

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
January 23, 2001**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:30a.m., on Tuesday, January 23, 2001, at the Hyatt Hotel Orlando, Kissimmee, Florida.

BOARD MEMBERS PRESENT:

Raul Rodriguez, Chairman
Suzanne Marshall
Nick D' Andrea
Craig Parrino
Michael McCombs
Ed Carson
Karl Thorne
Leonard Lipka
Sam Walthour
Peggy Harris
Stephen Corn
George Wiggins
Christ Sanidas
Francisco Quintana
Dan Shaw
Steven Bassett

Richard Browdy
Dr. Diana Richardson
Medard Kopzcynski
Jim Mehlretter

BOARD MEMBERS ABSENT:

Bob Leonard
John Calpini

OTHERS PRESENT:

Rick Dixon, Executive Director
Ila Jones, Program Administrator
Suzanne Schmith, Legal Advisor
Jim Richmond, Legal Advisor
Kathy Butler, Legal Advisor
Jeff Blair, FCRC
Doug Murdock, Adjunct Member

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WELCOME, INTRODUCTIONS

Chairman Rodriguez called the meeting to order and briefly discussed the outline and objectives of the meeting.

AGENDA REVIEW AND APPROVAL

Mr. Blair conducted a facilitated review of the agenda. (See *Facilitator's Report Attachment*.)

Mr. Wiggins entered a motion to approve the agenda. Mr. Lipka seconded the motion. Vote was unanimous. Motion carried.

CHAIRMAN RODRIGUEZ RECOGNIZED SHIRLEY COLLINS

Chairman Rodriguez introduced Shirley Collins, the Chief of the Bureau of Mitigation. He explained that the DCA has been rearranged and now falls under this bureau. He asked Ms. Collins if she would like to address the Commission.

Ms. Collins briefly addressed the Commission. She stated that she had attended meetings yesterday and was becoming very involved. She offered her appreciation for the work of the Commission and stated she was here to serve.

Chairman Rodriguez thanked Ms. Collins and stated that the Commission was looking forward to working with her.

REVIEW AND APPROVAL OF DECEMBER 11 & 12, 2000 MEETING MINUTES

Mr. D'Andrea entered a motion for approval of the minutes. Mr. Lipka seconded the motion. Vote was unanimous.

REVIEW AND APPROVAL OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair conducted a facilitated review of the Commission's Updated Workplan, referencing pages 14-19 of the Agenda Packet. (See *Facilitator's Report Attachment*.)

Mr. Shaw stated that he believed that item "R" would require not only the Commission setting up procedures, but also the local municipalities creating boards. He further stated that there would be limited time to work with that. He suggested that perhaps this item should be moved up in the schedule to earlier this year.

Mr. Blair noted that suggestion and stated that he would plan to pick that up at the next meeting.

Mr. Dixon stated that the new boards, which the local jurisdictions have to set up, are countywide boards required for local jurisdictions to implement local amendments. He further stated that those boards are set up by inter-local agreement and the Commission would not set guidelines for them. He continued that establishment of, the conventional local Board of Rules and Appeals which hears appeals of the Building Official's decisions remains a local authority and the Commission does not have the authority to establish criteria for those types of Boards of Appeals either. He explained that on the workplan the reference is to the appeals process the Commission will use when there is an appeal of a local decision directed to the Commission.

Mr. Shaw stated that there are a great number of municipalities that currently do not have a Board of Rules and Appeals. He further stated that, because those municipalities do not have those Boards, they may decide there is a need for one after they understand what the procedure of the Commission is on hearing appeals from those boards. He continued that it would take those municipalities some time to assemble those if they choose to have a Board of Rules and Appeals.

Mr. Blair stated that this issue would be considered further. He continued with the facilitated review of the Updated Workplan.

Mr. Lipka entered a motion to approve the workplan. Mr. D' Andrea seconded the motion.

Mr. Wiggins offered comment that he had prepared a letter to send to all cities in his county regarding the countywide compliance board. He explained that the intent of the letter was to provide awareness that a countywide review board would be necessary in order to adopt local amendments. He stated that the Central Florida Chapter of the Building

Officials Association, his local chapter, had also received the letter. He further stated maybe other counties had used a similar letter. He reported that Ms. Schmith had reviewed the letter for legal sufficiency. He continued that the League of Cities was interested in making the letter available to their cities.

Vote to approve the updated workplan was unanimous.

Mr. Blair continued with a facilitated review of the updated meeting schedule.

Mr. Browdy asked if the April 10th and 11th meeting was on a Tuesday and a Wednesday.

Mr. Blair confirmed that it is a Tuesday and a Wednesday. He stated it was scheduled that way to accommodate a holiday.

Chairman Rodriguez stated that the May 17th and 18th meeting is scheduled for a Thursday and a Friday. He further stated that this was scheduled to coincide with the Building Officials' Conference.

Mr. Lipka entered a motion to approve the meeting and location dates. Mr. Wiggins seconded the motion. Vote was unanimous.

PUBLIC COMMENT

WILL WILLIS, BROWARD COUNTY BOARD OF RULES AND APPEALS

Mr. Willis offered comments on two issues. He stated, regarding the issue of Code Dissemination, that his board has maintained from the beginning that a minimum of five months would be required to allow proper training in preparation of the transition. He requested that the Commission request the legislature to postpone the implementation date of the new Building Code. He offered, for the record, that the Broward Board had voted unanimously to begin negotiations to work with Metro-Dade on a joint product approval system.

RALPH HUGHES, FLORIDA ENGINEERS CONSTRUCTION PRODUCTS CORPORATION, TAMPA, FLORIDA

Mr. Hughes offered comments urging the Commission to complete the task of finalizing the Statewide Product Approval System at this meeting. He suggested the Commission review the unanimously approved document, adjust as necessary, and submit it to the legislature as specific language to be incorporated into law.

WALTER CARSON, SOUTH FLORIDA HOME BUILDERS ASSOCIATION

Mr. Carson stated that Truly Burton had forwarded correspondence to the Commission regarding product approval. He explained that he was here to answer any questions the Commissioners may have relative to that correspondence. He also commented that he would direct caution to Section 16 of the Recommendations for a Statewide System for Product Approval that allows anyone to challenge a product evaluation and approval to the Florida Building Commission. He suggested that item be limited to someone with standing, an effected party or someone with interest in the issue. He continued that to leave it open to any citizen would invite trouble and lawsuits, etc.

JOSEPH R. CRUM, CITY OF PORT ORANGE

Mr. Crum offered comments on the importance of a postponement in the date of implementation of the Florida Building Code. (See *Letter from Joe Crum to Chairman Rodriguez dated January 19, 2001 Attachment.*)

DENNIS BRADDY, ARCHITECTURAL MANUFACTURING ASSOCIATION OF FLORIDA

Mr. Braddy thanked the Education, Plumbing and Structural TAC Committees for their efforts. He offered support of the proposal by BOAF to postpone the implementation of the Code. He stated that although he would like the Code to be effective July 1st, the training issue is important. He stated that he believed that the Commission should have the rule-making authority back and stated that they would support that at a legislative level. He continued that there is still work to be done on the Product Approval System, but stated that he doesn't believe it can be done today. He offered support that the Commission will be able to accomplish the completion of the product Approval System in a timely manner once it has the rule-making authority back and it will put a good

system into effect for the state.

LORRAINE ROSS, FLORIDA BUILDING CODE ALLIANCE

Ms. Ross thanked the Commission for its hard work. She stated that product approval is a very technical topic. She further stated that the chances that any special interest group could explain this system to a state legislator is nearly impossible. She continued, with that in mind, that the Florida Building Code Alliance offers its support to the Commission in its request to get rule-making authority back on this particular topic with the caveat that the consensus positions that are put forward by the Commission to the legislature clearly reflect those consensus positions that were agreed to. She stated that there were some language changes that need to be addressed, but otherwise it is in pretty good shape. She continued that they were committed to working with the Commission throughout the next several months to get this completed. She also offered comment regarding the proposal by BOAF to postpone the implementation date of the Florida Building Code. She suggested that a date be set and stuck with. She stated that she foresees the rule challenges caused a three month loss in this process. She further stated that they would encourage the implementation to January 1, 2002, which would also allow the completion of the Product Approval System during that time.

Chairman Rodriguez stated that he appreciated Ms. Ross and Mr. Braddy's support of the Commission having rule-making authority precisely for the reason that the Commission should be the forum for these discussions and for this consensus rather than the legislature, with all due respect. He agreed with Ms. Ross that it is difficult to explain some of these technical issues even among ourselves, much less to a setting such as legislature with the time restrictions they have.

JOE HETZEL, TECHNICAL DIRECTOR, DOOR AND ACCESS SYSTEMS MANUFACTURERS ASSOCIATION

Mr. Hedsel thanked the Commission members for the consideration of his organization's input during the last two years in the development of the Code and the product approval process. He stated, relative to the delay of implementation of the Code, that they support the delay that has been mentioned. He added that they have prepared some educational seminars and materials concerning their products that would be highly

beneficial to BOAF and others. He stated that they support the delay in the product approval process. He explained that they need time for their members to implement changes in how they do business. He continued that they have reviewed the technical aspects of the documents and concluded, at last week's annual meeting, that they are going to need some time to do this, particularly those who are interested in entering the market here in Florida. He stated that he would request the Commission to give careful consideration to existing approvals and the recognition of those approvals with respect to the implementation of the product approval process. He explained that there should not have to be any unnecessary testing, in other words the manufacturers do not want to have to test twice somewhere along the way.

CARRIE HEBRANK.

Ms. Hebrank stated that in her understanding, regarding product approval, there would be a conceptual plan presented today and that the Commission will be requesting rule-making authority to the legislature. She expressed that she disagreed with some of these other manufacturers, perhaps because she has been working on rules in Florida for some time. She continued that she has seen many times how these rules can differ from the statutory intent or how different the intent of different commissions or task forces may be. She stated that she feels this is a case of the government asking the citizens to just trust them. She further stated that the reason the rule-making authority was stripped from the legislation at the last session was simply because after two years of working with technical committees, too often the work group, especially on product approval, tended to stray from what the statutory guidelines already offered in statutes. She continued that without clear, concise guidelines on the state product approval system that is being promoted, outlined in the statutes, FBMA cannot support cart blanche authority for the Department and the Commission to move forward to draft and adopt a rule on a product approval system that will impact every building material supplier and manufacturer in this state and in the surrounding region. She suggested a compromised position whereby not only would statutory guidelines be placed, following what has already been crafted and agreed to, but also to allow for the rule to come back before the legislature for ratification. She stated there was precedence for this, offering the Florida Wetlands Delineation Rule in 1994 and Rule 9J5, the Growth Management Act as examples. She further stated that with another level, if the rule does stray from what the original intent was and

has adverse impacts to the building supply industry, this would at least allow some modifications of that rule before it became effective statewide.

Chairman Rodriguez thanked Ms. Hebrank for her comments and stated the reason there is public comment is to allow the Commission to hear different opinions. He stressed again how important the Commission feels that the industry should come to the Commission. He stated that if there is going to be a strong Code, there is going to have to be strong Commission. He explained that if the Commission follows her recommendation and continues to go back to the legislation with the rule, it says that the Commission is not to be trusted. He presented that the Commission members are her peers, representative of each and every interest group. He reiterated the importance of public comment, because when a person talks to the Commission they are talking to receptive ears. He stated that, as Ms. Ross had mentioned, the Commission is committed to developing consensus or it would not be here for as long as it has been. He acknowledged that mistakes have been made, possibly resulting from growing pains, and that people may have swayed from statute. He continued that under the current plan, if legislature accepts the outline and returns the rule-making authority to the Commission, the members feel that these issues can be resolved among themselves without worrying who gets the last word to legislature. He repeated that he appreciated and respected Ms. Hebrank's comments and indicated that they would be considered. He expressed that he wanted to address publicly what the Commission believes that is just and in the best public interest. He stated that the members do not serve on the Commission to have sent something sent to legislation just to have it politically defeated and sent back to the Commission. He explained that the members serve here with a certain authority delegated to us, but without the support of the interested parties the Commission could not get its work done. He concluded that for those reasons, the Commission will never fail to listen to the public's suggestions. He encouraged Ms. Hebrank to begin to find a way of doing business other than going to the legislature with political power.

Ms. Hebrank stated that she wanted to add that this suggestion has worked in the past where rules that were developed did go to the legislature and were adopted from that standpoint. She further stated that it is not necessarily a stop-gap measure, which means that it would ultimately fail. She continued that she thought if there was something in

writing today that was reviewed by the members, it would be a different situation.

Chairman Rodriguez stated that it is in writing and that perhaps she felt the way she did because she did not have the material in front of her. He restated that it is available for review and he would personally make sure that she receives a copy of the recommendations.

Ms. Hebrank stated that her membership had not seen it in order to get feedback.

Chairman Rodriguez stated that he appreciated that and perhaps after today she could distribute it to her membership.

Ms. Hebrank stated that regarding the issue of delaying implementation of the Code, she feels that sooner is better than later. She explained that if there is going to be a delay, let's not do it for a year or two years, but do it as quickly as possible.

Mr. Shaw stated that he did not notice any place in the agenda that addresses the delay of implementation. He asked if there would be an opportunity to address that issue, as there was a significant amount of public comment relative to this.

Chairman Rodriguez stated that it is included in a very broad topic called the Chair's Recommendations on Legislative Issues, which is next on the agenda.

CHAIR'S RECOMMENDATIONS ON LEGISLATIVE ISSUES

Chairman Rodriguez stated that the following five topics were included under the Chair's Recommendations:

1. Code Dissemination
2. Implementation Date of the Code
3. Authorization for the Chair to discuss with DCA any funding recommendations and include them in the legislative report
4. Authorization for legal staff to seek statutory modifications needed to implement the Commission's position as implied by Declaratory Statement in December for allowing the issuance of multiple permits

5. Code Transition

Code Dissemination

Chairman Rodriguez stated that he was happy to report after lengthy negotiations, there are agreements established with SBCCI on printing and sales of the Code. He further stated that one of these agreements allows the Florida Building Commission to provide city and county Code enforcement offices with Code Book sets at no cost to the local jurisdictions. He continued this agreement also allows the Florida Building Commission to sell Code books to anyone through DCA at SBCCI membership prices. He reminded that the Commission that this had been a goal that the Commission had given us to seek from SBCCI to sell the Code in Florida to anyone who would need the Code, because it is a public document that people must use. He reported that the Florida Building Code itself is a \$55.00 item and the sub-codes are each \$40.00. He explained that if you buy the entire set the cost would be \$135.00. He continued that, having approved the Code at the meeting in December, the rule was immediately submitted to the legislature's oversight committee, the Joint Administrative Procedures Committee. He stated that JAPC had approved the rule and filed it with the Secretary of State last week.

Chairman Rodriguez stated that under the printing contract with SBCCI, they have 30 days to deliver a print ready copy for staff review. He continued that staff will review it and they believe it will be able to have the first copies of the Code available before the 60 day period, which started with the first 30 days. He estimated this date to be on or before April 1st to have the first Codes out to the building departments. He continued that there would be no loss of time, as the documents will be shipped directly to the individual building departments and will not be distributed through DCA.

Mr. Wiggins asked how many copies of the Code would be distributed to each building department and what is that based on.

Mr. Dixon responded that it has been the Department's policy in the past to provide an average of three Codes to each jurisdiction when the Energy Code and Accessibility Code have been changed. He stated that the actual number depends on the size of the jurisdiction, with some receiving

twenty and some receiving just one.

Mr. Thorne asked when the Code will be available to the public.

Chairman Rodriguez stated that if the goal is achieved of having the first Codes out before 60 days, as soon as the orders are available and filled they will be available to be shipped out to the public. He explained that the public will either have to order directly through SBCCI or through the Commission.

Mr. Shaw offered comments on the ability to have the Code and the concern that the public comment raised on not having it available early enough. He stated that the Plumbing Code has seen no significant changes from Draft III. He continued that he understands that Draft III of the Plumbing Code is available on the Internet, with the capability to download. He suggested that if other Codes are in the same format or in the same position, the Commission could make a statement indicating that the Code on the Internet is usable to start training. He continued that this may resolve the issue, because there is a Code available on the Internet, even though the book is not available. He reiterated that there has been no substantive changes from Draft III of the Plumbing Code that they could not use the Code on the Internet to start their education.

Mr. Dixon stated that the arrangement with SBCCI is that when the final version of the Code is approved by staff, it will replace Draft III on the Internet so people will be able to access the Code through the Internet even before they can obtain a book.

Mr. Bassett asked if the commissioners can receive notification by email when that had been accomplished.

Chairman Rodriguez stated that was a good suggestion and that it could be arranged.

Mr. Shaw stated that this brings up another question. He continued that there would be no difference between the information on the Internet today versus the information that will be on the Internet after SBCCI upgrades the Code, with the exception of small modifications. He again stated there should be no reason that the Internet information should not be usable in its present format.

Mr. Dixon responded that is correct for the Plumbing Code, where there have been no major changes since Draft III. He stated that the other documents have been changed through an ERRATA to Draft III and amendments to the proposed rule. He stated that all the information is there and is accurate, but requires cross referencing several documents. He further stated that it would be easier when the final version, the print version, is available on the Internet.

Mr. Shaw suggested for the aid of the building departments that the Commission should expedite updating the Internet version of the Code in it's format so that it becomes available as quickly as it could be updated so they would have it for use.

Chairman Rodriguez stated that Mr. Dixon would address that.

Mr. Wiggins asked for clarification that the final Building Code product will be available on the Internet.

Mr. Dixon responded that it will be available on the Internet in the same format that the drafts are. He explained that it can be accessed and small portions can be downloaded, but a download of major sections will not be possible.

Ms. Harris asked if there is a cost for that download.

Mr. Dixon replied that there is no cost under the current scheme. He reiterated that it can be accessed, the entire page can be viewed, and small portions of the Code can be downloaded at a time. He further stated that they are still discussing with SBCCI how those kinds of sales mechanisms would work.

Ms. Harris asked for clarification that it would not be usable for the entire training, because it would not all be available yet.

Mr. Dixon stated that it would be available for downloading, but only as a lot of little downloads.

Implementation Date of the Code

Chairman Rodriguez stated that the implementation date of the Code should reflect the amount of time that was spent on resolving the

rule challenges. He reminded the Commission that the legislature did a couple of moves which cost some time. He offered, for example, the air handler issue was sent back to the Commission for resolution, which shifted the Commission's primary focus from education and training to that of completing the Code. He stated that the Commission does not begrudge that, as it is correct to have issues brought back to the Commission to achieve consensus. He reiterated that it did, however, shift the Commission's focus. He also reminded the Commission that the legislature asked the Commission to review modifications to the Code with respect to fiscal impact statements and that also became a time consuming proposition. He stated that he personally recommends that the Commission ask the legislature to delay the implementation date of the Code to October 1, 2001. He explained that he believes that three months is an accurate assessment of the time that was spent doing the homework given by the legislature to the Commission from the other legislative session.

Mr. Sanidas entered a motion to delay the implementation date of the Code to October 1, 2001. Mr. Wiggins seconded the motion.

Mr. Shaw stated that he disagrees with the delay of implementation. He explained that he believes that currently all municipalities are under the 1997 SBCCI Code, which is, in essence, what the Florida Building Code is. He stated that there is only slight modifications from the Florida Building Code to the code that is currently being used in the state. He further stated that these changes are not significantly more than one might expect in any code revision. He continued that significant codes have little change at all over what has been issued out for along time and available for that training. He offered that he did have some concern over the remedial training, whether that would be ready, but he feels the Education TAC will be prepared to present that training within a timely manner that most contractors and design professionals would attend it whenever it was ready. He stated that he did not totally understand what a delay would accomplish versus what is available today.

Chairman Rodriguez stated that he himself would normally be the last person arguing in favor of a delay. He explained again that if the Code is printed on April 1, 2001, and the Code is implemented on July 1, 2001, that would allow three months to adjust. He stated that other issues will be addressed later, such as individuals who have been working on a very complicated building that will be permitted and what impact it may

have to them. He reiterated that he is fundamentally against delays. He contended that he believed that the Commission had done it's work. He stressed that he did not want to give the illusion to those who may want to not ever have this Code that a delay would mean delay after delay after delay. He expressed that he had made this recommendation after some soul searching and after reading letters like the one from Port Orange and BOAF and others. He stated that he was very interested in having this discussion, because it is definitely not a black and white issue. He asked how does the Commission account for the time spent dealing with the rule challenges that delayed the printing, as it would have been accomplished a long time ago had it not been for the delays created while trying to achieve consensus on those issues. He emphasized that he did feel it was appropriate for the Commission to have done that because that is what the Commission is about, being in the business to achieve consensus and this was the proper form.

Mr. Bassett offered that he agreed that he would rather not see a delay in implementation, but feels it needs to happen. He stated that the Plumbing Code is the only code that happens to be close to what is being practiced today. He further stated that the Mechanical Code went to the International Mechanical Code, which has significant differences, offering that the TAC had reviewed 147 pages of these differences in the Mechanical Code. He continued that this does not even take into account what it is going to take in South Florida for those two counties to train their people. He stated that Port Orange and Broward County have both indicated that they would need at least six months to train their people. He further stated that there were more issues involved in this besides the training of the Code officials. He continued that he was serving on a committee in Broward County that is evaluating the Mechanical amendments they may want to make. He stated that these municipalities and governing bodies need to be given the time to go through the process it takes to ensure a smooth adjustment and without delay from when the new Code gets issued and when they can go through the necessary public hearings to adopt the amendments for those provisions they would like to keep on a local basis. He stated that for this reason also, he agreed that the code implementation should be delayed.

Chairman Rodriguez asked Mr. Basset if he was in support of the motion on the floor.

Mr. Bassett responded that he was in support of the motion.

Mr. Quintana stated that he had always expressed a concern relative to the training time allowed and the time that Miami-Dade and Broward County would both need because of the drastic differences in the two codes. He offered support of the delay, but added that he felt more inclined to believe that a more reasonable amount of time for training would be achieved by delaying until January 1, 2001.

Mr. Lipka stated that whatever the Commission chooses to do and whenever it chooses to move there would be a lot of fuss about it. He further stated that the more it is delayed, the more people will complain about it and it becomes more open for challenges. He continued that regarding the implementation, it would not be that on July 1, 2001 everyone changes to the new Code, because things in progress will remain in progress, which means they would fall under the Code which they were designed under. He explained that only the new design projects coming in will go to the new Code. He emphasized that it would not be like a window shutting down on it. He stated that he agreed with Mr. Shaw that whenever it is determined to be done, it will be, and maybe the best thing is to just do it and struggle through it the best way possible. He further stated that he is hesitant about putting it off, because new problems come up all the time and he dislikes the idea of going to the legislature and stating that the Commission could not do what it intended and it is the legislature's fault. He concluded by stating that the Commission should just consider what three months will really accomplish.

Chairman Rodriguez responded that Mr. Lipka's comments were heard and that the Commission will be talking about Code Transition and getting some rule-making authority for that. He reminded the Commission that the motion on the floor is only for three months and it is not to blame the legislature, but to allow for the time spent in resolving those rule challenges and gaining consensus, which delayed printing, to be added back in to this process.

Mr. Lipka stated that he would not be totally against it.

Chairman Rodriguez stated that it did not mean that the Commission blames the legislature.

Mr. Lipka stated that the point he was making was that the

Commission would have to go to the legislature stating that it could not do it's job and he was not crazy about that.

Chairman Rodriguez responded that the Commission had to spend the required time in order to do it.

Mr. Lipka reiterated that he felt that sometimes a line has to be drawn.

Mr. Browdy stated that he would like to speak against the motion. He further stated that in his opinion Draft III is far more sufficient for design professionals to commence the design of structures to be compliant with the Florida Building Code. He added that continual talk of delay does more to damage the credibility of the Commission and confuse the citizens of Florida regarding their design options. He explained that for those who market houses, which to a great extent are the majority of the permits pulled in the state of Florida, the Code is a very significant aspect of that marketing ability. He stated that he believed the implementation date is critical to maintain in order to move forward progressively with a better built house, in a fashion that does not undermine the Commission's credibility. He stated that it is his understanding that there are certain legislators who are being asked by certain counties already to propose legislation that would circumvent the Commission's authority to do it's work. He further stated that he would think that if implementation of the Code is delayed at this point that the Commission will be even more vulnerable to those types of legislative initiatives. He continued that the true test of the Commission's work product and it's effectiveness will really only occur after it is implemented and only then will it be possible to truly test the work product and correct the glitches and the problems as result of actually having the Code in practice and the design professionals actually working with them. He stated that he was also concerned that a legislative delay would make the Code vulnerable to legislative challenges and would open up hearings again as a result of the implementation delay. He did offer that he would rely on Council for that determination. He concluded that would be an issue in itself that would move him to vote against a delay and he urged his fellow Commissioners to move forward with the implementation date of July 1, 2001.

Chairman Rodriguez restated that he finds himself in the unusual role in asking for a delay, but he does believe the Commission's role is to

seek consensus. He continued that he believes there had been some very credible arguments made particularly in the training time. He stated that he also heard Mr. Quintana state that he felt no one would argue, but the people who will probably do the most training for reasons that have already been stated, major differences are not with the Standard Building Code, but with the South Florida Building Code. He noted that many people have argued for the six months and if the Code is available by April 1, 2001, there will be six months available for training until October 1, 2001. He repeated that the Commission is here to discuss this, that he hears the member's concerns, and that he is reluctant to ask for delays. He commented that the Commission is always vulnerable, but the Commission's vulnerability is in direct proportion only to how much support it gets from the people out there. He commented that there have been several that have offered their support and the ones who cannot yet will be able to take this back to their constituencies and find it in their best interest to support the Commission. He continued that it would strengthen the Commission that it is the one asking for this and not an uprising of the people against the Commission, because it is being insensitive to the training and other issues.

Mr. Kopzcynski stated that he did have some comments, but he does not believe that he could add or detract from the comments made by Mr. Browdy or Chairman Rodriguez, as they are both very well reasoned illustrations of the issues and the position of the Commission. He continued that he believed the Commission has an extremely difficult decision to make. He stated that he was torn, as the other Commissioners may will be in not wanting to see any delay in the implementation of the Code, but in also realizing that there are potentially good, legitimate reasons for some delay.

Mr. Murdock stated that all of the members probably have concerns in delaying the implementation of the Code. He further stated that Mr. Browdy very eloquently expressed a lot of the issues that would concern a lot of people out there. He continued that he felt for the Code to be a success, which is the Commission's ultimate goal, it will be the acceptance by the regulatory agencies and the industries involved. He stated that directly related to that acceptance is training. He further stated that in order for the Commission to get the training out there, time is needed to ensure that everyone that needs to be reached is reached in the regulatory industry, including the design professionals and the contractors. He offered his support of the October 1, 2001

implementation date.

Mr. Corn stated that this discussion reminded him of the first time the country put into effect the auto emission's laws. He explained that all of the businesses said they could never do it. He stated that the Code is on the net and people can find the latest version, which is very close to what is going to be adopted. He further stated that there are many problems in the Code as written, because nobody could possibly write a Code without problems and without needing corrections. He continued that the Commission will be spending the next one to two years making the corrections and then it will be an ongoing process. He expressed that he feels the sooner it gets started, the sooner the problems will be found and the sooner they can be corrected. He acknowledged, on the other hand, that it takes time to set up training programs. He suggested maybe a compromise to one and a half months and move this on.

Chairman Rodriguez responded that the October 1st date is in itself a compromise, not based on cutting the time in half, but on the minimum time that is felt necessary for training, which is based on April 1st to October 1st 2001.

Mr. Shaw stated that on an issue as important as this, a unanimous decision should be sent to the legislature. He suggested a straw poll to determine what the nature of the Commission is and then make some decisions.

Mr. Parrino stated that the Commission might be better served by determining if it wanted to or did not want to delay. He added that if it was the will of the Commission to delay, then it could discuss the time of the delay.

Mr. Shaw stated that his intent was that if it was the position of the balance of the Commission, he would rather support the motion and send a unanimous signal to the legislature rather than deny, but he was not sure that would be the nature of the vote if it were taken at this moment. He further stated that a straw poll would give him an indication of how he should vote in case if the motion comes to the floor.

Chairman Rodriguez called for straw poll on the motion that is on the floor for a three month delay in implementation.

Straw poll vote on the delay of implementation for three months resulted in 18 in favor, 4 opposed (Browdy, Lipka, Harris, Shaw).

Ms. Harris stated that she had a concern that for the past year the Commission has been discussing the July 1st implementation date, which is the beginning of hurricane season for Florida. She further stated that October is the heat of that season and she questioned if the Commission was going to put it's chances in the education of this new Code, with the possibility of lives lost if there is a major catastrophe.

Chairman Rodriguez responded that the whole issue of the Florida Building Code is to protect lives and that is what the Commission is here to do. He stated that what is being discussed is the ability of the Commission to properly disseminate the Code and have people trained in order to enforce this Code.

Mr. Quintana stated that the question he had was answered.

Mr. Sanidas stated that he was torn about this. He explained that he would like the Code to go into effect as soon as possible, because it will help his county, which is well educated in construction and experience and does not need six months to make the transition. He continued that he understood there to be other areas throughout the state which have not been enforcing the Code and it will take them a while to learn what the Code is. He stated the reason that he would support the delay in implementation is because he feels that these other counties should be given a little more time to get caught up.

Mr. D' Andrea offered an observation that he hears the Commissioners talking about taking the draft form and working from that. He reminded the Commission that three years ago when the International Building Code was discussed, the Commission decided not to do it because it was in a draft form. He expressed a concern that in order to do it right now, although he would like to have it go into effect July 1st, it would mean taking the final drafts of all of these documents and getting them out to everyone that needs to start their education today, in order to have enough time to do this. He continued that the logistics of giving them the Third Draft of all of the Codes and then at some point in the future, taking away that Third Draft and replacing it with the Florida Building Code, is absolutely unbelievable. He stated that he would rather delay it and have everyone working from the final document. He stated

that the perception of trying to do this with the Draft Code is counter to what the Commission is trying to do.

Mr. Mc Combs stated that he would like to be on the record as stating that for the first time in fifty years, the amendments with the Electrical Code will be done away with. He stated that he would love to see the Code go into effect tomorrow, because it will save money for the people of Florida. He continued that for home and business owners who have been plagued for years by these amendments to the Code, he would like to see it go into effect on July 1st as planned. He asserted that with the need for the inspectors to be schooled on it , he would be willing to vote for the delay of three months.

Vote in support of the delay of implementation date for three months to October 1st was unanimous. Motion carried.

Chairman Rodriguez thanked the Commission. He stated that he was aware this was a difficult moment for the Commission, but in the interest of consensus and fairness, he believes it has done the right thing.

Mr. Bassett suggested that in order to speed the training process, it would be beneficial for the building departments to receive a CD immediately after the final print copy is approved and then receive the print copy three weeks later.

Mr. Dixon stated that those would be distributed to the building departments as quickly as possible. He further stated that it was their intention to send CD's as well as Code books, but there may be some delay because SBCCI has the Code put into a format that includes a search engine integral to the Code and they go to an outside contractor for development. He continued that it would take some time for that product to be developed.

Chairman Rodriguez added that it was a point well taken and that it would be pursued, because they do not do the CD themselves.

Mr. Bassett stated that even if the building department does not receive it's final copy with the CD with the search engine, it would be advantageous just to receive the CD.

Authorization of the Chair to Discuss with the DCA any Funding Recommendations and Include Them in the Report to the Legislature

Mr. D' Andrea entered a motion to approve the Chair's recommendation. Mr. Wiggins seconded the motion.

Mr. Dixon stated that there are a number of items that will need funding for next year, as the product approval system goes through and is initiated. He explained that there is funding required for it's implementation given the final recommendations of the Commission. He also stated that there have been inquiries about how the education program will be funded. He continued that DCA has asked that the Commission delegate one of it's members, the Chairman, to have those discussions with the DCA and make the decisions necessary for program supplementation next fiscal year.

Mr. Wiggins asked if there was a framework or guidelines set for these discussions on funding, such as a list of options from which they will draw or is it wide open.

Mr. Dixon explained that the state budgeting process had the Department put together it's legislative budget request for the fiscal year starting July 1, 2001 running through June 30, 2002. He stated that the budget request before the legislature today reflects the basis of knowledge and understanding of the programs almost one year ago. He further stated that to implement the programs in the next fiscal year, there will have to be some adjustments. He continued that at this point in time there is one small opportunity to amend the legislative budget request, but otherwise the Department will have to work with the existing funds and allocate those to the different programs as best as it can. He stated that this just has to be worked out with the Chairman, as there is not really a set of options that they will be working with.

Mr. Wiggins asked if this would include the types of things such as the one cent per square foot sir charge on permits as a funding source.

Mr. Dixon responded that the general guidance he could give the Commission is that this is not the appropriate time to request the legislature levy more taxes or implement changes to that fee. He stated that there are other funding avenues. He offered for example, that the law

requires the education program be self sufficient. How that is accomplished, what the mechanisms are and, how fees are collected needs to be determined. He explained that the Commission has authority to charge a fee for review of rational analysis for product approval, but no specific authority for fees for the accrediting evaluation entities, testing laboratories, etc. that are to be accredited under the program that has been adopted by the Commission. He stated that there are some things that will need to be done legislatively to request authorities, if those programs are to be supported from fees.

Chairman Rodriguez stated that because of the Commission's schedule, it will not meet again. He stated that frankly he would have rather it not have to be him who has to be the one doing it. He offered that they will keep the Commission informed. He explained that the inclusion of it into the report and the timing of that is what makes it difficult.

Vote in support of the Chair's recommendation for authority to discuss funding recommendations with DCA and include them in the report to the legislature was unanimous. Motion carried.

Authorization of Legal Staff to Seek Statutory Modifications Needed to Implement the Commission's Position on Allowing Issuance of Multiple Permits

Chairman Rodriguez stated that there had been quite a number of inquiries relative to foundation permits, for example. He explained that the Commission is being asked to give legal staff the authority to seek statutory modifications that would give them the authority to make adjustments to that as necessary.

Mr. Bassett stated that a question that had come to him last month was if any local jurisdiction can do local amendments as long as there is a county Board of Rules and Appeals or will it be local amendments that apply to the jurisdiction of that county board completely. He offered the example that in Broward County, the cities cannot make local amendments, only the Board of Rules and Appeals can make local amendments. He further asked how that would be throughout the state.

Mr. Dixon stated that he was not exactly sure how Broward County's charter effects the ability of the municipalities after this general law goes into effect. He further stated that for the rest of the state, each

municipality will be able to make amendments for their municipality and it does not have to have county-wide approval.

Mr. D' Andrea entered a motion to support the Chair's recommendation to authorize legal staff to seek Statutory Modifications. Mr. Lipka seconded the motion. Vote was unanimous. Motion carried.

Code Transition

Chairman Rodriguez stated that the Florida Building Commission would be seeking rule-making authority to be able to resolve and decide on Code Transition issues. He offered the example, that has been brought to many of the Commissioners, of designers who may be already beginning major projects that are likely to fall under this Code, but they do not have the document to be able to design to that. He deferred to Ms. Schmith for an explanation. He stated that he believed the rule was that it depended on when the contract for the architect was signed, and that was one way to deal with this issue or those similar.

Ms. Schmith stated that the issue that has been raised is that on July 1st what happens to all the plans that are in plans review, but permits have not been issued at that point and now the Code changes. She further stated that the statute, passed by the legislature in 1998, did not address that. She continued that it is her legal opinion that since the law did not address it, then common law applies. She explained that a permit must be in-hand and in some cases, a permit in hand with construction underway, or it would be necessary for those individuals to start all over again under the new Building Code. She stated that this was just common law vesting issues. She mentioned that she had raised the issue at the League of Cities meeting over the summer in hopes that someone industry would come to the Commission with some sort of proposal or legislative initiative, but no one has. She expressed that the fear would be that the local governments will make this determination on their own according to their attorneys' interpretation, which results with industry being treated differently by each local government. She proposed that the legislature address it so that it would be dealt with uniformly throughout Florida. She stated that it is appropriate that this body discuss and determine if the request should be made to legislature to do that, but it might be best left to industry since they have not come forward.

Mr. Browdy stated that his recollection of the administrative section

of the Florida Building Code is that there is a date of receipt of the plans to the effective Code that should be in force when the plans are received by the building official. He continued that it would be up to the building official to determine the sufficiency of the submittal, which would ensure that people could not just bring an insufficient submittal to establish the date of Code governance. He stated that he thought it had been made clear in the Building Code exactly what that code would be. He referenced Section 104.1.5 of the Florida Building Code.

Chairman Rodriguez explained that what the Commission is asking is for the authority to make decisions that relate to transition. He stated that the Commission need not anticipate every one, which would be difficult to do.

Ms. Schmith stated that the section that Mr. Browdy just read from the Code is the way that the Administrative Ad Hoc and the Commission dealt with this issue for future changes or additions to the Florida Building Code. She explained that the issue being discussed is the transition from the existing minimum codes to the Florida Building Code, which is not covered by the Florida Building Code itself.

Mr. Bassett reported that in Broward County it has always been that when a set of plans is turned in, the current Code is the one that would apply and plans that were already turned in were not turned back. He explained that the South Florida Building Code is revised every two years and there was a tremendous revision after Hurricane Andrew and it did not require a delay in implementation. He continued that the only people it will really affect people who have only been doing school board work who are under the premise of SREF at the time of the Commission and it was not a concern how many times it changed after that, because they stayed the same. He stated that the big discussion in Broward County is if a lot of applications are going to be submitted the day before the Code goes into effect or will they be held until the day after the Code becomes effective, because a lot of people think that unless Broward is making a lot of changes in their local amendments the new Code will be a lot less stringent in a lot of areas and some individuals would want to delay their applications and submit them after the new Code is in effect.

Chairman Rodriguez reiterated that the Commission cannot anticipate all the moves and all that is being asked by this motion is authority to deal with transition issues.

Mr. Bassett asked if there would be time for rule-making after the legislative session.

Mr. Dixon stated that this issue is already addressed in the rule for future updates to the Code. The problem is the law's not clear that what we have in rule can be the first time around or only in subsequent updates to the Code. He further stated that if the legislature gives the Commission clear authority for the initial implementation of the code, the rule is already in place. the rule is already in place.

Mr. Bassett stated that the rule is in effect in most counties already, at least in Broward it is in effect, so there would be no change going to the new Code.

Mr. D' Andrea entered a motion that legal staff seek rule-making authority to handle transition issues. Mr. Wiggins seconded the motion.

Mr. Quintana mentioned that in Miami-Dade County, they use the date of application to determine which Code applies whenever there is a change. He stated only once there was a date of permit issuance, due to an impact fee, and it created a lot of problems.

Mr. Kopzcynski stated that he did not know if he could add or detract from the comments already made. He stated that he had been caught flatfooted on an impact fee ordinance, as Mr. Quintana mentioned, and it did create absolute havoc and chaos for the city of Tallahassee where every builder in town was in trying to make that application date before it went into effect. He continued that it was framed as a permit in-hand application date.

Ms. Marshall recommended that not only does the Commission ask for authority, but also a recommendation to the legislature, because it will come up with anything if the Commission does not have a recommendation. She encouraged the Commission to look at the size, the complexity, and the locations, because Orange County may be ready to go right now, but in South Florida the changes will be significant.

Mr. Thorne asked what happens after construction contracts have been signed after the date of the Code implementation.

Chairman Rodriguez stated that based on past instances, it has

been the date the permit is applied that determines which Code would be applied.

Mr. Quintana noted that in Palm Beach County it is stated that if a construction contract is signed after July 1st, the requirements of the new Code must be met, even though the design contract was signed prior to that date.

Chairman Rodriguez stated that it is not necessary to discuss these specifics. He repeated that all that should be discussed is whether to ask legal staff to seek authority for the Commission.

Vote to approve legal staff seeking authority for the Commission to handle transition issues resulted in 18 in favor, 1 opposed (Bassett). Motion carried.

REVIEW PRODUCT APPROVAL SYSTEM RECOMMENDATIONS

AND APPROVE SUBMITTAL TO THE FLORIDA LEGISLATURE

Chairman Rodriguez reminded the Commission that it had adopted a final package of recommendations reflecting the key conceptual elements for inclusion in our product approval system recommendations to submit to the 2001 legislature. He further stated that this culminated with a request to reinstate the Commission's rule-making authority, in order to implement these recommendations. He explained that what would be done today is the review of the system recommendations to the legislature to ensure that they are consistent with a consensus based concepts that were approved by the Commission in December. He continued that after the review for consistency only, a motion would be requested to approve the dissemination of the recommendations in the Commission's report to the legislature. He stated that the Commission would not be reconsidering any substantive issues or making any refinements except to clarify the intent of the concepts that have already been agreed upon. He further stated that at the meeting in December, the Commission emphasized that it only wanted to convey the key system concepts to the legislature and refine the details in the rule-making process. He continued that it is important to submit these recommendations in an understandable format and not as a finalized technical document. He added that the recommendations included several requests for authority and statutory changes from the legislature,

which will also be reviewed for consistency with the Commission's intent. He stressed that the best strategy for the Commission is to request that the legislature endorse the key concepts of the recommendations and to authorize the Commission to implement the specifics of the system utilizing its consensus building process and to adopt the final system by administrative rule. He noted that it is anticipated that the Product Approval Ad Hoc Committee will reconvene in March and that it will work with stakeholders in a consensus building process to finalize the specifics for inclusion in a final system document that will be adopted by administrative rule. He stated that the Ad Hoc Committee will utilize the document that has been approved and amended as a template and refine the issues that have already been identified as needing additional consensus building. He further stated that the commitment of the Commission is to address all of the unresolved issues and reach a consensus to the greatest extent possible. He explained that the process will remain open and participatory prior to proceeding with the rule adoption and recommendations will be offered in terms of options to resolve differences that to the greatest extent possible address the concerns of Commissioners and stakeholders.

Mr. Lipka entered a motion to approve the Review of the Product Approval System recommendations. Mr. D' Andrea seconded the motion. Vote was unanimous. Motion carried.

Mr. Blair conducted a facilitated review of the recommendations of the Product Approval System referencing pages 7-13 in the Commission Draft Review. (See *Facilitator's Report and Commission Review Draft Attachments*.)

Mr. Dixon stated that what has been laid out in the report to the legislature is a narrative summary of the framework and structure of the product approval system that they adopted as law in 1998 and the implementation strategies that the Commission adopted as of the December 2000 meeting. He explained that there was very little change that would be required to the statute in order to implement those strategies, though there would be some. He further stated that the recommendation is that legal staff determine necessary changes in the bill and prepare for the Legislature. He reemphasized that there should be very little necessary changes to statute, because most of the authorities are already there. He continued that what the Commission is recommending is an implementation strategy of how the system that is in

law will be put into place. He stated that the major agreement that was reached at the last meeting was the compromise on both a local and a statewide approval approach are somewhat different. He explained that the local approval approach is as recommended by BOAF and the industry group that worked with BOAF. He continued that this local approval process that the Commission had reviewed at earlier meetings was not changed. He stated that the full range of product validation and approval options that the local jurisdictions, outside of Dade and Broward counties, have currently will continue to be available to them to approve products on a local basis. He further stated, that products or materials that have prescriptive requirements in the Code can be approved through the plans review and inspection process. He continued that products for which the Code establishes performance standards, such as reference standards for testing and evaluating the product would be subjected to an evaluation by an approved evaluation entity. He stated that the evaluation may be based on testing if there is a standardized test referenced by the Code, by rational analysis where there is not a specified testing procedure, or a combination of both. He further stated that the third approach is for new and emerging technology which is addressed by alternate methods and materials under Chapter One of the Code. He continued that for those types of materials there is an implicit requirement under the Code if they are part of a building system for which there is a performance standard for that system. However, there is no standardized methodology for evaluating them. He explained that the engineering company that does the evaluation has to fabricate an analysis method. He stated that all of these options currently exist for local jurisdictions and will continue under the recommendation to have those options in the future for local approval only.

Mr. Dixon stated that separately a state approval approach was developed at the last meeting. He recounted that the Commission said that all products have to be approved just like they do under current codes and six product categories would have an option of coming to the state for statewide approval. He stated that the methods for evaluation of the product for compliance with the Code's requirements were limited to just Method 2 and method 3, because the state will not do plans review or inspections on buildings. He emphasized that Method One would only be applied to local approval of products. He continued that the two methods left are evaluations done by an approved evaluation entities, testing entities, and certification agencies. He stated that the validation approach that is adopted for the state system has different

recommendations than those required at the local level. He explained that at the local level the jurisdiction has a checklist of items that have to be reviewed to determine if the documentation is correct. The local official must determine if an approved method has been used for evaluating the product, if a product has been recalled or rescinded, if an evaluation report has been validated or rescinded, and as well as determine if the product is being used according to the conditions of approval as established by the evaluation report. He stated that under the state approval system, it is not going to inspect whether a product is being used according to conditions of use or not. The local official will be responsible for that. He specified that in the state system there is a certification to the Commission that the product is in compliance with the Code. He stated that certification is based on the evaluation reports that have been validated by an approved validation entity. He explained that the intent is that there is not another technical review at the state level, because there is not a staff of engineers at DCA that reviews evaluation reports to determine if those reports are correct. He stated that it would rely on validation entities who will certify to the Commission and take responsibility for making the statement that a product is in compliance.

Mr. Dixon stated that those are the basic differences between state and local approval processes and the heart of the compromise leading to the consensus that was developed at the last meeting. He continued that the narrative report captures this ----- system. He presented that on page 7 is a bulleted summary of the recommendations for implementation, page 8 has an overview of the system as it is currently established by law, and pages 10 and 11 describe the local approval versus the state approval approaches. He stated that this is based on the best interpretation that staff could make of the documentation of what the Chairman's amendments one and two were. He continued that the other changes that were voted on were the specific Commissioner amendments to the amendatory text that have also been integrated in this text. He stated that staff feels the narrative summary is the best method of conveying the information to the legislature in an understandable form. It is better than sending a technical document, such as the amendatory text, to the legislature to try to interpret. He continued that the recommendation from staff to the Chairman, which has been put forward to the Commission, is that this summary of the system be given to the legislature and if there are modifications that need to be made to it because something was not captured correctly, then those changes would be made to this narrative text to convey the concept to the legislature. He advised

the Commission will continue to work on administrative rules and further refinement of the details of the system. He noted that the amendatory text is laid out in rule format. He stated that the amendatory text could be used for the basis of the Commission's rules. He repeated that should be accomplished with the report is to capture the concepts and relay those to the legislature so they will understand how the system established in 553.842 will be implemented.

Mr. Blair continued with a facilitated review of the product approval system recommendations. (See *Facilitator's Report and Commission Draft Review Attachments*.)

Mr. Parrino stated that last month the Commission was presented with an amendatory draft of the product approval system, which was the BOAF proposal. He further stated that the Commission amended it and adopted it by a unanimous vote. He continued that the reason the vote was unanimous was because there was a lot of compromising from many parties including himself. He expressed that he was disturbed when he found out that staff was not going to update the BOAF document for the amendments that were adopted last month. He stated for that reason, he printed it himself and distributed it. He reported that he was glad to see a copy of it on the table when he arrived today and there was also an updated condensed copy on the table today. He admitted that the copy that he distributed was wordy and it was for the reason he did not feel it should be condensed. He stated that looking at the document, he feels that the Commission should send this document to the legislature after it is reviewed today. He further stated that he believes it is a good document which would enhance the completion of this product approval system.

Chairman Rodriguez stated that the rationale is that if that document is sent, it would then be written into the statute or worse, changed and then written into the statute. He reiterated the strategy is to send the format and then ask for rule-making authority so that both the authority and the responsibility rests with the Commission.

Mr. Parrino stated that he was not asking to send this to the legislature to have them adopt it into the law, but feels that when the report is submitted to the legislature it is less likely to receive tinkering from lobbyists of the key concepts. He continued that by sending just the key concepts, one strike of one sentence could make a big difference for

the Commission as it goes back to address this revised text.

Chairman Rodriguez stated that he understood Mr. Parrino's position. He stated that it is only a question because who knows. He clarified that the question, is in sending this, is it less or more likely to receive the tinkering.

Mr. Parrino responded that sword cuts both ways.

Mr. Wiggins referenced page 7, under the Summary of Commission recommendations for Product Approval, bullet number 2, "Provide the option for six categories of products to be approved by the state initially". He asked if it was appropriate to have the word "initially" in there since it will be an ongoing process.

Mr. Dixon responded that the intent is that the Commission is not saying that only six products would have the option to come to the state forever. He stated that just at the start of this program those six products would be the ones the Commission started with, leaving the door open for others if the Commission decided to include them in the future.

Mr. Quintana asked for clarification that the six products that compose the building envelope would require some sort of approval either from the state or the local jurisdiction. He also asked if those six products would have to comply with either Method 2 or Method 3 and if both of those methods involve validation. He asked if those products would never be able to be approved under the BOAF proposal.

Mr. Dixon responded that he believes there is some confusion on a proposal, that was before the Commission prior to the last meeting which was rejected, stating that if a local jurisdiction approved a product, then it could be recognized by other jurisdictions. He restated that this approach was not approved at the last meeting and stated that the only way for a manufacturer to obtain statewide approval was to come to the state and have a state approved validation entity validate the evaluation report.

Mr. Wiggins referenced page 8, third bullet from the top, "Make the effective date for full implementation of the new system two years from the implementation date of the Building Code". He asked for clarification on how that fits with some of the new Code requirements, such as shingle

requirements or roofing requirements. He questioned if those groups could still keep using the non-Code compliant shingles for another two years or how would that interface.

Mr. Dixon stated that was proposed by Commissioner Parrino as an alternative way to grandfather products for two years. He continued that the initial proposal made for the state system was that all products that are currently approved continue to be approved for a two year period. He stated that staff recommended that this was probably not a good approach because it would conflict with the Code. He further stated that if that is what the Commission wants to do, the Code needs to be amended to say that changed standards do not go into effect for two years, rather than to say that products that do not meet the new standards continue to be recognized. He continued that staff's understanding is the Commission approved the recommendations to the legislature a delay of implementation of the system for two years.

Mr. Bassett stated that his understanding was that there still had to be products that complied with the Code itself when it goes into effect. He further stated that the only issue being discussed is how that approval is arrived at for those products. He continued that if the product is a 110mph shingle, it cannot be used in a 130mph wind zone. He stated that it just indicating that it will take two years to go through the process of having the product tested currently accordingly to whatever new standards and procedures that are set and by the agencies that have been approved. He contended that it still had to meet the design criteria.

Mr. Browdy stated that he had a concern that deals specifically with the language in the narrative that states, on page 13, second paragraph, that "anyone can request that the Commission investigate products that are approved based on findings of failure to conform to specifications. He stated that he believes this to be somewhat misleading, if it is the intent of the Commission to allow anyone to cause it to establish an investigation of a particular product just because they challenge it for whatever reason. He continued that he believes it would set up a bureaucracy in Tallahassee. He suggested that perhaps it could state that anyone could request an investigation, but the Commission is not obligated to grant one. He stated that his concern is the language could set the Commission up for vulnerability to responsibilities that are going to be problematic to both the manufacturers, who may find challenges from competitors for market reasons, and for the citizens of the state of

Florida, who would believe that all they have to do is challenge the validity of the performance standard of that product and the state of Florida will hop to an investigation as to the validity of that challenge.

Mr. Mehlretter stated that he had a few comments. He further stated that no where in this summary does it state that the Commission is establishing a uniform product approval system. He continued that if the Commission is trying to communicate to the legislature in an executive type forum this statement needs to be made. He suggested that a bullet be inserted above the others under the Summary of the Commission Recommendations for Product Approval that states "The Commission is establishing a uniform product approval system that will be used throughout the state of Florida".

Mr. Blair stated that since Mr. Mehlretter offered a clarification of what was already in place, he would request that if the Commissioners were in agreement that should be added for clarification.

Mr. Browdy stated that it was his understanding that the Commission was not establishing a product approval system. He presented his understanding was that a product approval method to obtain state approval was being established.

Mr. Dixon stated that the system addresses both how the local and the state approval systems would work. He further stated that it goes beyond just stating how state approval can be obtained if someone is seeking that type of approval. He continued that it actually says to the local jurisdiction that all products are required to be approved and here are the processes that are allowed to us to approve them. He concluded that it imposes a uniform statewide system on the local jurisdictions as well as the state.

Mr. Blair called the vote to approve the clarifying statement be added in the narrative text. Vote was unanimous. Motion carried.

Mr. Mehlretter referenced the second bullet under that summary which reads "provide the option for six categories of products to be approved by the state initially". He stated that what is really being established is a voluntary program for those six and he was not sure if the word voluntary or option should be used.

Mr. Blair offered the addition of the words “based on a voluntary basis” to clarify the intent of that statement.

Mr. Mehlretter agreed that would be more clear. He then referenced the third bullet that reads, “Retain authority to approve additional products as experience with the system develops”. He stated that it needs to be made clear that the authority will be retained at the state level, not the local level, because this really only deals with products at the state level.

Mr. Blair offered the addition of “State authorities approve initial products for the state approval”.

Mr. Mehlretter interjected indicating that the addition need only be “at the state level” to be inserted after products.

Mr. Blair called for a vote to support the clarifying adjustments Mr. Mehlretter proposed.

Ms. Marshall stated that the word “voluntary” under the second bullet, makes it a little confusing, because it is always voluntary. She continued that if a manufacturer does not want statewide approval, do not submit it.

Mr. Dixon stated that he understood the point of confusion with the word voluntary which is why the term option was used. He concluded that staff would rewrite these to make them more clear that the state approval is voluntary, but clearly they have to be approved in one place or the other.

Mr. Mehlretter stated that was all he was trying to say.

Vote to approve the clarifying adjustments proposed by Mr. Mehlretter was unanimous. Motion carried.

Mr. Parrino referenced page 9, third bullet from the bottom. He stated that the Commission agreed that it would be approving quality assurance programs. He stated that the Commission has discussed taking this wording out this system, because all products have to be under a quality assurance program the Commission will approve.

Mr. Dixon offered clarification that this section just describes what is currently in law. He stated that in a later section it does state that all products have to be quality assured.

Mr. Parrino asked what will be done regarding products approved prior to the effective date of the Code. He stated that there are some problems with that language because a lot of these evaluation reports do not come from an entity that certifies or approves products. He also questions the need for this if there will be a delayed implementation date of this system for two years. He stated that his intent for the two year delay was that all manufacturers would be on the same playing field and have to equally comply with this system.

Mr. Dixon responded that it was not staff's understanding that there was any change or that there was to be any change. He stated that what was captured in the facilitators charts certainly did not reflect that. He further stated that if two years is given without recognizing evaluation reports for products that were done during that two year time frame, it would force all manufacturers to go back through reevaluation to get their reports updated. He continued that he did not believe that some of the industry groups that he heard express their opinions agreed with that.

Mr. Parrino stated that all evaluation reports would have to be updated within a two-year cycle anyway. He further stated that what the Commission is doing here is labeling an approved product on a product that has not been validated by any building jurisdiction. He continued that he did not think that was right, because he feels that all products should be made to comply with this system, which would require a look at the evaluation report.

Mr. Dixon apologized that they did not realize Mr. Parrino's intent. He stated that this issue is a significant one that would still need to be debated to gain consensus on because it was not something that was specifically discussed by the different groups at the last meeting.

Mr. Quintana referenced the Statewide System for Product Approval, dated January 11, 2001, page 5, sixth paragraph, which starts "Approval shall be by the local or state building official for use in". He asked if that shall be approved by the state or the local jurisdiction.

Mr. Blair clarified that this document was not being reviewed and discussed.

Mr. Browdy referenced page 7, section B. He suggested that the Commission include in the submittal that the Florida Building Commission would provide a submittal process that ensures that applications would be processed in a timely manner. He stated that the law provided additional specifics, for instance must appropriately promote innovation and new technologies and must ensure that applications for product approval are processed in a timely manner. He expressed his concern that if new technology is out there and available that can either save lives or save money, sometimes both, that there not be a lengthy process. He felt it was important to submit with the report to the legislature that the Commission is interested in having an effective expedited process for product approval.

Vote in support Mr. Browdy's proposal was unanimous. Motion carried.

Mr. Mehlretter referenced page 9 and stated that the fourth bullet down should not be there. He also stated that the fifth bullet down seems a little wordy. He suggested that be rewritten to made more clear.

Chairman Rodriguez asked Mr. Mehlretter if he had any problem with the intent.

Mr. Mehlretter stated that the intent is there. He continued by referencing page 10, under Local Approval. He stated that the second line includes the word "listed", but he believes that the word "used" should be there. He referenced page 11, under State Approval, the first sentence uses the word "half" and he is not clear on that meaning.

Mr. Dixon stated that the intent was to clarify the requirements of the law. He continued that if there is state approval , the state has approved the documentation, but the building official still has to approve the use of the product based on the conditions or limitations in that documentation. He stated that the total approval process of a product used in a building incorporates both the state approval of the product, as well as the building official determining if it is being used consistent with the conditions of the approval.

Mr. Corn stated that this is covered by the third bullet on page 9.

Mr. Dixon stated that was correct. He added that page 9 is a description of the current system and that page 11 is the implementation strategy for that system.

Mr. Corn commented that it was the same idea.

Mr. Dixon confirmed that it was.

Chairman Rodriguez asked if the Commissioners agreed on changing that so it is clear that both approvals are required.

Vote to approve the proposals for clarification by Mr. Mehlretter was unanimous. Motion carried.

Mr. Mehlretter referenced page 13, first paragraph after the bullet that starts "State approval will be valid until such time as the code requirements change.....". He asked if that should read "State approval and local approval". He stated the intent is that both approvals would be valid until the Code changes.

Mr. Blair requested clarification that he suggested that the words "and local approval" should be inserted after approval.

Mr. Mehlretter stated that was correct as he believes that is the intent of the Commission.

Mr. Dixon stated that was in the BOAF proposal with the same criteria.

Ms. Marshall stated that she would not say all, she would say state and local.

Vote in support of that adjustment was unanimous. Motion carried.

Mr. Mehlretter stated that he felt that the dates that were set forth in this document agree with the dates that were just agreed upon. He also stated that he would not use "two years after" a date, he would specify a date.

Vote to support Mr. Mehlretter's proposal was unanimous. Motion carried.

Chairman Rodriguez stated that this date would have to be changed from July 1, 2001 to October 1, 2001.

Mr. Bassett offered a suggestion for the editorial process more than anything else. He stated that there had been a lot of confusion today and yesterday regarding what is on what page and where it is located. He further stated that this is based on whether the draft was printed out, e-mailed or if the one delivered at the meeting was being used. He continued that some of the Commissioner's made the effort to review this and write notes on the drafts, because of the desire to use the draft. He reported that the one thing that does not transmit when you send a document by e-mail are the margin settings. He suggested that the margins be indicated at the top of the Draft form. He stated that by doing this, when the Commissioners print it out, it would be closer to the form of the document to be used at the meetings.

Chairman Rodriguez stated that he felt that was a good suggestion.

Mr. Wiggins referenced page 13, first paragraph after the bullet, the second sentence. He suggested that "anyone" be changed to "any substantially affected party".

Mr. Dixon stated that the law currently requires revocations, unless the Commission would like to change that.

Chairman Rodriguez stated that the Commission did not want to make changes, only clarifications.

Mr. Parrino referenced page 12, first paragraph. He suggested that immediately after "rational analysis", the words "or testing or a combination thereof" needs to be inserted. He also mentioned that the same correction needs to be made under Method 3 on the same page, in the exact same statement.

Mr. Blair asked for clarification that this is what was intended and it just needs to be added to the draft to accurately reflect the intent.

Mr. Parrino responded that was correct.

Mr. Dixon offered clarification that the intent of that qualification, the second sentence after that bullet, was that only rational analysis that had been signed and sealed by registered Florida engineers could be accepted. He explained that an out of state engineer could not do a rational analysis and submit that for approval in the state of Florida. He continued that he understood Mr. Parrino's point and will make sure that it is clarified where it speaks specifically to engineer and architect evaluations so that it covers not just rational analysis but also testing and a combination of those two, as well.

Mr. Parrino stated that this was not the purpose of this. He continued that some of the evaluation reports would need to also be based on testing of some materials to obtain certain properties and then from those properties, a rational analysis can be conducted. He further stated that this was the discussion of the Commission last month when it was agreed that this was the appropriate language to put in here.

Mr. Dixon asked if that could be entered as a fourth bullet.

Mr. Parrino stated that he would just like to see it somewhere in the report.

Mr. Blair clarified that the suggestion is to not insert, but to add a fourth bullet to address this issue.

Vote to support the addition of the fourth bullet was unanimous.
Motion carried.

Mr. Parrino also suggested that legal should review the current statutory language to ensure that there is not a conflict in what the Commission has decided here.

Mr. Lipka offered comment that he does not understand things like "substantially affected" and he feels it would open everything up for a challenge. He stated that someone is either affected or not affected by it and to say that someone's affect is not substantial, would be inviting complications. He believes that this should be kept as simple and as direct as possible.

Chairman Rodriguez stated that the Commission was probably ready for a motion to approve and disseminate the Commission's framework recommendations for a statewide product approval system in

it's annual report to the 2001 legislature and to authorize legal staff to request the necessary statutory authority as amended.

Mr. Lipka entered a motion to approve and disseminate the Commission's framework recommendations for a statewide product approval system in it's annual report to the 2001 legislature and to authorize legal staff to request the necessary statutory authority as amended.

Mr. D' Andrea seconded the motion.

Mr. Sanidas stated that the question he has is relative to the use of the word "may" as in "statewide approval may be done". He stated that he thought the statewide approval had to be done on those six products.

Chairman Rodriguez stated that Mr. Quintana had already corrected that to "shall" be done.

Vote in favor of the motion was unanimous. Motion carried.

Mr. Sanidas stated that his only question is regarding the use of "may" or "shall". He asked for clarification on whether it is "may" or it is "shall" because if it is "shall", then it is contrary to what was agreed to at the last meeting and is also contrary to what the manufacturers representatives believe.

Chairman Rodriguez stated that Mr. Dixon was speaking with Mr. Sanidas and he will now clarify for everyone.

Mr. Dixon stated that he should have clarified for everyone that the system says that all products must be approved. He further stated that there is a voluntary option for a manufacturer of those six product categories to go to the state to have it approved for statewide use.

Ralph Hughes asked if a manufacturer can go to the state if it wants to get statewide approval to avoid having to get approval from 400 jurisdictions throughout the state.

Mr. Dixon responded that, based on what the Commission adopted at the last meeting, initially only products within the six categories can go to the state for statewide approval. He stated that this would be a starting point, but the Commission would be able to add other product categories

in the future.

Mr. Hughes stated that the Commission is here to adjust what was done last time. He further stated that the Commission could decide that day that any manufacturer of any product that is part of the structural system of the house, whether it is in one of these six categories can go to the state and get statewide approval so that they do not have to go to 400 jurisdictions, which has been clearly the intent all along during this process and the intent of the legislature. He asked the Commission to consider now allowing any manufacturer of a product that is a part of the permanent structural part of the house to go to the state legislature, which has always been the case under the fire system, and be permitted to go to the Commission to get statewide approval for their products so they do not have to go to 400 jurisdictions. He questioned if the Commission was going to do that or not.

Mr. Sanidas stated that this was his understanding from the very beginning, that what initiated this whole product approval system was the fact that they had to go from jurisdiction to jurisdiction. He further stated that the intent was that they could come to the state and get statewide approval of any product.

Mr. Shaw stated that it was his understanding, because he had drawn a concern that there were plumbing products that were now included that could if they chose.

Chairman Rodriguez offered clarification that six product categories is what was decided as the starting point.

Mr. Shaw stated that it was his understanding that it started out as six, but it was modified to all and a mandatory six.

Mr. Lipka stated that it was also his understanding that the six were mandated, but that anyone that wanted to be added to that could come to the Commission to have it added.

Mr. Bassett stated that he believes that what was passed was the Commission would require six product categories to be approved by Method 2 or 3. He stated that Method 1 is through the local jurisdiction. He continued that if the definitions were looked at it says "Statewide Product Approval - the approval by the Florida Building Commission for acceptance of a product on a statewide or regional basis". He continued

that it was discussed that anyone could state that a product deserves statewide approval and it could be submitted for approval by the Commission for statewide product approval. He further stated that the definition does not say "a product from those six categories" it says "a product" and that was his understanding of what the Commission passed.

Lorraine Ross stated that she would like to suggest that a seventh category product be added to the list that covers Mr. Hughes' products. She stated that the option of going to the state for statewide approval is a manufacturer's option. She further stated that otherwise all products would need to show compliance at the local level.

Mr. Corn stated that on page 10, third paragraph, it states that "Initially, the option of statewide product approval will be provided for the six products that are components of the building envelope and essential for storm protection". He continued that it goes on to say that the "option could be extended to other products as experience and efficiencies develop". He commented that his understanding was that as soon as the Commission feels capable of adding other products it would. He also stated that depending on the speed and efficiency in which the Commission works, if other people want products added, it would certainly be allowed, according to this. He does not feel that a change would be necessary, because he believes that the Commission can make those decisions at present.

Mr. Parrino stated that the Commission set up a voluntary system for those six categories of products to be able to come to the Commission to get statewide approval. He further stated that a problem has been created for those manufacturers, particularly those of structural products, which building departments take a closer look at, by not allowing those manufacturers to get a statewide product approval. He continued that all building departments will look at all of the structural products and would require that manufacturers of structural products to come in to make application and go through the process of approval, which could be burdensome on those type of manufacturers. He suggested that the Commission should add manufacturers of structural products to the category of products that can obtain a voluntary statewide approval.

Mr. Dixon stated that from what he has heard, each of the Commissioners felt that they voted on something different. He further stated that he needed clarification on what the decision was at the last

meeting. He continued that Mr. Corn had read what staff understood that to be. He reported that no products are being cut out from statewide approval, but there is a limited number of products to begin with. He reiterated that this does not cut off any products. He asked if the decision of the Commission is to 1) start with these six product categories and get the system up and running and then add other products as it decides to do so, 2) start with all products or 3) add one more category to the list of six that we are trying to get up and running to begin with and then add others later.

Mr. Bassett questioned if the Commission decides at this point to have only those six categories that can have statewide approval, what happens if none of those six requests statewide approval. He asked when does the Commission decide to add a seventh or an eighth category. He stated that it was discussed at the last meeting and he did not believe that it would overwhelm the Commission or staff initially, because he does not believe that there are that many people seeking statewide approval. He restated that he believed the agreement was that anyone who felt that they wanted statewide approval, could go to the Commission to attempt to obtain it.

Mr. Shaw stated that his recollection was that the discussion related to a specific product. He reminded the Commission that there were some plastic pipe products that had difficulty getting approval in certain jurisdictions throughout the state for no good reason. He understood that this would be the resolution to that problem, because the manufacturers could come to the Commission looking for statewide approval for that product. He explained that with statewide approval, it would have eliminated their conflict with the local jurisdictions. He stated that anyone who wanted to request statewide approval of a product would have the ability to do so.

Mr. Kopzcynski entered a motion to accept Mr. Parrino's recommendation to add a seventh category, manufacturers of structural products, be added to the list of those that can seek statewide approval. Mr. Sanidas seconded the motion.

Mr. Parrino clarified that his motion was to add manufacturers of structural products to that category. He stated that he thought Mr. Shaw was referring to other products that can be discriminated against having a method out from the local jurisdictions.

Vote resulted in 15 in favor, 5 opposed (Bassett, Corn, Lipka, Harris, Shaw). Motion carried.

Mr. Bassett entered a motion to allow any product that wants statewide approval be allowed to come before the Commission for approval. Mr. Shaw seconded the motion.

Vote resulted in 19 in favor, 1 opposed (Mehltretter). Motion carried.

Mr. Parrino stated that he hated to take a step backward, but should it also be included that the product has to be part of the permanent structure to prevent the Commission from having, for example, wall paper types submitted to this system. He offered comment that if the Commission did not have a problem with this, he did not.

REVIEW AND APPROVAL OF DRAFT OF COMMISSION'S REPORT TO THE LEGISLATURE

Mr. Blair conducted a facilitated review of the process of reviewing and then approval of the document. (See *Facilitator's Report* and *Commission Review Draft Attachments*.)

Mr. Lipka entered a motion to approve the Commission's Report to the legislature. Mr. Browdy seconded the motion.

Mr. Bassett stated that he felt there were a few errors that need to be corrected before this report is submitted to the legislature.

Mr. Blair asked if the errors were editorial in nature.

Mr. Bassett stated that they were not.

Mr. Blair asked if the errors were substantive.

Mr. Bassett responded that they were.

Mr. Blair asked which sections Mr. Bassett would like to pull out.

Mr. Bassett replied they were Section 2, the Overview of the Process, and Section 3, Legislative Directives And Related

Recommendations And Actions By The Florida Building Commission.

Mr. Blair stated that with a motion and a second on the floor for conception, the Commission can discuss the recommendation.

Mr. Bassett referenced the 2nd page of Section 2, fourth paragraph. He states that this paragraph implies that if there had not been a large uproar of public opinion, that the Commission would not have made and addressed the comments it did to come up with Draft II. He continued that he believed this was not stated correctly because the Commission would have made the effort anyway. He explained that there were enough Commissioners who did not totally approve the first draft and the corrections would have been made.

Mr. Blair offered clarification that what is listed as Draft I was not the Commission's true first draft. He explained that it was a draft submitted by the technical advisory committee which the Commission accepted for its purposes only, the Commission listened to public comment and then began working on the draft versions.

Mr. Bassett stated that he understood what Mr. Blair was saying, but it was published as Draft I. He continued that unless it is referred to as Draft I, anyone reading the summary will not understand it. He presented, specifically, the statement "In response to public comment, the Commission decided to solicit another round of proposed modifications", and he contended that the Commission was soliciting a second round of proposed modifications with or without public comment. He stated that he felt that it implied that the Commission did not know what it was doing and there was an uproar of public opinion that made us change its mind.

Mr. Kopzcynski stated that he believed that this would be an editorial opinion.

Mr. Blair offered that the staff would consider that and discuss that.

Mr. Bassett referenced page 6, Section "Completion of the Code", the first italicized paragraph, "The review resulted in retention of all previously adopted modifications and no further changes to the proposed code". He stated that in reality the first one that the Commission discussed was dropped and not picked back up. He concluded that there was one previous revision that was dropped. He reminded the Commission that there was some lengthy discussion of what it was doing

and then the lengthy discussion ended and there were a series of rapid adoptions of what had been previously done, but the first one was dropped.

Mr. Lipka accepted this amendment, requiring a correction to stating that a modification had been dropped to be reflected in the Commission Review Draft. Mr. D' Andrea also accepted this amendment.

Mr. Blair stated that there is one change to be reflected in the Commission Review Draft.

Mr. Mehlretter asked, since the Commission is adopting this entire document and since it references the product approval system, which was just changed to give all products a voluntary option for statewide approval. He asked where in the document have the other products been added. He wanted to know if they were added in the area that references only Methods 2 and 3 or in the area that allows all three methods. He stressed the need to make sure that this is clear so that it is added in the right place.

Mr. Dixon responded that under the motion that was just passed, the requirement for that six product categories that were originally addressed must be approved by Method 2 or 3 was not changed. He continued that the others that were just added would have to be approved by Method 2 or 3, also because there is no plans review or inspection at the state level. He explained that at the local level all products except the six could be approved by Methods 1, 2, and 3.

Mr. Dixon stated that if it is understood correctly, staff will make sure that it gets done right.

Mr. Shaw stated, relative to the Code content itself, that there is a discrepancy in the Code content between Mechanical, Plumbing and Gas. He asked if that is reflected in this document. He stated that this issue is in his Committee report and he is not sure if, by passing this, it prevents him from mentioning that problem.

Mr. Dixon asked if this was the water heater height issue.

Mr. Shaw replied that it was. He explained it was a decision made by the Commission that is not reflected in the Mechanical or Plumbing Code.

Mr. Dixon stated that this issue is not addressed specifically in the report.

Mr. Shaw stated that he just wanted to make sure that by agreeing to the report, that he would still be able to go back and talk about that other issue.

Vote to approve that components for inclusion in the report to the legislature was unanimous. Motion carried.

BREAK

Chairman Rodriguez recessed the meeting for a break at 11:19am.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Prior to presenting the applications for accessibility waivers, Ms. Bernhardt informed the Commission that there was no consent agenda, but there were only five requests for waivers this month.

Item #1, Trader Tom's Island Java, the Council recommended to deny. Ms. Bernhardt informed the Commission that no one was present at the meeting yesterday. She explained that this building is in a historic district and that all renovations had been done without a permit. She continued that the restrooms were in compliance with neither the Florida Law or the ADA requirements. There were no representatives present to speak on behalf of the issues of the applicant.

Mr. Browdy entered a motion to deny the waiver. Mr. Sanidas seconded the motion. Vote was unanimous. Motion carried.

Item # 2, The Caviar Club, the Council recommended to deny. There were no representatives present to speak on behalf of the issues of the applicant.

Mr. Browdy entered a motion to deny the waiver. Mr. Sanidas seconded the motion.

Mr. Corn asked if there had been a previous decision that when an applicant does not appear when their application was scheduled for consideration that the Commission would automatically deny the waiver.

Ms. Bernhardt responded there had been discussion that it would be in the best interest of the applicant to be here when their application was being considered.

Mr. Corn asked if these applicants knew that their applications were going to be considered at this meeting.

Mary Kathryn stated that she had called all of these applicants to remind them.

Mr. Corn asked if the applicants realized that if they were not here there was a good chance their application would be denied.

Chairman Rodriguez stated it takes a great leap of faith of the applicant to think that their request for a waiver might be granted without them being present.

Mary Kathryn stated that she informed these applicants that their applications were going to be considered, when they were scheduled in the Agenda and that the chances of having a waiver granted improve greatly if they are present.

Vote to deny waiver was unanimous. Motion carried.

Item #3, Village Animal Clinic, the Council recommended to deny. There were representatives present to speak on behalf of the issues of the applicant.

Michael Berkenblit, DVM

Dr. Berkenblit stated that he had initially taken out a loan for \$300,000.00 to renovate his veterinarian practice. He further stated that he was forced to go back to the bank for an additional \$200,000.00, which put the cost overruns at over 75%, which is far greater than the industry standards. He continued that he and his wife, who is also a veterinarian, spent many years trying to conceive a child, and had realized that this was not going to happen for them when they were unexpectedly blessed during the construction of this building. He stated that his wife took a significant amount of time off after their daughter was born and is now only practicing part-time. He further stated that he takes off one day each week to parent his daughter. He continued that they have also hired a care giver part-time as well. He explained that their productive time has

decreased and hiring a care giver increased their expenditures. He stated that none of these things were factored into the plan when this project was started. He further stated that the competition in their area has also increased, especially in the form of corporate veterinarian practices. He noted that there were now two large, national corporations, Pet Smart and Veterinarian Corporations of America, running veterinarian practices in the area. He commented that these large corporate practices compete against his "MA and PA" practice with lower subsidized prices and large advertising budgets. He added that Pratt & Whitney recently left their area for the state of Connecticut, taking with them many of their good, long-term clients because of the corporate departure. He stated that when this project was started several years back, they wrote a detailed summary plan that was taken to the bank for financing. He further stated that, in hindsight, there were many things that happened that could not have been predicted which included: high cost overruns, not selling the exiting property (leaving them paying mortgages on two buildings), having a child, increased competition and lastly having a major area employer relocate out of the area. He stressed that his wife and himself work hard and have their lives invested in their business. He reported that their combined take home salaries equaled approximately \$100,000.00 and from this they are paying the mortgages on two buildings. He presented that the estimate that they obtained to install a wheelchair lift was \$20,000.00, which would be extremely difficult for them to pay. He indicated that the first floor of their building, which is the primary work area is about 4,000 square feet. He stated that this space included a reception area, exam rooms, treatment area and also 1,500 square feet of animal housing space. He noted that the first floor, which is fully accessible for the disabled has 30 dog runs, 20 cat condos and 80 cages for a total of 130 animal housing units. He explained that the second story only houses 40 cages, which are identical to the 80 on the first floor, and that there is no other use of the second floor. He further explained that due to insurance prohibitions no client, disabled or not, is allowed into the animal housing area either on the first floor or the second floor. He stated to maximize the staff efficiency, the second floor cages will only be used after the first floor cages are filled. He continued that the first and second floors would be for those employees who are trained in handling animals. He stated that he would have to have a minimum of four employees working in a shift when the cages on the second floor are being used, three for the animals on the first floor and one for the animals on the second floor. He explained that the cages are stacked in three tiers, with the tallest tier starting at 5 feet and extending to 8 feet off the ground. He stated that their employee manual states that an employee

must be able to safely retrieve an animal from a cage. He explained that retrieving an animal from a top tiered cage would be difficult for a disabled person, but it would also be difficult for a non-disabled person if the animal was aggressive or fearful. He stated that often it takes two tall employees to retrieve such a pet from the cage. He further stated that for those animals he would need two non-disabled employees per shift. He explained that getting an animal on an elevator is often an adventure with a gentle animal and dangerous with an aggressive or fearful one. He commented that an animal's tendencies are do not always appear at face value and dangerous situations can often develop instantly. He stated that, above all, he is responsible for providing a safe work environment for his employees. He further stated that he pays high worker's compensation insurance rates due to the nature of his business. He continued that he would be extremely uneasy having any employee, disabled or not, routinely trying to get a large dog on a vertical access unit. He stated that he could and would higher disabled personnel by making reasonable accommodations. He further stated that the installation of vertical access would be prohibitively expensive and would place his business in financial jeopardy. He concluded that for the last six years, before the project was envisioned and before he applied for accessibility waiver, he has worked with CCI, Canine Companions for Independence. He reported that they are the largest organization in the world that trains animals to assist disabled persons, and there is a long waiting list to obtain one of their dogs. He stated that from the start all CCI work, including heartworm pills, emergency surgeries, x-rays, and chemotherapy has been done at no charge. He stated that he works with CCI every day and the annual cost of those animals' care averages from \$10,000-\$20,000.00 per year. He continued that the CCI clients come to him from as far south as Miami and as far north as Fort Pierce. He would doubt that there would be another business in South Florida that would be as handicap aware and as friendly as theirs. He contended that if the clinic is financially jeopardized or worse, made insolvent, ultimately it will be the disabled that rely on CCI dogs that would suffer. He concluded by requesting the Commission grant the waiver due to hardship reasons.

Mr. Shaw stated that referring to the letter from The Village of North Palm Beach, Thomas Hogarth, it indicates that the second floor is only used for storage. He added with this being only used as storage, he entered a motion to grant the waiver.

Dr. Richardson seconded the motion.

Mr. Shaw clarified that his motion was for storage only and that any change in that use would trigger vertical accessibility.

Ms. Harris asked if the dog and cat cages on the second level also included the dog or the cat.

Chairman Rodriguez replied that yes it did include the animal.

Mr. Sanidas stated that the floor plan that the Commissioners have is different than the one on the overhead. He asked which one prevails.

Chairman Rodriguez stated that the one on the overhead was the second floor.

Mr. Sanidas asked for clarification that the second floor is a true kennel.

Chairman Rodriguez responded that was correct, only for animal habitation.

Mr. Lipka stated that this is not storage, because are being put into cages in that area and people are going to have to go up there to work. He further stated that it is his understanding that this originally agreed to this and you are now just changing your mind. He continued that the second story was built with the understanding that it would be made accessible. He also stated that what the applicant has stated that the applicant had stated that he did not want to hire anyone with a handicap in anyway, because he felt that it would a problem to his business. He stated that if that is the real reason for the request of the waiver, he should say that.

Dr. Berkenblit apologized if that was the way he presented that, because that is not his implication.

Mr. Walthour asked if there is an exception for five or fewer people occupying a floor.

Chairman Rodriguez responded that there was.

Mr. Walthour stated that his point is whether he is using it for storage or not there will be five or fewer people on that second floor.

Angel Watson stated that this is the same exact application that was heard about two years ago. She further stated that both the Commission and the Council had denied this and it was extremely clear that there was no use of that second floor until vertical accessibility was provided. She stated the only question the Council had asked was what hardship the applicant had now that they had not had before, because it was very clear that there was no use of the second floor until vertical accessibility was provided. She contended that the applicant has had two years to prepare for the cost, which is \$20,000.00 now, but it was only \$10,000.00 then. She stated that the applicant did state that there were seven employees all together and that he and one other employee are the only ones trained to work with the animals when they were out of control.

Ms. Butler offered clarification that the waiver was denied two years ago. She stated that it was granted subject to the condition that when the second floor was built out, vertical accessibility would need to be provided.

Ms. Bernhardt stated that this was a split vote of the Council. She offered the other side to this was that the difference is that this application is for storage of animals only and that it was not for all of the employees of this business to use this space, just the doctor and the animal handlers. She stated that they felt that the five person rule would apply here because there are no permanent employees on that second floor. She further stated that it appeared to her and two other Council members that this was qualified for a waiver request at this time. She commented that she did speak with the doctor and indicated to him that if he was going to have other use of this space and have other employees permanently on the floor, her opinion would be vastly different in this case.

Vote to grant the waiver, with the proviso that it be used as indicated, for animal storage, not humans resulted in 17 in favor, 2 opposed (Sanidas, Lipka). Motion carried.

Item #4, Downtown Office Building, Melbourne, Florida, the Council recommended to deny and advised the applicant to go back and look at other options. Ms. Bernhardt explained that this was a request for a waiver from the second floor of a downtown building. She stated that the use is being changed from, she believes, a boarding house, to office spaces. She stated that their contractor had indicated that he did not feel it was structurally practical. There were no representatives present to

speak on behalf of the issues of the applicant.

Mr. Kopzcynski entered a motion to accept the Council's recommendation to deny the waiver. Mr. Corn seconded the motion. Vote was unanimous. Motion carried.

Item #5, Jupiter Community Center, the Council recommended to deny. Ms. Bernhardt stated that this was for retractable bleachers to provide stadium seating in a Community Center. She stated that the option that the applicant is offering is to put wheelchair seating on the floor level in front of the bleachers. There were representatives present to speak on the behalf of the issues of the applicant.

Lee Martin, Architect, Post, Buckley, Shoe & Journigan
Robert Lecky, Building Official, City of Jupiter

Mr. Martin stated that Ms. Bernhardt had summed up their situation fairly adequately. He presented that the Jupiter Community Center is a 65,000 square foot new building. He stated that the use of the building and even the spaces inside the building vary from week to week. He explained that the drawing shown on the overhead shows the bleachers extended, but indicated that they would be extended a minimal percentage of time, because the primary use of the room will be as an open gymnasium that will be used for a variety of functions that will occur in the town of Jupiter. He reported that prior to making the application, Post-Buckley did research. He stated that they had spoken to equipment manufacturers, a fire official and a school official to present what they felt to be in good practice and met the intent of the legislation. He continued that when they met with the Council yesterday, a number of people did indicate that other people had gone to greater lengths to measure to accommodate people at levels other than court level. He explained that court level cut-outs are not shown for wheelchair or companion seating because the drawings are in a fairly preliminary state with respect to the seating and that configuration would vary with the manufacturers. He stated that there was a number of conversations after the Advisory Council made its recommendation and that he had researched this issue further even as late as this morning and find that they agree with the Advisory Council that it is possible to seat people higher than court level. He offered that he was not sure that the fire official would agree that it would necessarily be a good idea. He concluded that they could not appear before the Commission and modify the application for the waiver by stating they would be happy to comply with what the Advisory Council

had recommended, because they are not quite certain that it would be acceptable code wise.

Mr. Lecky thanked the Commission for hearing them today and thanked the Advisory Council for their time spent in discussion of this application. He stated that as a Code official, one of his jobs is to try to understand what the Code says, what the intent of the Code is and how it applies in this specific case. He reported that his employer has chosen to build a community center and in looking at the Florida Accessibility Code, he is challenged to apply that fairly. He stated that he was at his meeting, because this community center is a multi-purpose room with the primary use not as that of a gymnasium, but as the host of a multitude of functions that they do not charge for specifically and do not collect revenue from that. He did state that he was originally concerned with the choice of using motorized bleachers, however it is a pretty viable product for this type of use and the applicant certainly wanted to do this. He stated that through their research they have no other product that will elevate people beyond the court level. He further stated that the Code talks about the placement of wheelchairs and in Section 433.3 it discusses that there are other options. He offered that in accordance with that rule, they have disbursed wheelchair seating horizontally around the egress path. He also offered that they come to the Commission with Section 553.512, under the waiver which the Florida law allows. He stated that he was not going to stand there and pretend that this is an extreme hardship, but he would request that, as he understands the Code, whether correct or not. He would like to see the Code applied and a determination be made that this is unnecessary or unreasonable and that motorized bleachers are still a viable product to be used in this environment for the purposes that have been described to you. He continued that this is why the Code has the waiver process and if the Code is incorrect, he would appreciate the Commission's assistance today and straighten him out promptly.

Chairman Rodriguez asked what the Council's recommendation was.

Ms. Bernhardt responded that the recommendation had been for denial because it felt that the applicant should be looking at some other options to get the people up off the floor. She stated that this was not mentioned yesterday, but as she listened, she was remiss to not mention that this is a Title II issue and the applicant would certainly need to discuss this with the DOJ to determine their requirements on this type of

bleacher seating at this time. She could not say that she was in touch with what DOJ was ruling these days, but it is certainly something of a concern because they have taken a strong position on vertical access and in bleachers in particular.

Ms. Richardson stated that she was going to note as well that this was a Title II issue. She further stated that she was not aware of any type of system that would make it practical to allow seating at upper levels in the balcony system. She continued that when she was involved with the county trying to get program access under Title II and having been in touch with DOJ, the reply that she got from them was to disperse horizontally. She explained that at that time they were not recommending any type of seating above ground level, just the disbursement of seats on the ground level. She asked if the Commission had ever denied a waiver application for retractable bleacher systems.

Ms. Butler responded that neither she or Mary Kathryn have any memory of those being denied. She stated that she thought they were usually granted because of the technical infeasibility.

Ms. Richardson stated that there is the issue of consistency, she believes there to be a problem if the Commission just waivers back and forth whether to approve it or not. She concluded that it seems to her, unless she sees some system out there that looks viable there is no practical way to provide seating above the ground level. She entered a motion to grant the waiver.

Mr. Shaw seconded the motion.

Mr. D' Andrea asked if the motion included the disbursement of the 22 seats.

Ms. Richardson stated that was part of the motion.

Vote to grant waiver was unanimous. Motion carried.

EDUCATION AD HOC REPORT AND ADOPTION OF TRANSITION TRAINING STRATEGY RECOMMENDATIONS

Mr. Browdy stated that the Education Ad Hoc Committee with a quorum present. He presented a report from the committee with recommendations.

Mr. D' Andrea entered a motion to approve the report and recommendations of the Education Ad Hoc Committee. Mr. Wiggins seconded the motion. Vote was unanimous.

PROTOTYPE BUILDING AD HOC REPORT AND RECOMMENDATIONS

Mr. Kopzcynski stated that the committee met and after the plenary session today , it will meet again.

PLUMBING /GAS TAC REPORT AND RECOMMENDATIONS

Mr. Shaw stated that the Plumbing/Gas TAC met yesterday and did conclude it's work, even though there is a controversy in regards to Education for gas. He reported that half of the municipalities within the state use the SBCCI Gas Code and the other half uses NFPA54. He stated that there is almost no change between NFPA54 and the Florida Gas Code, therefore requiring no training. He further stated that there was substantial change between the SBCCI Fuel/Gas Code and the Florida Gas Code therefore requiring, based on the Gas TAC's estimation, approximately three hours of training just for gas. He continued that to compromise we emphasized those areas that are highly recommended to receive some education component in order to reduce that down to about 45 minutes of time. He stated that the TAC requests that the comparison document be provided in the Educational literature that is provided at the course, so that someone could go back and review the changes that were required. He reported that there was a motion made by the TAC to request the Commission through the Chair to formally request from the Bureau of LP Gas that they adopt the Florida Gas Code in lieu of NFPA54. He stated that his co-Chair for the Gas TAC was in fact a representative of the Bureau of LP Gas. He further stated that the intent of the Gas TAC was to combine the two codes so that LP Gas and fuel gas would remain under a single code. He continued that the Bureau of LP Gas does not do residential gas inspections. He concluded that therefore there would be two codes, one of which would not be inspected in residences if this cannot be done. He reiterated that the TAC enters a motion that the Chair request that the Bureau of LP Gas consider adopting the Florida Gas Code.

Mr. Wiggins seconded the motion.

Vote to approve the report and recommendations was unanimous.

Motion carried.

Mr. Shaw stated that the Commission had made a decision that it would adopt the latest revisions to the Code or the latest updates of the standards. He asked for clarification of what the Commission had agreed that it would take the most upgraded versions on.

Mr. Mehlretter offered clarification that it was agreed that the Commission would adopt the latest versions of those reference standards. He stated that one of the last Chapters of the Florida Building Code is the reference standards, which indicate ASA specifications and ACI specifications.

Mr. Dixon stated that was correct. He further stated that there is a timing issue, because there is some restriction in law on when standards can be adopted. He continued that he believes the intent is to adopt the latest standards.

Mr. Shaw stated that the language that the Commission adopted was prior to the printing of the Code, that it would be adopting the current, most up to date standards at that time.

Mr. Dixon stated that was not possible at this time. He added that it has to be done by amendment to the rules. He continued that the Commission adopted what it started with and those editions are still in place.

Mr. Shaw stated that the Plumbing TAC ranked all of it's code issues and formed a consensus.

Mr. Lipka entered a motion to approve the Plumbing/Gas TAC report and recommendations. Mr. Wiggins seconded the motion. Vote was unanimous. Motion carried.

BUILDING/STRUCTURAL-JOINT BUILDING/FIRE TAC REPORT AND RECOMMENDATIONS

Mr. D' Andrea stated that the combined Building/Structural-Joint Building/Fire TACs met yesterday. He stated that the TAC prioritized a list of Building, Structural, and Fire changes. He further stated that the three categories were reviewed under a ranking scale of three, which

would be considered a top priority. He continued by stating that there were a total of 32 code changes, or sections, with a ranking of 3, that must be included in the transition training. He reported that in conjunction with that exercise, eight chapters were identified, which included 4, 9, 10, 16, 17, 20, 21 and 26, that had significant changes and the TAC felt it important to include all of those changes in the transition training. He stated that two major changes, termites and gabelin walls, were identified and should be included in the transition training and all appropriate code sections that reference those two items. He continued that the TAC identified five chapters, Sections 2, 6, 11, 35 and 36 that should also be addressed in the introductory part of the transition training. He reported that under the second item with a ranking of 2, which the TAC also considered important if time permitted, the TAC found 31 code changes in sections that should be included in this transition training. He stated that on the ranking scale of 1, which was considered least important, the TAC found 6 code changes or sections that it felt were the least important for inclusion in transition training. He reported that in addition to the ranking exercise, the combined TAC voted to recommend that a side by side comparison be done to compare the 1997 NFPA101 with the 2000 NFPA101 and also to compare the 1997 NFPA1 with the 1998 Standard Fire Prevention Code.

Mr. Kopzcynski entered a motion to approve the TAC's report and recommendations. Mr. Corn seconded the motion.

Mr. Wiggins asked Mr. D' Andrea if his committee included training on the Chapter One Administrative requirement, if it is in that section.

Mr. D' Andrea answered that it was.

Mr. Walthour stated that there was a recommendation made to have a joint training program so that the fire officials can have the same training as the building officials.

Mr. D' Andrea responded that was correct and that he would have it amended to include that.

Vote to approve the TAC's report and recommendations was unanimous. Motion carried.

**MECHANICAL/ENERGY TAC REPORT AND
RECOMMENDATIONS**

Ms. Harris stated that the joint meeting of the TAC's was held yesterday and they went over 149 pages which encompassed about 650 sections of the code to identify code changes and comparisons. She further stated that in order to deal with the volume of material only significant changes were addressed, meaning those that the TAC felt needed to be addressed. She continued that the majority of the items that were discussed rated a level 2 ranking for training and education purposes. She requested clarifications on three items: 1) The code needs to have a better cross reference especially from the Mechanical to the Electrical Code because Electrical is not part of the code. She stated that this something Mechanical has to be dealing with daily, 2) The TAC members request clarification as to whether a reference to a standard involves the enforcement of the whole standard or just the standard that is referenced.

Mr. Dixon stated that he assumed it would apply as directed by the Mechanical Code, if it referenced a section of the standard it would only be that section, but if it stated comply with standard such and such, it would mean the entire standard. He continued that it would be the context as presented in the Mechanical Code that would define that.

Ms. Harris asked if that could be clarified because there were mixed discussions on whether it was the entire code or just that section because in the current draft of the Florida Building Code it did make some notations as to sections of or the whole code.

Ms. Harris continued with her last item for clarification, 3) The training package for changes for the South Florida Building Code was approved by the TAC also. She stated that it felt that everyone will need to get training on the South Florida Building Code changes to the Code rather than just South Florida having their portion of the Code training. She further stated that everybody works all over the state, so they have to be educated here as they have to be educated there. She stated that the meeting was successful, a lot of territory was covered and there was a lot of participation. She offered her thanks to the Mechanical TAC for the amount of work they have done in a short period of time. She also thanked the members of the communities and associations who served on the TAC. She noted that copies of the comparisons of the Mechanical, Fuel, and Gas Codes were available in the lobby, as well as some copies of the Energy Code comparisons, if anyone would like those.

Mr. Lipka stated that the Energy TAC had about 35 pages to deal with and it took the scale to a 0 ranking, meaning there was no training necessary, especially in Energy because a lot of it is just forms. He reported that Chris Mathis, of the Energy Efficient Builders Association, announced that there would be a conference on hot, humid climates on October 24-27, 2001. He stated that he thinks this would be an interesting thing and he requested staff to find out the details, including the location and who would be the person to contact if someone were interested in going. He also agreed with Ms. Harris that the meeting was very productive.

Mr. Wiggins entered a motion to approve the report and the recommendations of the Mechanical/Energy TACs. Mr. Thorne seconded the motion. Vote was unanimous. Motion carried.

SPECIAL OCCUPANCY TAC REPORT AND RECOMMENDATIONS

Mr. Thorne stated that most of the state agencies were present and those that were not had information sent, so all participated in the process of evaluating the information that was presented to us by our contractor which was to do a side by side comparison of Chapters 4, 30, 31 and 34. He further stated that this was evaluated based on the prioritization criteria previously established. He continued that in Chapter 4, which is Special Occupancy, there were 18 changes that will be made, Chapter 30, Elevators, had 2 changes, Chapter 31 had 6 changes and Chapter 34, Existing Buildings had 8 changes. He stated that those would be reviewed and presented to us prior to the final product, which is expected May, 2001.

Mr. D' Andrea entered a motion to approve the report. Mr. Sanidas seconded the motion. Vote was unanimous. Motion carried.

ACCESSIBILITY TAC REPORT AND RECOMMENDATIONS

Ms. Richardson stated that the Accessibility TAC met yesterday and did not have a quorum. She stated that the following individuals are being recommended for appointment to the Accessibility Council:

Johnny Long, representing the Florida Tri-Chapter of the
Paralyzed Veterans of America

(Vote was unanimous in favor of approval to the Council)

Andrea Williamson, representing the Hearing Impaired
(Vote was unanimous in favor of approval to the Council)

Wade Connelly, representing the Florida Council of Disabled
Organizations
(Vote was unanimous in favor of approval to the Council)

Ms. Richardson stated that the TAC reviewed the following three
appointment letters to the Advisory Council, which were received:

Dr. J. R. Harding, representing the Division of Vocational
Rehabilitation

Neal Mellick, representing Centers for Independent Living

David Ramsey, representing the Division of Blind Services

Ms. Richardson stated that two items were deferred until the March meeting: 1) The Accessibility Code Review Sub-committee Report and 2) Discussion of the TAC Mission Statement. She stated that the following recommendations (ranking as a 3 in priority) were submitted to the Education Ad Hoc Committee: 1) Accessibility Figure 30-E to be integrated into the Code, 2) Formatting Issues having to do with the Accessibility Watermark, which is the universal symbol of accessibility at the FBC, 3) Numbering to be consistent with the FBC chapter designation, 4) Explanation of parts A, B, and C within Chapter 11. She discussed issues relative to Fair Housing. She stated that the TAC wants to include the person to call for assistance, Federal Issues, Technical Assistance to the Commission on human relations and which standards exist for fair housing. She further stated that the TAC is recommending that the Fair Housing Design Manual of 1996 with the 1998 amendments be used. She referenced the Waiver Application, Part C, Chapter 11 and stated that the TAC would like the correct waiver applications and rules to be discussed. She stated, relative to the Declaratory Statements as of the effective date of the Code, Accessibility interpretations may be directed to the TAC then to the Commission. She stated that in the Plumbing Code, it needs to be noted that the accessibility drawings are duplicated within that particular code. She noted that the Accessibility TAC would like to work with the appropriate contact personnel are from the training entities to develop lead in perspectives on the Accessibility

Code and Fair Housing, which would include things like sensitivity information to do with Accessibility Issues and the importance of accessibility in the lives of people with disabilities, and so on.

Ms. Richardson stated that the following Accessibility Advisory Council Issues were presented to the Accessibility TAC as recommendations to the Commission. She noted that all of these issues were unanimously supported. She stated that since the TAC did not have quorum, they allowed all the members in the room to vote, and that included TAC members, Council members and the public. She stated that the following are the recommendations: 1) An advanced module on accessibility training be created and that would be developed by the administrator. 2) The Accessibility training be conducted for the Florida Building Commission, the Accessibility TAC and the Accessibility Advisory Council and that CEUs would be given for that training. 3) That the Accessibility Advisory Council meet in conjunction with the Florida Building Commission at six week intervals or whenever they are scheduled. 4) That outgoing members of the Accessibility Advisory Council or the Accessibility TAC should be recognized for their service through appropriate means, such as a plaque or a certificate.

Ms. Richardson stated that the March meeting objectives are going to include the subcommittee report on the Accessibility Code findings deferred from January 2001, the Accessibility TAC Mission Statement deferred from January 2001, the development of long and short term goals, the Accessibility TAC nominations update and the report from the DCA legal staff.

Mr. Wiggins entered a motion to approve the report and the recommendations of the Accessibility TAC. Mr. D' Andrea seconded the motion. Vote was unanimous. Motion carried.

Mr. Shaw stated that he had an issue that he forgot. He explained that there is a conflict between the Fuel, Gas, Mechanical and Plumbing Code versus the issue of elevation of appliances in garages. He continued that the Commission ruled that appliances shall be installed according to manufacturers recommendations and it was so noted in the Fuel/Gas Code, but it was not translated to the Plumbing or Mechanical Code so there is a conflict.

Mr. Kopzcynski stated that he did not have the opportunity to comment when this vote was cast, but perhaps staff could get with Ms.

Richardson and bring back some information on who the administrator is and how they propose to have joint meetings between the Commission and the Accessibility Advisory Council, as there are no joint meetings with any TAC's. He stated that he is not sure how that was going to be accomplished.

Mr. Blair asked Mr. Shaw for clarification of the conflict in the codes that need to be addressed.

Mr. Shaw explained that the Commission had ruled that appliances should be installed according to manufacturer's recommendations. He stated that this was noted in the Fuel/Gas Code, but it was not updated in the Plumbing or the Mechanical Codes which create a conflict.

APPOINTMENT OF SWIMMING POOL SAFETY ISSUES AD HOC

Chairman Rodriguez stated that the Commissioners may have been aware of the swimming pool safety issues that have been front and center. He further stated that he would like the following Commissioners join himself in an Ad Hoc that will meet to review the issues of swimming pool safety and make implementation recommendations for ensuring that the safety protocols that the Commission has already approved for inclusion in the Code are effective and will provide safety requirement consistent with the intent of the Commission. He appointed Nick ' Andrea, John Calpini, Christ Sanidas, Dan Shaw, Sam Walthour, George Wiggins and Frank Quintana to the this committee.

APPOINTMENT OF REHAB AD HOC

Chairman Rodriguez stated that the Commission received a letter from Gainesville, submitted by Doug Murdock, relative to this issue. He continued that it is an issue that is receiving national coverage. He commented that the June edition of the nation's city's weekly speaks to that and he thought that it would be advisable to appoint an Ad Hoc that would meet at least once to determine if there was any wisdom. He continued that his suggestion was that this the Rehab Ad Hoc be made up of the TAC chairs.

Mr. Kopzcynski stated that he felt that was a wise approach, but he wanted to point out that the Joint Building/Fire TAC both agreed as they went through the process of evaluating the codes that existing buildings

and rehabilitation is an item that needed further attention and discussion.

Chairman Rodriguez invited anyone who had wisdom on this to please bring it to the Ad Hoc meeting. He reiterated that regarding these two issues, pool safety and rehab, staff felt it important for the Commission to be in agreement.

Mr. Thorne recommended that someone from the Swimming Pool Association be involved, as Cam Fentriss was formerly.

Mr. Dixon stated, for the Ad Hoc Committees that staff would like to limit the members to Commission members only, but would encourage inviting the affected parties.

Mr. Lipka asked where the Swimming Pool Ad Hoc Committee would be meeting.

Mr. Dixon responded that it is currently going to be in Orlando. He stated that Senator Shultz's office is trying to determine a time and date when she could meet with the committee.

Mr. Lipka stated that if he can get there he would like to be a part of that TAC.

Chairman Rodriguez thanked Mr. Lipka.

Mr. Browdy stated that in view of the fact that there are a lot of swimming pools installed concurrently with the construction of houses and the home builders are typically engaged as a general contractor, he would like to be asked to serve on that TAC.

Chairman Rodriguez thanked Mr. Browdy.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR MARCH'S COMMISSION MEETING

Mr. Blair conducted a facilitated review of the assignments for next month's meeting. (See *Facilitator's Report* Attachment.)

Mr. Lipka stated that the Energy TAC need not meet in March, but the next meeting in Orlando would be fine.

Ms. Richardson stated that the subcommittee does not need to meet in March, just the Accessibility TAC.

Ms. Harris asked for clarification that if the Commission is going to a six week schedule, will it be hearing Accessibility Waiver Applications at every meeting.

Mr. Blair stated that was correct.

Mr. Bassett commented that he was putting the future meetings in his scheduled and noticed that the November meeting falls on election day and wanted to know if that should be considered.

Mr. Dixon stated that there are different holidays that the Commission has to work around and during the month of November, that was the only time it could meet.

SUMMARY AND REVIEW MEETING WORK PRODUCTS

Chairman Rodriguez stated that the Commission reviewed and approved the Updated Commission Workplan. He further stated that the Chair's Recommendations on legislative issues were considered. He continued that the Commission considered public comment. He stated that Key Concepts for Product Approval were reviewed and approved for submittal of those concepts to the Florida Legislature. He further stated that the Commission reviewed and adopted the draft of the Commission's Report to the Legislature. He continued that Accessibility Waiver Applications were considered and decided on. He stated that the Commission heard a Code Dissemination update. He further stated that the Education Ad Hoc Recommendations for Transition Training strategy was reviewed and approved. He continued that reports including recommendations were heard from the Plumbing/Gas TAC, the Building/Structural-Joint Building/Fire TAC, the Mechanical/Energy TAC, Special Occupancy TAC, and the Accessibility Ad Hoc Committee. He reported that Swimming Pool Safety Issues Ad Hoc and Rehab Ad Hoc committees were appointed. He concluded stating that the assignments and issues for the March meeting had been reviewed.

ADJOURN PLENARY

No further business discussed, meeting adjourned at 12:51PM.