempt buildings should go back to the TAC, because it was directly related to the first proposal the Commission sent back.

Mr. Blair stated staff has indicated it was not related to the first proposal.

*Richard Kicklighter, RW Kicklighter, Inc., ATAP Consulting*

Mr. Kicklighter stated he dealt with a lot of commercial buildings and they were required to have dehumidification. He then stated in the old Energy Code it was not used for comfort cooling and it was controlled with humidistats. He continued by stating it was permissible use without having to meet all of the stringent criteria of the Energy Code and that seems to have disappeared in the new one.

Mr. Blair asked if Mr. Kicklighter was in support of the proposal.

Mr. Kicklighter stated yes he was.

Commissioner Gregory moved approval this was a glitch based on unintended results with the integration of previously adopted Florida specific amendments with the model code. Commissioner Scherer entered a second to the motion. Vote to approve the motion resulted in 12 in favor, 2 opposed (Stone, Boyer). Motion passed.

Commissioner Gross moved approval to accept TAC's comment to fix glitch in the proponent's language. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

*Glitches with Changes From the TAC*

*#1 101.4.7 Building Systems*

Mr. Blair stated the TAC wanted to add "for residential buildings" to clarify it applied to residential buildings.

Mr. Lacey stated he would suggest the Commission table the issue because it takes the definition of renovation phrase and puts it elsewhere in the Code. He then stated he thought that was directly related to whether the Commission decides whether the statutes or code language rules in this case. He continued by stating he suggested sending it back to the TAC because this was in connected to the table the Commission just referred back to a TAC.

Mr. Madani stated for clarification the TAC wanted to remove where building

meets the definition of renovation and leave it as is. He then stated for Sections 101.4.7.1 and 101.4.7.2 for change out of equipment, the TAC would like to limit that to residential buildings. He restated the TAC would have the language "where the building meets the definition of renovation" but it would not impact the table.

Mr. Lacey stated the only language added was "where the building meets the definition of renovation" and the only justification given was inconsistencies with state law.

Mr. Blair stated the TAC was recommending that language not be what was done.

Mr. Madani stated the TAC proposed to remove the language "where the building meets the definition of renovation" (seen in red on the screen) and for Sections 101.4.7.1 and 101.4.7.2 for change out of equipment, be limited to residential buildings.

Ms. Hammonds asked if it should be a strike through rather than an underline.

Mr. Madani stated the only thing being addressed was the comment.

Mr. Richmond stated for purposes of consideration he did not think it would be strike through or underline but the resulting language would not have the addition of the renovation language. He then stated there would actually be no change to that section and only to 101.4.7.1 and 101.4.7.2 as noted in the TAC comments.

Mr. Blair stated there were no changes to the original language of 101.4.7.1 or 101.4.7.2

Mr. Lacey stated as a matter of procedure someone should make a motion to strike the language. He then stated when it was underlined in red and in the notes of the meeting it would show as new language. He continued by stating if the underlined red where the building meets the definition of renovation was not intended to be a change it should be stricken.

Mr. Blair stated the proposal was submitted, the Commission makes its changes and what was approved would be shown in that manner.

Commissioner Gross moved approval this was not a glitch. Commissioner Stone entered a second to the motion.

Commissioner Gonzalez asked for clarification why it was not a glitch.

Commissioner Gross responded stating it would be covered by 101.4.7.1 and 101.4.7.2.

Mr. Madani stated if the Commission determined it was not a glitch it would go

back like it was before “where the building meets the definition of renovation” would not be there and the change out of equipment would have to apply to both residential and commercial, which would mean size and calculation would have to be done and Code would have to be met. He then stated if it were a glitch and there was a change out of equipment meeting code would only be for residential buildings, not for commercial, which had been a problem for them relative to sizing and calculations. He continued by stating with TAC comments if approved the only change would be it would only be applied to residential buildings.

Mr. Blair stated for clarification this was not a separate proposal.

Commissioner Gross stated the TAC thought it was a glitch and had the wrong fix.

Mr. Blair stated instead of correcting 101.4.7 it was for 101.4.7.1 and 101.4.7.2 to apply only to residential.

Commissioner Franco asked if the TAC’s recommendation was added, the phrase “for residential buildings” on those two sections it was more compliant with the statutes.

Mr. Madani stated yes it would comply with the statute.

Commissioner Gross withdrew his motion. Commissioner Stone withdrew the second.

Commissioner Gross moved approval this was a glitch. Commissioner Tolbert entered a second to the motion. Vote to approve the motion resulted in 13 in favor, 1 opposed (Stone). Motion passed.

Commissioner Gross moved approval to take the TAC’s recommendation to correct the glitch. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Lacey asked for clarification relative to the language underlined and in red on the screen. He stated there was no public comment allowed after that discussion and the language was red lined and underlined. He then stated he wanted to be clear if that was new language or not.

Mr. Madani stated the language on the screen in red and underlined would not be there.

Mr. Richmond stated with the recommendation just approved the language in red and underlined would be out and 101.4.7 remain as is without addition and the changes were made to 101.4.7.1 and 101.4.7.2 adding the reference “for residential buildings

only" at the top of those sections. He then stated that was the TAC's recommendation as it was described during public comment, public comment was heard, it was the Commission's motion and the record was as clear as it could be.

#### *#2 403.2.2 Ducts*

Mr. Madani stated this had to do with the language in the Code that has to do with the insulation levels for ducts. He then stated the language, as it was written currently, was somewhat confusing because it refers to an R8, which was not really applicable or used within the Energy Code compliance options in existence in the Code. He continued by stating the TAC hoped to clean up the language and make it more clear by proposing the language to 403.2.1 to state "supply and return duct, including air filter enclosure, air duct and ?? shall be located in a conditioned space and be insulated to R6." He further stated that was consistent to what was required by the prescriptive compliance methodology, which was in the Code along with the use of A calculation. He stated the performance compliance option it allows for ducts to be in unconditioned space and requires the level of insulation in R6. He then stated the another thing the TAC added to clarify, with regard to duct tightness and testing, as in HB704, was in addition to a Class 1 Rater, an air conditioning contractor can also do duct testing. He continued by stating the TAC considered it a glitch and provided comment.

Mr. Kicklighter stated with the Solar Center there was a small number of Class 1 raters who are doing the duct testing and the cost (\$500.00-700.00) were quite prohibitive and that was if you passed the first test. He then stated if additional testing were required there would be additional costs. He continued by stating as long as everyone was following ASHRAE152 and they were a licensed HCAC contractor, Class A, B or Mechanical it was a positive for the state of Florida.

Commissioner Gross moved approval is a glitch based on conflict with the updated code, changes to state law, HB704 and equipment. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gross moved approval of the TAC's comments to correct the glitch. Commissioner Stone entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### *#402.3.6 Replacement Fenestration*

Mr. Lacey stated this was inconsistent with state law and he would recommend the Commission not take action, as the issue of Table 101.4.1 was not resolved.

Mr. Nau stated PGT had always been in active in the Code development and its investments were made accordingly. He then stated the last code cycle resulted in investments exceeding several million dollars. He continued by stating on Statute

553.903 establishes the Code be followed as it sets efficiency standards for replacement systems and components. He further stated 402.3.6 clearly sets these efficiencies. He stated if the Commission addresses the issue, even going back to the statute and how it reads, it definitely addresses areas where replacements were set in the Code. He then stated PGT wholeheartedly agreed with Mr. Lacey's version of Table 101.4.1. He continued by stating there was an interesting issue that occurred during the May 24, 2012 TAC meeting. He further stated at the TAC voted unanimously to remove the ???? from the 30% rule as having to meet the efficiencies of the Code, then shortly after the argument reversed and when 402.3.6 was discussed the TAC the motion it fell under the 30% rule. He stated if the HVAC had to meet the efficiencies of the Code so does the Fenestration. He then stated the Code has a section that says replacement of fenestration and any other areas where items were issued as replacement should certainly meet the Code.

Mr. Belcher stated the staff proposal of the addition to 403.2.6 satisfies the problems some of the commissioners had regarding some of their products being in Table 101.4.1. He then stated this strictly addresses fenestration and it says when there was a building renovation of 30% and the windows were replaced and the current code was met. He continued by stating if less than 30% it did not have to meet the ?? of the Code, but it still had to meet the default values if they were being done for replacement windows. He further stated the vote of the TAC was 5-2, there were 9 members but 2 were out on conference calls and the outcome could have been very different.

Ms. Hebrank stated she agreed with Mr. Belcher and would like to make one more point. She then stated the 30% was already applied to the pool filtration pumps, which was in the Energy Code Report for Existing Buildings Replacement Systems. She asked the Commission to apply the 30% threshold as it had been a practical matter in the state since 1978.

Ms. Stewart stated changing this at this point has the opportunity to become an editorial nightmare depending on what happens at the TAC meeting. She then stated it was possible the TAC could reverse itself and change this again resulting in a lot of flip-flopping.

Mr. Wright stated he completely agreed with Mr. Lacey's points , as this was directly related to the interpretation of Table 101.4.1. He then stated, Custom Windows Systems, like PGT, believed the Commission was going to adopt the Energy Code and several million dollars have been invested in equipment to meet those Code requirements. He continued by stating he would urge the Commission to defer action on this item until there was a resolution regarding Table 101.4.1.

Mr. Vieira stated, having attended the meeting he wanted to speak for some people who were notable to attend the Commission meeting. He then stated Phillip ?? felt this was not a glitch, but intended in the Code to have fenestration, similar to the

HVAC being called out as a separate system. He further stated the two people who objected in that vote were saying it was not a glitch.

Mr. Olson stated Lawson Windows, too, had invested a lot of money to make windows that would meet a superior window performance and they would obviously like to sell them. He then stated, after hearing a commissioner's comments indicating it should be a homeowner's choice, not the dictation of an organization. He continued by stating unless a homeowner wanted to take advantage of what his company offered and they wanted to improve their windows and make a substantial improvement in energy value he did not feel like they should be forced to put in the Cadillac.

Commissioner Schock moved approval this was a glitch. Commissioner Gonzalez entered a second to the motion.

Commissioner Franco stated he would vote no to it being a glitch as it did not seem as though there was any problem with the wording in the Code. He then stated just because something was decided in 1978, over 30 years ago it does not have to stay the same. He continued by stating the world had changed a lot and the energy consumption had changed a lot. He further stated the Code probably intended for it to be reviewed and changed.

Vote to approve the motion resulted in 12 in favor, 2 opposed (Stone, Franco). Motion passed.

Commissioner Gregory moved approval of the TAC and staff comments and recommendations to correct the glitch. Commissioner Mollan entered a second to the motion.

Commissioner Schock stated he agreed with Ms. Stewart. He then stated he was concerned that somehow recommendations made on Table 101.4.1 get wrapped around the axle. He then moved approval of sending this back to the Energy TAC to review in conjunction with their work on Table 101.4.1 and come back to the Commission with a recommendation.

Mr. Blair asked Commissioner Schock if he was offering a substitute motion.

Chairman Browdy stated there was a motion on the floor to accept the staff and TAC recommendation.

Commissioner Gregory stated he believed the state statute had not changed since 1978 and he believed this was another suggestion that windows were somehow systems. He then stated he did not believe windows were systems.

Chairman Browdy asked Commissioner Gregory if he were in favor of the motion.

Commissioner Gregory stated he was in favor of the motion.

Mr. Dudley asked if there was an opportunity for public comment.

Chairman Browdy stated there was a motion on the table.

Mr. Richmond stated public comment had already been heard on the issue in chief in and in full. He then stated the motion on the floor included the issue up for resolution by this motion.

Mr. Dudley stated he was asking for the permission to make public comment. He then added the Commission could say yes or no.

Ms. Hebrank asked if the motion could be restated so she could be sure of what was being voted on.

Mr. Blair stated the motion was to accept the staff and TAC comments to correct the glitch.

Chairman Browdy asked Mr. Dudley if he felt he did not have the opportunity to make public comment.

Mr. Dudley stated he was suggesting public comment was not allowed on the motion on the table.

Chairman Browdy stated for clarification he asked Mr. Dudley if he felt he did not have the opportunity or because he had not been allowed to make public comment.

Mr. Dudley stated he had not been disallowed yet.

Chairman Browdy stated he could make his comments.

Mr. Dudley stated there was a recommendation from the TAC that this failed to meet the statutory requirement of 75% to be considered a glitch. He then stated therefore the TAC did not get to how to fix it. He continued by stating he interpreted the statute to mean that if a TAC was instructed to not make a technical recommendation he did not believe he had complied with the statute. He further stated he could sit down and let the record reflect the Commission had made an error, but he would rather see the error not made. He stated he would recommend the TAC now be requested to make a recommendation on the technical merits.

Ms. Hammonds stated it failed, therefore procedurally Mr. Dudley was correct in that if there was no glitch determined there could've been no fix.

Mr. Richmond stated there was a staff recommendation to the TAC and he believed the motion on the floor contained the staff recommendation. He then stated

the vote at the TAC failed 5-2, but the Commission had passed that issue.

Mr. Blair stated Commissioner Schock's motion was to accept the staff recommendation.

Commissioner Schock stated his motion was to refer it back to the TAC.

Chairman Browdy stated the Commission voted this was a glitch, not withstanding the TAC 5-2 vote. He then stated the Commission was in consideration of a fix for the glitch.

Vote to approve the motion resulted in 3 in favor, 10 opposed (Hamrick, Tolbert, Scherer, Browdy, Gross, Franco, Stone, Boyer, Schock, Smith). Motion failed.

Commissioner Schock moved approval to refer back to the TAC in consideration with its previous assignment to look at Table 101.4.1 and make a technical evaluation before making a recommendation to the Commission. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gregory moved approval the two issues to be discussed by the TAC could be heard on a face-to-face, rather than a teleconference call.

Chairman Browdy asked if the Commission had requested the same for an earlier issue, but it had not been put in the form of a motion. He stated he agreed that the issues did not need be decided over the phone and a TAC meeting should be scheduled no later than the August meeting.

Mr. Dudley stated he realized there were some budget constraints and everyone had to be sensitive to that fact, but when the Commission met in April and the chairman and Commission referred back to the TAC and acquiesced a face-to-face meeting would be important on the issues. He then stated the TAC meeting was not a face-to-face meeting. He continued by stating everyone had had the misfortune of trying to resolve issues that are complicated over a conference call.

Mr. Richmond stated the previous meeting Mr. Dudley had referred to did occur face-to-face. He then stated a show-up meeting was noticed and scheduled in Tallahassee. He continued by stating it was authorized for participation by telephone and webinar, but it did create a lot of headaches in that particular meeting. He further stated the contrary in that meeting was holding a meeting and not having a quorum and not conducting the business of the committee due to the significant number of committee members who could not travel to attend the meeting, which does prevent people from participating. He stated a show-up meeting could be noticed and scheduled again, but he would not let that prohibit participation by the electronic means available because it does offer members who cannot travel a means of participation.

Chairman Browdy stated he did not believe Commissioner Gregory's motion was exclusionary to anyone by any other methodology, but staff could make sure those options were available also.

Commissioner Palacios stated attending a meeting in Tallahassee was kind of tough. He then stated it was good for some but for the rest it was a challenge. He continued by stating he agreed the meeting should be held face-to-face, but Tallahassee was a terrible place for that meeting.

Chairman Browdy stated what staff was going to try to do, because they had heard an abundance of testimony from both sides, was to have this meeting in Tampa prior to the next Commission meeting. He then stated many commissioners could attend and be the beneficiaries of the TAC discussions. He continued by stating hopefully when the issues were heard in the Commission meeting more commissioners would be available who have had experienced first hand conversations regarding the issues.

Commissioner Scherer entered a second to the motion.

Vote to approve the motion was unanimous. Motion carried.

*Comment received after the TAC Meeting*

Mr. Madani stated since the TAC had not reviewed this issue and there were now two others for reconsideration, he would suggest sending this one back as well for a total of three code changes to consider.

Mr. Richmond asked if Mr. Madani would recommend having the Commission decide if it was a glitch.

Mr. Madani stated yes, as it would eliminate time spent determining if it was a glitch.

Mr. Vieira stated the issue came up and was originally discussed at the Energy TAC meeting regarding UA alternative methods. He then stated staff had originally asked the TAC to include Table 402 B in its reports for the UA alternative and staff stated it did not really apply. He continued by stating the only place Table 402 B shows up was on a prescriptive table form. He further stated it was a 2-page form handed in for Code compliance if someone uses the prescriptive method. He stated in one place on the form it would state the value of R30 was required and another place on the form will state R19 was required. He then stated it would talk about the duct values if it was put in attics or roofs and another place on the form it will tell you the ducts have to be in conditioned space. He continued by stating this was without a doubt a glitch, from unintentional consequences of combining codes. He stated he recommended the form mandatory since it shows up on prescriptive and if simply state thermal envelope

approach, which was the only place Table 402C shows up in the code was on this form, and make it consistent with the form. He then stated the changes were very minimal and he would recommend the Commission move approval and let all of the window people fight it out at the TAC meeting.

Mr. Madani stated this was a correlation to what had already been approved, therefore after hearing Mr. Vieira's comments, because of the program, he did not believe there was anything in the issue that would prevent approval.

Mr. Glenn stated his comment was where the table came from, if it was not anywhere in the code but on that form.

Mr. Vieira stated he said the only place in the Code it shows up was in the appendix of the Code.

Mr. Glenn withdrew his comment.

Commissioner Gross moved approval this is a glitch. Commissioner Franco entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gregory moved approval to refer it back to the TAC for technical analysis. Commissioner Boyer entered a second to the motion.

Commissioner Franco stated he did not see the need to send it back to the TAC when it seemed like a simple play of words. He then stated he thought the Commission should take action on it and move on.

Vote to approve the motion resulted in 7 in favor, 6 opposed (Browdy, Franco, Gross, Tolbert, Scherer, and Smith). Motion failed.

Commissioner Franco moved approval to accept the recommendation of the staff to correct the glitch. Commissioner Scherer entered a second to the motion. Vote to approve the motion resulted in 11 in favor, 2 opposed (Boyer, Palacios). Motion passed.

Chairman Browdy closed the workshop.

Chairman Browdy stated a motion to proceed with rule adoption for Rule 61G20-1.001(1).s

Mr. Madani stated there was a glitch remaining under the structural chart, on page 5. He then stated it was submitted after the TAC meeting and was relative to upgrading a standard for stucco.

Mr. Belcher stated the Updated Standards for Stucco, ASTM E926 and ASTM E1063 and the standard for block itself ASTM E90. He then stated 11 were not

available for the deadlines of the Florida Building Code, Code Change or Glitch Processes but were currently. He continued by stating the changes in the stucco issue were primarily clarifications. He stated there had been many problems in the field, misunderstandings regarding what the stucco standard was calling for. He then stated for ASTM E90 has all of the same information with some changes to web thicknesses and then number of webs, which would allow the production of more energy efficient block. He further stated he would like to get this out in the field so the producers could start working with the standard.

Mr. Blair asked for clarification the items were on pages 5 and 6 of the chart.

Mr. Belcher stated there were 3 of them and there were changes to the residential and building code.

Mr. Blair asked if it was just one proposal that impacts 5 different sections, apparently. He stated the entire matrix was one proposal.

Mr. Madani stated that was correct and it covered both residential and building.

Mr. Blair stated the comment was relevant to pages 5 and 6 of the Commission's matrix posted under the Structural Section and also on the website.

Mr. Belcher stated the only changes were in the reference standards with no changes to the Code itself.

Mr. Harvey stated BOAF reiterates it previously submitted position statement regarding Building Code development. He then stated in the interest of time he deferred to the written statement and asked the Commission preserve the code development process in Florida. He continued by stating reference standards were placed in the Code when new standards were developed there was a financial impact to building departments whereby they must attain the standards and attain training on the standards. He further stated they believed the appropriate time to adopt the standards would be during the Code Development Cycle which opens on July 1<sup>st</sup>.

*C.W. MacComber, APA*

Mr. MacComber stated he was a member of the Structural TAC and as an order of procedure he was trying to understand, earlier when the FEMA update was discussed it was basically a standard update, but it went right through after it had been found to be a glitch. He then stated originally went to the Structural TAC it was unanimously voted not a glitch, because it was a standard update and standard updates do not fall under the criteria of a glitch. He continued by stating he was perplexed when it was approved by the Commission as a glitch. He stated he was trying to understand his responsibilities on the TAC a little better for the future. He then stated he did not understand why standards were being accepted as glitches when he thought they were

code changes.

Mr. Gascon stated with the comments being made regarding the updates he was concerned specifically on the C90 standard. He then stated not being privy to the version that was proposed and the fact the webs were being made differently than what was called for in an effort to make them more efficient. He continued by stating those were the structural elements those living in the HVHZ depend on for impact resistance in its building envelope. He further stated it was something they should have an opportunity to review before just adopting by this method.

Mr. Blair asked if Mr. Gascon was suggesting the TAC review it.

Chairman Browdy asked Mr. Gascon even though the standards were a published standard it may not be sufficient for the HVHZ.

Mr. Gascon stated it depended on what changes were made, it could be stronger.

Mr. Belcher stated, relative to Mr. Gascon's concerns, the existing stuff was still in there, but there were also some new configurations of the block the producers could put out there and it still had to meet the Structural Code.

Commissioner Tolbert asked if a building official could accept it under 104.11, alternate method.

Mr. Belcher responded by stating yes. He then stated the problem was for the producer. He continued by stating if the producer went this route they would have to go buy new molds, new machines, and they would not do that just to get approval from one jurisdiction on a case-by-case.

Mr. Richmond stated it was building on the comments of our esteemed colleagues with the Building Officials Association. He reminded the Commission a lot of time had been spent discussing the standards update done in advance of the I Codes on ASCE7. He then stated without correlation and extensive review that occurs on that National Code level, there was the risk of being stranded with a lot of issues in Florida. He continued by stating the Commission should be reminded of the difficulties that were created from this type of thing. He further stated if the standard were worthy it would be in the next edition of the I Codes.

Mr. Belcher stated it would be not be in the next, as it was not in the 2012, it was not ready.

Commissioner Franco asked if this were a glitch where the standards were available after the last code cycle, then why would the Commission even consider it as a possible glitch.

Mr. Richmond responded stating whether or not it was a glitch was up to the determination of the Commission. He stated it had been proposed under the heading Equivalency of Standards. He then stated if the Commission believed this to be an equivalent of any standard in the Code, it was conceivable. He continued by stating standards updates in general were only listed as a glitch if it was the National Electrical Code with certain identified findings. He further stated standard updates were generally not a glitch to be considered.

Commissioner Franco stated the Commission was not voting on whether it was a glitch.

Mr. Blair stated it was the first question.

Chairman Browdy stated in order for the issue to be entertained it had to first be considered a glitch.

Mr. Richmond stated it had been proposed under the heading of equivalency standards.

Commissioner Franco moved approval not a glitch. Commissioner Schock entered a second to the motion.

Commissioner Schock stated since the specifications came into play after the Code was adopted he would agree it was not a glitch.

Vote to approve the motion was unanimous. Motion carried.

Chairman Browdy called for a motion to incorporate into the Florida Building Code the amendments and rules passed during the workshop and to proceed with rule adoption of Rule 61G20-1.001(1), the Florida Building Code and to conduct a rule hearing at the August Commission meeting.

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

**DECLARATORY STATEMENT DS2012-021 by Joe Belcher of JDB Code Services, Inc.**

Chairman Browdy stated he had hoped the issue would have been resolved as a result of the Commission's deliberations during the rule development workshop. He then stated given the procedures to this point he wanted to give deference to Mr. Dudley, since he filed a petition to intervene. He continued by stating before the Commission decides to entertain or not entertain the declaratory statement, because the Commission may wish to refer it back to the TAC. He stated he wanted Mr. Dudley

to have the opportunity to speak on his petition.

Mr. Dudley stated Mr. Belcher had informed him that he had no objection to our motion for ?? to intervene on behalf of Custom Window Systems. He then stated he would suggest to the Commission, for reasons he had cited and cases he had cited in the motion it was a matter of right for a party who was substantially affected. He continued by stating he thought that had been demonstrated that in the pleadings and in the subsequent motions to dismiss although they were not yet at that point.

Mr. Richmond stated with no objection to intervention by the petitioner a motion to approve intervention would be in order.

Chairman Browdy stated the chair would entertain a motion to approve the intervention by Mr. Dudley's clients into the issue as it relates to DS2012-021.

Commissioner Scherer moved approval of the motion to intervene. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Browdy asked Mr. Belcher how he wished to proceed regarding the declaratory statement.

Mr. Belcher stated he would like to defer the declaratory statement until after the Energy TAC makes its determination because it could become a moot point. He then stated to spend a lot of time at the Commission when the Energy TAC could just turn it around next month.

Mr. Dudley stated he would object to a deferral, although it was in the Commission's discretion. He then stated a first hearing was in April, with continuance to a first hearing at the June meeting if the Commission approves Mr. Belcher's position then first reading will be moving into August, at that point the Commission would not be able to dispose of the petition, because under the Commission's rules it would still be under first reading. He continued by stating he had a motion to dismiss. He further stated at some point he would like to argue the position of his client, preferably at this point. He stated he did not know if legal staff had had the opportunity to look at his motion to dismiss, which was filed on May 30<sup>th</sup>, if they had not he would not want to argue it at this point. He then stated the law was very clear and neither Mr. Belcher nor his client has standing. He continued by stating if the Commission decides to move forward he would like about 5 minutes to argue the motion.

Ms. Adams stated her recommendation would be to defer the matter until August, because it has a strong sense of becoming moot at that point.

Mr. Belcher stated the Energy TAC met twice on the declaratory statement and both times voted unanimously. He then stated the second vote was requested by

Commissioner Smith to look at new information from RECA and from Mr. Dudley and still voted unanimously to support the staff recommendation on the questions. He continued by stating he would still request a deferral.

Mr. Dudley stated he realized the Commission was in a transition with legal staff. He then stated if Ms. Adams or Ms. Hammonds felt like they needed time to study the motion, he was not going to object to that. He continued by stating he wanted legal staff to be comfortable with the cases he had cited and the arguments made in the motion. He further stated if he had reviewed it he would like to argue it presently.

Chairman Browdy asked legal staff if they had read the motion.

Ms. Hammonds stated as with most legal issues one had read it and one had not.

Chairman Browdy stated the Commission would hear arguments from both sides at the appropriate time.

Commissioner Palacios moved approval to defer until the August Commission meeting, also until such time as the Commission's legal staff has had the opportunity to read all pertinent documents relative to the declaratory statement including Mr. Dudley's petition for dismissal. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### **PUBLIC COMMENT**

Ms. Stewart thanked everyone present for all of his or her work. She stated it had been a marathon session with some very difficult decisions to make and she appreciated everyone's hard work.

Mr. Wilkes stated he had been through the records and he did not believe he had missed a meeting. He then stated the Commission had requested information from the state insurance on the aluminum wire removal as opposed to replacement. He further stated he had not found a response.

Chairman Browdy stated did not believe there had been a response. He then stated he recalled Chairman Rodriguez sending the initial letter, then he sent a follow up letter and there has been no response.

Mr. Wilkes asked if there was anything that could be done either by the Commission or by legal staff. He stated he was still getting phone calls and questions regarding the issue from the general public.

Mr. MacComber stated at the last Commission meeting he asked a question, the chairman had asked him to put the question in writing and submit it to staff. He asked if

he would get a response on a future agenda or would it be sent to him personally.

Chairman Browdy asked him to remind him of the issue at hand.

Mr. MacComber stated the issue was modifications to state agency regulations basically.

Mr. Madani stated he would talk with Mr. MacComber after the meeting.

Mr. MacComber stated he had been at the meeting the last two days but had stepped in and out. He stated it was discussed about a month ago the possibility of making available copies, to interested parties, of the Florida Base Code, without the Florida specific amendments. He asked if it was discussed during this meeting. He then stated it was mentioned the might be available in April allowing time for review before the code changes opened July 1<sup>st</sup>.

Chairman Browdy stated the issue was not discussed during the meeting.

Mr. MacComber asked if there was any more information on the subject, because it was getting real close and there has not been an opportunity to review it yet.

Mr. Madani stated within one week the base documents that would be used for the 2013 Florida Building Code would be on the Commission's website. He then stated the documents would consist of two things: Special Occupancy Regulations and HVHZ Hurricane Zone Requirements as amended to comply with the Florida Statute. He continued by stating the 2012 International Code was also available on the website. He further stated with regards to the balance of the Florida specific requirements contained in the 2010 Code stated those have all been available within the 2010 Code Supplement through the International Code which was under the 2010 Florida Building Code. He stated if Mr. MacComber was interested in bringing any of those to the 2013 process he advised him to go back to the 2010 Code Supplement to the I Codes and he would find them there.

Mr. MacComber thanked Mr. Madani for the information on the Codes. He then stated he wanted to say a lot of the interested parties were looking forward to getting a copy of the base document as they were told they were going to get it in April. He continued by stating it had slowed down their ability to process their concerns for what needed to be submitted as a code change or does not. He further stated he was not sure if any consideration had been given to that relative to giving more time to allow for review of the base document.

Chairman Browdy responded by stating not at this time. He then stated he had been discussing with staff, the Commission's concerns and his concern as the Commission chair was the adequacy of the time the public has to review the documents prior to the implementation of the Code. He continued by stating they were in the

process of discussing ways to put the Code out prior to promulgation to test the Code to determine if the Commission would be implementing a code that had issues, problems, or inconsistencies to avoid problems less than 120 days after the effective date of the Florida Building Code. He further stated it was a very challenging task for the staff and they do an incredible job processing a great deal of information. He stated the Commission would try its best to make sure the most current information that could be placed in the public domain, the advocates, the practitioners, and the building officials to vet the issue before it comes out again to avoid meetings like the one just held.

Mr. Harvey stated BOAF would like to reiterate Ms. Stewart's comments. He then stated everything the Building Commissioners do was appreciated. He also wanted to commend the Building Commission staff as they do a tremendous job, as the chairman had just stated there was a tremendous amount of information related and a tremendous amount of information and a tremendous amount of phone calls. He continued by stating the phone calls were coming from not only BOAF, but also Mr. Glenn's membership, as well as other memberships in the construction community as a whole. He further stated to commend the sound system on the meeting the last two days. He stated he believed it had been much better than what it had been in the past. He then stated being in the audience it was very appreciated when all the comments made can be heard. He further stated BOAF appreciated the Commission allowing its comments to be read into the record and hoped the commissioners would take the time to read the full document provided to them. He stated BOAF looked forward to working with the Commission on the 2013 Code. He then stated BOAF endorsed the process and the timing and encouraged the Commission to stick with the timing to get the 2013 on the streets in time and have people review it to avoid these lengthy meetings. He continued by stating several years ago there was a letter put out by the Commission chair that went to the municipalities and it encouraged the municipalities to support the Florida Building code process and encouraged their attendance at the Commission meetings. He further stated over the last couple of years there had been the new building permit surcharge monies that have come in as a funding source for the Commission as well as the 10% retainage of those fees kept at the local level which was intended for the participation of the local building departments in the Florida Building Code process and the International Code process. He stated it would be very helpful to BOAF and extremely appreciated by the membership if such a letter as was put out in the past could be done once again and perhaps include the new information in the letter.

Chairman Browdy asked who the letter had been sent to

Mr. Harvey responded stating it was either sent to the county administrators or city managers and possibly to the chairs of the commissions.

Chairman Browdy stated in the Commission's attempts at getting its documents out sooner, he stated the letters from BOAF were wonderful, but at the time the commissioners receive them, as they were sitting down to the meeting it was very

difficult to digest. He asked if those letters could be submitted previous to the meetings to allow the commissioners the opportunity to really read the effort put into the documents it would be most helpful.

Mr. Harvey apologized for the last one. He explained their board meeting was the previous Thursday, the letter was being done on Sunday and approved by his executive board on Monday.

Mr. Belcher stated he also wanted to thank the Commission for its work. He then stated in defense of the marathon meeting just held, the last code cycle a whole lot of new stuff was considered that had not been previously considered, a whole new Energy Code that had not been what was used all these years, and a whole new way of looking at wind speeds. He continued by stating he did not think it reflected badly on the Commission, in fact for all of the information it considered it came out very well. He everyone had done a pretty good job. He applauded staff and the Commission for all of their work.

#### **COMMISSION COMMENTS AND ISSUES**

Commissioner Schock stated he had planned on mentioning the same thing Mr. Belcher did. He then stated considering the amount of things considered everyone did a good job. He continued by stating the amount of the glitches was really insignificant percentage-wise considering what the Commission was doing. He further stated he would like the chair and the staff to consider, while the telephone conferences work well for most normal declaratory statements and general month-to-month business, he believed in the future when the Commission was doing code development work for the glitch cycles it was better to in face-to-face meetings in conjunction with the Commission meetings. He stated he believed it gets most of the commissioners involved and does not preclude having a telephone available.

Chairman Browdy stated when events rise to changing the Code through the glitch process it was certainly worthy of a face-to-face meeting. He then stated the Commission and staff needed to work on its ability to accomplish that.

Mr. Richmond stated meeting in hotel spaces such as this usually prohibits participation by telephone because running a conference call on hotel line was usually more expensive than meeting space. He then stated he knew it had been looked into before and it was very expensive to the point it was not even worthwhile. He continued by stating the staff does the best it can do when selecting venues. He then stated he knew a good number of the TAC members were not paid for their travel do appreciate having the webinars because that was the only way they were able to participate. He further stated if the Commission went to more and more show-up meetings there would be a harder time attaining a quorum.

Commissioner Schock stated he understood Mr. Richmond's comments. He

then stated in most instances he believed the webinars worked well. He continued by stating he was not sure if it was something that could be done in the budget or not but possibly pay for TAC members travel only on those times when it was involved with code development.

Mr. Richmond stated he knew the budget was not there, and he questioned if the Commission had the authority to pay for a TAC member's travel. He then stated the commissioner's travel was paid with specific statute authority to pay for commissioner's travel and it was authorized to pay it at the state rate.

Commissioner Palacios asked if it was possible to get the TAC agendas and Commission agendas prior to the meetings by email. He stated he knew it was available at the website, but at the website it was difficult to download the document and print a hard copy.

Mr. Madani stated it was not an issue and staff will do it.

Commissioner Franco stated he also wanted to thank the staff and Mr. Blair for all of the work they do. He further stated he knew it was not easy but they make it so appealing to come to the meetings. He then stated he wanted to bring up the issue discussed in the TAC meeting regarding modular homes and mobile homes and the fact that particular issue was not resolved. He continued by stating he was amazed by the fact there were so many structures in the state of Florida that were not compliant with the Code. He further stated he was actually confused as to what covers those structures. He stated in the TAC teleconference there was a suggestion the Commission chair communicates with the DOT to open the conversation to try to determine the answer to the Board of Rules and Appeals in Broward County. He asked was there a way to enforce a building permit fee issued for repairs on a mobile or modular home. He stated it seemed to him with all the things done to safeguard our buildings, modular homes, mobile homes and similar structures become protectors during storms

Chairman Browdy stated he believed the Code Administration TAC addressed the issue. He then stated the outcome of the issue was a dialogue would be opened with the Department of Transportation. He continued by stating he did not know exactly what that meant to open a dialogue, but if it meant the chairman should write a letter to someone at the Department of Transportation to relate those issues of concern raised by the Florida Building Commission as to the repair of mobile homes and the Code provisions under which those repairs occur if they could speak to the Commission about those either by letter or a presentation in front of the Florida Building Commission it would be appreciated.

Mr. Blair stated the Commission voted for that during the meeting, as well.

Commissioner Gregory stated, on behalf of the Swimming Pool Association,

UPSA and FSPA, he wanted to thank the Commission for providing them with that forum of the TAC. He then stated he would like to let the Commission know they were diligently working with the building officials in Florida to help them make the transition no being made for commercial pools. He continued by stating they were working very closely with the Department of Health, Bob Vincent and Patty Anderson. He further stated Commissioner Boyer had requested and they were going to do some training in his part of the state. He stated they were going to take a road show around so this would not be an issue.

**ADJOURN**

1:45 p.m.

The second day of the meeting of the Florida Building Commission was called to order by Chairman Richard S. Browdy at 8:33 a.m, Tuesday, June 12, 2012, at the Hilton Hotel, Daytona Beach, Florida.

**COMMISSIONERS PRESENT:**

Richard S. Browdy, Chairman  
Jeffrey Gross  
Angel "Kiko" Franco  
Jeff Stone  
James R. Schock  
Herminio F. Gonzalez  
Robert G. Boyer  
Drew M. Smith  
Scott Mollan  
Jonathon D. Hamrick

Kenneth L. Gregory  
Raphael R. Palacios  
John "Tim" Tolbert  
Dale T. Greiner  
John J. Scherer

**COMMISSIONERS ABSENT:**

Hamid R. Bahadori  
Christopher P. Schulte  
Mark C. Turner  
Nicholas W. Nicholson

Joseph "Ed" Carson  
Dale T. Greiner

**OTHERS PRESENT:**

Jim Richmond, FBC Executive Director  
Leslie Anderson Adams, DBPR Legal  
Advisor  
April Hammonds, DBPR Legal Advisor  
Jeff Blair, FCRC Consensus Solutions  
Ila Jones, Program Administrator  
Mo Madani, Technical Svcs. Manager

**Comment [RJ1]:** Need to insure that minutes are clear that these two commissioners were not in attendance