

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH STEVEN M. SEIBERT
Governor Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

PLENARY SESSION
January 8, 2002

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Acting Chair Nick D'Andrea at 8:36 a.m., on Tuesday, January 8, 2002, at the Rosen Plaza Hotel, Orlando, Florida.

Commission Members Present:

Raul Rodriguez, Chairman

Nick D'Andrea

Jim Mehlretter

Bob Leonard

Stephen Corn

Steven Bassett

Ed Carson

Karl Thorne

Christ Sanidas

Dan Shaw

Peggy Harris

Michael McCombs

Craig Parrino

Francisco Quintana

George Wiggins

Leonard Lipka

John Calpini

Richard Browdy

Commission Members Absent:

Med Kopczynski

Suzanne Marshall

Diana Richardson

Sam Walthour

Others Present:

Kathy Butler, Legal Advisor

Jim Richmond, Legal Advisor

Rick Dixon, Executive Director

Jeff Blair, FCRC

Ila Jones, Program Administrator

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WELCOME INTRODUCTIONS

Chairman Rodriguez welcomed the Commission and gallery to the first meeting of 2002. He extended thanks to the Commissioners for their commitment to building consensus on the Code and its systems. Chairman Rodriguez expressed appreciation to Commissioner D'Andrea for acting as Chair during December's meeting. He then directed the Commission to Jeff Blair for a review of the meeting agenda.

AGENDA REVIEW AND APPROVAL

Mr. Blair stated there would be two rule adoption hearings during the meeting, one for the prototype building system and an additional rule adoption hearing for the product approval system. He continued that the Commission would hear a variety of reports from the Education Ad Hoc, along with reports from the Product Approval Ad Hoc and the Accessibility TAC. Mr. Blair stated there were five different Declaratory Statements, from the joint Mechanical TAC, Structural TAC, Energy TAC, and the Electrical TAC. He furthered there would be a presentation from FDOT on turnpike facilities and the Commission would hear the Accessibility Waivers.

Commissioner Wiggins motioned approval of the agenda. Commissioner Lipka seconded the motion. Vote to approve the agenda was unanimous.

REVIEW AND APPROVAL OF DECEMBER 2-4, 2001 MEETING MINUTES

Commissioner Browdy motioned approval of the minutes. Commissioner Lipka seconded the motion. Vote to approve the December 2-4, 2001 meeting minutes was unanimous.

REVIEW AND APPROVAL OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair stated the workplan had not been changed since December.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez announced to the Commission Suzanne Schmith, who has served as Senior Counsel for the Florida Building

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Commission since 1998, had resigned and will be serving as County Attorney in Leon County.

Chairman Rodriguez then reviewed Senate Bill 52C, which moved the effective date of the Code to March 1, 2002. He stated the bill also moved the deadline for insurance companies' rate filings which provide credits for fixtures or construction techniques demonstrated to reduce windstorm losses to February 28, 2003. He continued that the bill re-establishes the state's minimum building code's rule to be effective until the Code goes into effect and reiterates that the building code in effect at the time the application for the permit is filed governs construction of buildings throughout the life of the permit or extension of time. Chairman Rodriguez furthered that the bill requires jurisdiction divided by ASCE 7-98 windspeed lines to adopt ordinances to establishing exact locations of the lines by January 1, 2002, which is one of the arguments used to put forth the bill. He continued the bill also required DCA to adopt the line location by emergency rule for jurisdictions who did not complete their ordinances by January 1. He stated the department has filed the emergency rule as of Thursday, January 3. He then stated that the bill required that Section 424.2, which is the swimming pool safety requirements, of the Code take effect of January 1, 2002, without delay. He stated the bill also allows individuals employed by an educational board to apply for a limited certificate license under Chapter 468, by March 1, 2003, or one year after the Code goes into effect. Chairman Rodriguez then stated the bill allows design professionals who design buildings to comply with the Florida Building Code, to have their projects governed by the Florida Building Commission as of the bill becoming law.

Chairman Rodriguez reminded the Commission of the unanimous vote in October to recommend to the President of the Senate, the Speaker of the House, and the Governor that the Code not be delayed. He stated that he had advised the Governor should he decide to veto the bill, it would give the Commission an opportunity to continue to build consensus. He then stated the Governor had signed the bill.

Chairman Rodriguez then expressed appreciation to the Commission for their continued service and giving of their time.

Commissioner Shaw asked if there would be one more opportunity for special interests to go to the Legislature prior to the implementation to the Code.

Chairman Rodriguez responded the answer is yes, however he stated he was told the Governor would not look for any other delays.

Commissioner Browdy asked if there was a report on the status on how many counties are ready for implementation of the 120 line.

Chairman Rodriguez replied the reason the emergency rule had been filed was because there was a rush to enact a rule such that the counties who had not adopted their 120 definitive line will have the line defined for them.

Mr. Blair reviewed the rule adoption hearing process. He stated the Commission would follow the same format that has been followed throughout the entire rule development process. He continued the rule would be presented, public comment would then be heard, then the hearing would be closed, the next hearing would be opened following the same process and format, then following both hearings, motions to proceed with rule adoption would conclude the process.

HEARING ON PROTOTYPE BUILDINGS RULE (9B-74)

Mr. Richmond opened the hearing and referenced the documents which had been distributed to each Commissioner. (See *Notice of Proposed Rulemaking Attachment*.) He then called for public comment. No one approached for comment. Mr. Richmond closed the hearing.

Mr. Richmond then addressed the written comment relating to Proposed Rule 9B-74, Prototype Plan Review and Approval. (See *Florida Manufactured Housing Association Written Comment Attachment*.) He then recommended the Commission vote to approve the change.

Commissioner Wiggins motioned to clarify the definition of prototype building and add the exclusion of manufactured buildings in Rule 9B-74. Commissioner Parrino seconded the motion.

Chairman Rodriguez called for a vote on the motion.

Commissioner Wiggins motioned to table the previous motion. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Public Comment

Chris Petrackis, Modtech, Inc.

Mr. Petrackis offered comment expressing concern with the request of the Florida Manufactured Housing Association. He stated it was his understanding that manufactured housing included school buildings and commercial buildings in the state and want to be included in the prototype definitions in order to replicate those buildings throughout the state of Florida.

Mr. Petrackis suggested using the terms manufactured housing and factory-built housing rather than manufactured buildings.

Commissioner Shaw suggested if the issue is residential then use residential in the definition not to include the commercial industry.

Mr. Richmond responded the manufactured building program was limited to closed construction, i.e., construction that could only be adequately inspected in a factory. He continued the prototype building has no inspection element, simply an approval process.

Commissioner Bassett recommended leaving the terminology the way it is, based on the discussion at hand.

Commissioner Wiggins asked if the law is clear regarding what is excluded from federally regulated building units and suggested leaving the terminology as is.

Mr. Richmond replied there are manufactured buildings which are approved by the state, except for the standard HUD home.

Commissioner D'Andrea motioned to take the motion off the table. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins withdrew his original motion. Commissioner D'Andrea withdrew his second.

Commissioner Bassett motioned to proceed with rule adoption and file the rule as written. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ADDITIONAL RULE ADOPTION HEARING ON PRODUCT APPROVAL SYSTEM (9B-72) PRODUCT APPROVAL AD HOC REPORT AND RECOMMENDATIONS

Mr. Richmond opened an additional rule adoption hearing on the product approval system. He invited public comment.

PUBLIC COMMENT

Jeffrey Stone,

Mr. Stone expressed concerns with the recommendations being proffered by the Product Approval Ad Hoc Committee. He stated that a proposal he had submitted recommended to treat the grading lumber system, which is managed by the American Lumber Standards Committee, similar to the process of quality control by the three model building codes organization. Mr. Stone continued by stating that was not the recommendation, rather that ALSC be a certifying agency, which they do not.

Mr. Stone explained that the American Lumber Standards Committee operates performs two primary tasks: they certify grading rules; and they accredit agencies for conducting the grade stamps and actually grading the lumber. He continued that as he understands it, there are at least 25 agencies that are accredited by ALSC to apply grade stamps. Mr. Stone stated that the recommendation of the Ad Hoc Committee is to recognize ALSC as a certifying agency, submitting reports to the state. He explained that his organization requests that the State of Florida recognize soft wood lumber grading for structural lumber, and authorize the ALSC to do so in accordance with the products standards in the Florida Building Code.

Mr. Dixon asked if Mr. Stone's intention is to identify ALSC an entity establishing standards or as an entity accreditation inspection agencies.

Mr. Stone replied that the ALSC accomplishes 2 things; they establish the standards, which are the grading rules, and they also accredit agencies to stamp the lumber. He continued by stating the design standards testing for lumber is conducted by the Forest Products Service through the Forest Products Laboratory.

Mr. Dixon reviewed by item the Product Approval comments and the Ad Hoc Committee's report and recommendations. (See

No further discussion was requested and Mr. Richmond closed the rule hearing.

COMMISSION DISCUSSION/DECISION ON PUBLIC HEARING COMMENTS

Commissioner Shaw brought staff recommendation #1 to the table for discussion. He stated that there was a motion made by the Ad Hoc Committee that should be discussed and reconsidered.

Mr. Dixon reminded the Commission of the October meeting's recommendations being read individually for the record and stated there were two items with additional public comment requiring action. He stated the committee recommended Item #1 on the 11/05 document, (what products should be approved), be addressed first.

Commissioner Shaw expressed his concern as being two-fold. He stated his understanding is all products would have the opportunity for product approval. He furthered that the committee's recommendation appears to eliminate all other products from approval statewide leaving the only products requiring approval being the 7 structural products, which he believes would be in error. Commissioner Shaw suggested that all products require approval at the county or state level and the 7 products be required to have that approval structurally. He further stated he would prefer all products have the opportunity for statewide approval on a voluntary basis.

Chairman Rodriguez asked if Commissioner Shaw would favour the application or directory approach for voluntary product approval.

Commissioner Shaw responded the application approach would be fine as long as there is relief on the issue.

Commissioner Bassett stated the issue was hotly debated during the committee meeting. He continued by stating it would not be an undaunting task because of the cost factor of going to each county individually.

Commissioner Leonard asked for clarification regarding prototype building certification versus the materials used being certified.

Mr. Dixon responded by stating the Code establishes standards for products in addition to assemblies created from those products. He continued stating the entity contracted by DCA to approve plans would hold the responsibility of approving the products for prototype buildings. He continued stating the product is only approved for its use in that particular building in that particular location. Mr. Dixon furthered stating the product approval system envisions products approved by the Commission can be used in any building statewide.

Commissioner Browdy offered comment stating he would be opposed to a system delegating all statewide approval for any product from any entity because of lack of human resources and technical expertise, resulting in limited oversight. He continued that the Commission is better served as acting as an endorsing agency focussing on the 7 components with the knowledge and resources available.

Commissioner Bassett motioned the Commission require the 7 structural envelope products be required to have product approval and any other item seeking statewide product approval on a voluntary basis be accepted. Commissioner Shaw seconded the motion.

Commissioner Wiggins asked if it would be better to limit statewide approval to the 7 items allowing a case by case basis for other products seeking statewide approval.

Chairman Rodriguez called for a vote on the motion. The vote resulted in 8 supporting the motion, with 9 opposing. Motion failed.

Commissioner Browdy entered a motion for a statewide product approval system for the 7 structural components of a building and all other products used in construction in the State of Florida be subject to the review and approval of the local building official. Commissioner Wiggins seconded the motion.

Commissioner Shaw stated that for 4 years the position was a voluntary proposal. He continued by expressing concern for the elimination of the concept of voluntary statewide product approval.

Commissioner Mehlretter pointed out that the Code specifies that interior dry wall partitions be designed for a 5 psf load. He then offered a friendly amendment to Commissioner Browdy's motion suggesting eliminating structural components from the list and leave the 6 envelope items.

Commissioner Browdy did not accept the amendment due to concern of eliminating the structural component.

Commissioner Parrino offered comment on the structural components stating the Commission is allowed by statute to determine which structural components fall under the system. He stated there are structural components as important as the 6 envelope items in terms of protection.

Commissioner Parrino offered a friendly amendment to the motion allowing products to be locally approved, not requiring statewide approval.

Commissioner Browdy accepted Commissioner Parrino's amendment then stated it was always the intent to give the local building official opportunity to review plans and ensure approval resides with that local official. He continued the Code would serve as an enhancement with statewide approval on the 6 components. He then offered support for the ability of the local official to facilitate permitting.

Chairman Rodriguez called for a vote on the motion as amended. Vote resulted in 13 supporting the motion with 5 opposing. Motion failed.

Commissioner Shaw moved all products within the state require approval at the local or state level and voluntary statewide approval be approved on all products. Commissioner Carson seconded the motion.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion resulted in 5 supporting with 13 opposing. Motion failed.

Commissioner Corn stated that he would change his vote and moved to reconsider the previous motion stating optional statewide product approval system for the 7 product categories and statutes, the 6 envelope products plus those structural components the Commission includes, with all other products subject to review and approval by local building officials. Commissioner Wiggins seconded the motion. Vote to approve the motion to reconsider resulted in 15 supporting and 3 opposing. Motion to reconsider carried.

Commissioner Parrino offered a friendly amendment to the motion to add that the product approval system be re-evaluated by the

Commission one year following the effective date, specifically for the purpose of allowing voluntary product approval for other products.

Commissioner Browdy accepted the friendly amendment.

Commissioner Bassett offered an amendment to the motion stating any product never used in the state of Florida apply for statewide product approval.

Commissioner Browdy accepted the amendment.

Commissioner Mehlretter expressed concern regarding the definition of structural then offered a friendly amendment to the existing motion to remove the word "material" from the definition.

Commissioner Browdy accepted the friendly amendment to the motion.

Chairman Rodriguez called for a vote on the motion as amended. Vote to approve the motion resulted in 15 in support and 3 opposing. Motion carried.

BREAK

Chairman Rodriguez called for a five-minute break.

CONTINUATION OF COMMISSION DISCUSSION/DECISION ON PUBLIC COMMENT

Mr. Dixon continued reviewing the recommendations requiring action.

Rule 9B-72 Issues (11/05 Rule 9B Issues Matrix)

Item #2

Commissioner D'Andrea motioned approval of the Committee's recommendation. Commissioner Wiggins seconded the motion.

Vote to approve the motion was unanimous.

Item #3

Commissioner Corn motioned approval of the Committee's recommendation. Commissioner Wiggins seconded. Vote to approve the motion resulted in 16 favouring and 1 opposed (Parrino).

Rule 9B-72.010 Definitions (12/01 Rule 9B-72 Comments Matrix)

Comments from NSF (1)

Commissioner Sanidas moved approval. Commissioner seconded the motion. Vote to approve was unanimous. Motion carried.

Comments from NSF (2)

Commissioner Bassett motioned approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Comments from Staff (2)

D'Andrea motioned approval of the Committee's recommendation. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Rule 9B-72.030 Local Product Approval Generally

Comments from Peter Billing (1)

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Rule 9B-72.040 Product Evaluation and Quality Assurance for Local Approval

Comments From Peter Billing (1)

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Comments From Peter Billing (3) (a) (b) (c) (d)

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Comments From Joseph Belcher

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Mr. Richmond directed staff to ensure the format remains a rule.

Commissioner Corn offered a friendly amendment to the motion. Amendment was accepted.

Vote to approve the amendment was unanimous. Motion carried.

Comments From NES (1)

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Comments From Fla. Board of Professional Engineers

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Rule 9B-72.070 Product Evaluation and Quality Assurance for Optional Statewide Approval

Comments From NSF

Commissioner Bassett moved approval of the Committee's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Rule 9B-72.100 Approval of product evaluation entities, product validation entities, testing laboratories, certification agencies, and quality assurance agencies and accreditation bodies

Comments From AF&PA

Commissioner Wiggins moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Comments From Staff

Commissioner Corn moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Rule 9B-72.110 Criteria for Certification of Independence

Comments From NSF

Commissioner Wiggins moved approval of the Committee's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Comments From NSF Sections 9B-72.100(2)(b); (3)(b); (4)(b); and (5)(b)

Commissioner D'Andrea moved approval of the Committee's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Rule 9B-72.170 Investigations

Comments From NES

Commissioner D'Andrea moved approval of the Committee's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Commissioner Browdy moved to proceed with proposed changes. Commissioner D'Andrea seconded the motion.

Mr. Dixon interjected the Commission agreed to submit a draft notice of proposed change document for review and final decision during the February meeting leaving 21 days for comment on the changes. He stated the Commission had taken all the action necessary during this meeting and recommended voting to proceed with proposed changes at the February meeting.

Commissioner Bassett moved to table the motion to proceed with changes until the February meeting. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

**RECOGNITION OF ACCESSIBILITY ADVISORY COUNCIL
RETIRED MEMBERS**

Chairman Rodriguez expressed appreciation for the tireless volunteer service of the retired members of the Advisory Council. He presented Certificates of Service to John Demmer, Warren Jernigan, Tessa Little, Thomas Nicholson, Ricardo Oliver, and Angel Watson.

**CONSIDERATION OF ACCESSIBILITY WAIVER
APPLICATIONS**

Mr. Long presented the applications for waiver for action by the Commission.

**#7 Renovations to Memorial United Methodist Church,
Fernandina Beach**

Mr. Long stated the Council voted to grant the application.

Commissioner D'Andrea moved to approve the Council's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

**#1 Ponce de Leon Warehouse Showroom Addition, Coral
Gables**

Mr. Long stated the Council recommended to grant the waiver with the condition that the applicant provided vertical accessibility within 18 months of issuance of a C.O. on the project.

Commissioner D'Andrea motioned approval of the Council's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

#5 First Steps International Academy, Weston

Mr. Long stated the Council recommended granting the waiver for the use of ADAC guidelines for a children's facility.

Commissioner Browdy motioned approval of the Council's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Long stated the Council recommended granting the waiver for the lavatories in the restroom located between the classrooms.

Commissioner Wiggins moved approval of the Council's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#6 StarChild Academy at Waterford, Orange County

Peter Zimmerman, Starchild Academy Franchise Corporation and Bob Erwin, Franchisee for the Waterford Lakes Childcare Center, approached for comment.

Mr. Zimmerman stated the first of the three requests which is to use child height toilets, sinks, and grab bars. He continued that the second request is to place the sinks outside the toilet facility in the classroom to provide better supervision opportunity ensuring that the children wash their hands, and that no water is spilled on the floor creating a safety hazard. Mr. Zimmerman stated there was a third request but asked that it be withdrawn.

Mr. Long stated the Council recommended granting the first waiver request.

Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Long stated the Council recommended granting the second request.

Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Harris seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Long stated the Council agreed to remove the third request.

#2 Mater Academy East, Miami

Mr. Long stated the Council recommended deferring the request for waiver until the next meeting to give the applicant opportunity to attend the meeting.

#3 Palmetto Beach Community Association Child Care Center, Tampa

Mr. Long stated the Council recommended deferring the waiver request until the next meeting to give the applicant opportunity to attend the meeting.

Commissioner Browdy motioned approval of the Council's recommendation for items #2 and #3. Commissioner Harris seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 Lauderdale Imports Ltd. BMW, Fort Lauderdale

Margaret Ray Kemper, representing the applicant, and Bill Narcoonis, President and CEO of ADA Health, Inc., a company assisting the public and private sector with ADA issues approached for comment.

Ms. Kemper explained the nature of the business requesting the waiver and used an overhead to demonstrate the layout of the facility and the reasons vertical accessibility is not necessary.

Mr. Narcoonis introduced himself to the Commission the offered comment in support of the applicant's request for waiver.

Mr. Long stated the Council recommended denial based on no apparent financial hardship and the fact that there is sufficient space available to provide vertical access. He continued by stating that the applicant was offered additional time to provide access and they indicated no interest.

Commissioner Harris asked if the restrooms on the second level are accessible.

Ms. Kemper replied the second floor was not scheduled for renovations. She furthered that the restrooms would be accessible for the hearing impaired or those needing visual assistance.

Commissioner Quintana asked how many employees work on the second floor.

Ms. Kemper replied there are currently 8 support staff working on the second floor.

Commissioner Shaw motioned approval of the council's recommendation to deny the request for waiver. Commissioner Lipka seconded the motion stating the second floor should be accessible to potential employees and the general public.

Commissioner Leonard asked if the second floor is existing or being built now.

Ms. Kemper stated the second floor is existing and is currently in use.

Vote to approve the motion resulted in 8 supporting the Council's recommendation and 9 opposing. Motion failed.

Commissioner Mehlretter moved to grant the waiver. Commissioner Corn seconded the motion. Vote to approve the motion resulted in 9 supporting and 8 opposed. Motion carried.

ELECTRICAL TAC REPORT/RECOMMENDATIONS

Commissioner Bassett presented the Electrical TAC report and recommendations. (See *Electrical TAC Report and Recommendations* Attachment.)

Commissioner Wiggins motioned approval of the report. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett asked when he should make the motion to adopt the 2002 Electrical Code.

Mr. Dixon explained that would be appropriate during the planned glitch amendment process. He stated the glitch amendments will start following the effective date of the Code.

Commissioner Bassett stated he understood there to be expedited methods of adopting base Code changes.

Mr. Dixon furthered that each and every amendment incorporated in a new edition of a base code would not have to be taken up individually. However, all other requirements such as the 45 days notice are required.

Commissioner Bassett asked about a shortened period of time.

Mr. Dixon responded he would not recommend starting an amendment cycle prior to the Code being in effect for at least 3 months.

Commissioner Bassett stated the change to the Electrical Code passed in the Committee unanimously.

Mr. Dixon replied there are limitations by law regarding when a TAC can consider code changes which must be adhered to.

Commissioner Bassett asked when the Committee should start the process.

Mr. Dixon replied before the Committees take any action, the proposal for change must be advertised on the Internet for 45 days and at this point, nothing has yet appeared. He concluded it would probably be summer.

Commissioner Sanidas asked if the TAC had prepared a comparison featuring the differences in the new Code.

Commissioner Bassett responded that NFPA had prepared a comparison and the changes reviewed are an analysis of the changes for 2002.

Mr. Dixon added that an update to the Base Code can be adopted as one amendment where anyone objecting to one of the changes appearing in the updates can have that change itemized and discussed separately. He stated each change from one edition to the next separately.

**ENERGY TAC REPORT / RECOMMENDATIONS /
DECLARATORY STATEMENT REQUEST BY DONALD C.
HERRMANN, TECO BGA DCA01-DEC-226, WILLIAM
ALBERT, CARRIER DCA01-DEC-240**

Commissioner Lipka presented the Energy TAC report and recommendations. (See *Energy TAC Report and Recommendations Attachment*.)

Commissioner D'Andrea moved to approve the report of the Energy TAC. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

EDUCATION AD HOC REPORT AND RECOMMENDATIONS

Commissioner Browdy presented the report and recommendations of the Education Ad Hoc Committee. (See *Education Ad Hoc Report and Recommendations Attachment*.)

Commissioner Wiggins inquired about the learning criteria matrix asking if future courses would be designed for different audiences.

Commissioner Browdy responded the intent of the matrix is to determine where there's overlapping needs and where there needs to be more or less emphasis. He continued the matrix should create individual courses more heavily weighed toward individual fields and for specific needs.

Commissioner Sanidas stated the issue arose whether tests should be given to the individuals taking the courses. He suggested that evaluation should be left to FDBPR.

Commissioner Browdy responded the evaluation is simply a course analysis, not designed for re-licensing.

Commissioner D'Andrea moved approval of the contract with BASF. Commissioner Wiggins seconded the motion.

Mr. Richmond interjected there hadn't been a contract formalized and executed at this time and a motion to approve may be premature.

Commissioner Browdy concurred there had not been a contract but BASF are the selectees and he would not have to come back before the Commission for approval if it is approved at this time.

Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins motioned approval of the Education Ad Hoc Report. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ACCESSIBILITY TAC REPORT AND RECOMMENDATIONS

Commissioner Browdy presented the Accessibility TAC report and recommendations. (See *Accessibility TAC Report and Recommendations Attachment.*)

Commissioner Sanidas motioned adoption of the report of the Accessibility TAC. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

**JOINT MECHANICAL TAC AND BUILDING / STRUCTURAL
TAC REPORT / RECOMMENDATIONS / DECLARATORY
STATEMENT REQUEST BY EMILIO GUZMAN DCA01-DEC-
156**

Commissioner Harris presented the report for the Mechanical TAC. (See *Mechanical TAC Report and Recommendations Attachment.*)

Commissioner Wiggins moved approval of the report of the Mechanical TAC. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond addressed the Declaratory Statement Request by Emilio Guzman, DCA01-DEC-156. (See *Amended Petition for Declaratory Statement before the Florida Building Commission Attachment.*)

Commissioner Harris moved to approve Option B of the request for a Declaratory Statement. Commissioner Bassett seconded the motion.

Commissioner Shaw expressed concern regarding the manufactures of the equipment. He continued the anchoring bracket is reminiscent of mobile home anchors. Commissioner Shaw stated the manufacturers cannot comply with the energy code, the boxes they build leak, and now they do not meet the wind load.

Commissioner Quintana asked if the Code is clear on 301.13, then is the Declaratory Statement accurate.

Mr. Richmond responded the actual phrase is "designed and installed," and focuses on the design of the installation as well.

Commissioner Harris noted due to no criteria for the anchor being listed, a document will be produced to instruct the contractor on how to strap the anchors to the building.

Commissioner Bassett stated much discussion was regarding the intent of when the original wording was approved. He continued the interpretation was not clear and one set of pictures does not prove a subject.

Commissioner Parrino commented his concern was not regarding the ground mounted condensing unit, rather, the larger units mounted on the roofs of buildings is a great concern. He continued the equipment does not have to be designed for the wind load it is applied to and stated he could not support the Declaratory Statement.

Commissioner Corn stated he did not understand why the wording states basically the air conditioning unit could blow away but the base of the unit will remain intact. He countered if the Declaratory Statement is not approved and there are no air conditioning units that meet Code requirements, does it mean people cannot be moved into new homes because there is no air conditioning units. Commissioner Corn suggested manufacturer's be required to bring the air conditioning units up to Code.

Commissioner Mehlretter stated the design of the strapping should be engineered.

Commissioner Lipka stated units do exist which meet hurricane code requirements but they are expensive.

Commissioner Browdy asked what the implications of the Declaratory Statement are for residential contractors installing a compressor adjacent to a home on a 4X6 or 4X4 slab and would it require additional engineering of the pad to the house or the compressor to the slab.

Commissioner Quintana responded the proper tie-down of a unit is for roof-mounted structures.

Commissioner Bassett interjected in Broward County metal clips are required to tie the unit to the slab.

Vote to approve the motion resulted in 6 supporting the motion and 11 opposing. Motion failed.

Commissioner D'Andrea motioned accepting Option A in the request for a Declaratory Statement. Commissioner Lipka seconded the motion.

Commissioner Leonard asked if there is no equipment designed at this time do we discontinue building.

Commissioner Shaw posed a friendly amendment that gives a time period for compliance.

Mr. Richmond stated if the Commission interprets that to be what is stated in the Code, then the time for compliance is the effective date of the Florida Building Code.

Vote resulted in 13 in support of the motion and 5 opposing. Motion carried.

**LEGAL STAFF REPORTS / DISCUSSIONS /
RECOMMENDATIONS / APPROVAL JACK LASER,
LAUDERDALE TENNIS CLUB DCA01-DEC-242, PAUL
ROTH, ROLL-A-WAY POOL FENCE DCA01-DEC-224,
DOUG MURDOCK, GAINESVILLE DCA01-DEC-246**

Mr. Richmond presented Declaratory Statement DCA01-DEC-246. (See *Issue: Declaratory Statement # DCA-DEC-246* and *December 14, 2001 Letter from Doug Murdock to Raul L. Rodriguez, AIA Attachments.*)

Commissioner Wiggins moved approval of the language in the Declaratory Statement. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond presented Declaratory Statement DCA01-DEC-244. (See *Issue: Declaratory Statement # DCA01-DEC-244* and *Roll-A-Way Protective Pool Fence of Central Florida, Inc. January 3, 2002 Letter Attachment.*)

Commissioner D'Andrea moved approval staff analysis into a Declaratory Statement. Commissioner Wiggins seconded the motion.

Commissioner Bassett offered a friendly amendment for the Declaratory Statement to state "each section of mesh," rather than "the complete barrier."

Commissioner D'Andrea did not accept the friendly amendment.

Vote to approve the motion resulted 15 in favor and 1 opposed (Bassett). Motion carried.

**PRESENTATION BY FDOT ON TURNPIKE FACILITY
PERMITTING AND CODE ENFORCEMENT**

*Kevin TeBoe, Director for Planning and Production for
Florida's Turnpike, Florida Department of Transportation*

Mr. TeBoe stated Florida's Turnpike is more than just a main line running from Homestead to Wildwood. He stated it is a statewide system of 450 center line miles throughout the state with projects in Tampa, central Florida, south Florida, and in other areas. Mr. TeBoe stated the turnpike is also a statewide toll facility operating and maintaining toll facilities throughout the state in approximately 15 counties. He furthered the Florida Turnpike is part of the Department of Transportation, one of the 8 districts in a decentralized agency. He stated the turnpike is an enhanced district which is totally enterprise funded by the tolls and the concessions sold. He continued stating last year the turnpike collected over \$400 million generating the work program, which over the next 5 years is \$2.6 billion.

Mr. TeBoe stated the turnpike deals with 15 counties, with expansion expected, most of which are prototype, typical toll plazas of 3,000 square feet or less. He continued FDOT was looking for the opportunity to keep the turnpike standardized as was enjoyed with the previous relationship with the Department of Management Services. He stated that discussions with the counties have been good but differences between the counties have been noticed.

Mr. TeBoe expressed the proposal before the Commission is to reintroduce the same language as last year to self-permit the turnpike. He then opened for questions from the Commission.

Commissioner Browdy asked what would prevent FDOT from using the typical toll plaza prototype and going through statewide permitting process and achieving everything that has been achieved in the past without requiring special legislation for exemption for the requirements under the Code.

Mr. TeBoe replied the language in the Legislature is for the turnpike itself, not for the main department. He stated other agents of

the state permit themselves as well as other agencies.

Commissioner Leonard asked why the turnpike should be different from any other statewide or national firm building in 15 or 30 counties in the state of Florida. He continued there is a permitting process in the Florida Building Code allowing one entity to build in multiple counties.

Mr. DeBoe responded he is not aware of anything that makes them unique.

Commissioner Calpini asked what considerations the proposal gives to complying with fire safety requirements.

Mr. DeBoe replied there were no changes made to existing statute. He added they had been exceeding maintenance levels in their facilities.

Commissioner Parrino asked if FDOT will use licensed plans examiners and how do they plan to address a conflict with the Code.

Mr. Chow stated it had not been addressed because there were no changes made.

PRESENTATION BY FLORIDA HOME BUILDERS ASSOCIATION

Barbara Revels, President, Florida Home Builders Association

Ms. Revels thanked the Commission for the opportunity to speak to it. She stated she is a small volume, custom home builder in Flagler Beach and is very interested in what the Commission is doing. Ms. Revels offered support on behalf of the Home Builders Association and stated they would seek no further delay in the implementation of the Code. She stated she is before the Commission in the spirit of cooperation and communication and will be focussing on affordable housing during her tenure as president of the Florida Home Builders Association. (See *Florida Home Builders Association Letter to Chairman Raul Rodriguez* Attachment.)

PUBLIC COMMENT

Lorraine Ross, Florida Building Code Alliance

Ms. Ross offered comment regarding product approval stating it appeared to be in the home stretch. She asked what the effects from the changes that have been discussed and agreed upon would be on the forms that are attached to the proposed rule, and if the form really had to be a part of the proposed rule.

Mr. Richmond responded the form does need to be incorporated because it was in the original draft. He furthered that following the conclusion of the process it could possibly be re-evaluated to be more user friendly.

Ms. Ross asked if the final rule with the form would have to have a formal amendment and what the time frame would be.

Mr. Richmond replied it would have to be amended or addressed before the Commission during the current meeting.

Commissioner Bassett motioned to direct staff to amend the application form to reflect any changes made. Commissioner Wiggins seconded the motion.

Commissioner Bassett suggested the changes be reviewed and ensure they do not effect the form.

Commissioner Mehlretter asked Ms. Ross if she stated the form for local approval is not necessary and if so, the form should be eliminated immediately.

Ms. Ross responded that was correct.

Chairman Rodriguez clarified the motion was to direct staff to review the changes and the form and confirm that all action taken is consistent with the form.

Commissioner Parrino offered clarification stating at the next meeting there would be opportunity to make a determination whether the form is appropriate for certain areas for the product approval system.

Mr. Dixon offered further clarification stating application for approval applies only to the 7 products and that other products would be approved based on their listing or certification, not requiring an application for approval.

Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett then stated the form does not state "if you're applying for the 7 products." He suggested the form be amended to state "just for local approval for the 7 products."

Mr. Richmond stated the rule would have to be amended to identify that form as only applying to the 7 products.

Commissioner Bassett moved amendment to the form to state that local approval only applies to the 7 categories that have the option of statewide approval. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

John Bednerick, Executive Director, Florida Pool & Spa Association

Mr. Bednerick offered comment stating one portion of the Code is already in effect relating to swimming pools. He invited the Commission to attend field demonstrations which will be held in Orlando in the next couple of weeks. He continued stating he hoped it would assist any officials with the new requirements and stated a drawing appears on their website www.fpsaonline.org and invited any feedback from the Commission.

RECOGNITION OF SENIOR LEGAL ADVISOR'S WORK AND RESIGNATION

Chairman Rodriguez recognized Suzanne Schmith and invited her to speak.

Ms. Schmith stated her job on the Commission had been challenging and she had enjoyed working with the Commissioners. She stated she would be assisting Leon County in implementing the Code and may attend meetings in the future and in conclusion thanked the Commission.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR FEBRUARY'S COMMISSION MEETING

Commissioner Shaw moved reconsideration on the air conditioner on the roof issue in the attempt to obtain consensus. Commissioner Harris seconded the motion.

Commissioner Harris stated the air conditioning industry would be shut down as of March 1 with implementation of the Code with the way the Declaratory Statement was passed.

Commissioner Bassett noted there was still a quorum present.

Vote to approve the motion resulted in 12 in favor and 2 opposed. Motion carried.

Commissioner Parrino offered comment on the FDOT presentation stating his opinion had not been changed from last month's vote. He then motioned to vote again on the issue to ensure that the Commission maintained its position for FDOT to remain under the venue of the Code. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez announced that BCIAC meeting is cancelled due to lack of a quorum.

ADJOURN PLENARY

No further business was discussed. Chairman Rodriguez adjourned the meeting at 12:59 p.m.