

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
May 14, 2002**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:00a.m., on Tuesday, May 14, 2002, at the Tradewinds Sarata Resort, St. Petersburg Beach, Florida.

BOARD MEMBERS PRESENT:

Raul Rodriguez, Chairman
Dan Shaw
Peggy Patterson
Hamid Bahadori
Michael Mc Combs
Craig Parrino
Francisco Quintana
George Wiggins
Leonard Lipka
Christ Sanidas
Karl Thorne
Nick D' Andrea
Richard Browdy
Dr. Diana Richardson
Steven Bassett

Ed Carson
Do Y. Kim
Paul Kidwell
Dale Greiner
Stephen Corn

BOARD MEMBERS ABSENT:

Bob Leonard
John Calpini

OTHERS PRESENT:

Rick Dixon, Executive Director
Ila Jones, Program Administrator
Al Bragg, Legal Advisor
Jim Richmond, Legal Advisor
Jeff Blair, FCRC, Facilitator

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WELCOME, INTRODUCTIONS

Chairman Rodriguez called the meeting to order. He extended a special welcome to the building officials. He explained that the Commission meeting was held at this location in order to meet with the building officials to continue collaboration ensuring the best possible transition on the implementation and enhancement of the Florida Building Code. Chairman Rodriguez also extended a special welcome to Commissioner Bassett, then briefly discussed the outline and objectives of the meeting. He encouraged anyone who was in the audience wishing to speak on any of the proposed declaratory statements to please sign up on the appropriate lists.

AGENDA REVIEW AND APPROVAL

Mr. Blair briefly conducted a review of the meeting agenda.

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

REVIEW AND APPROVAL OF MARCH 26, 2002 MEETING MINUTES

Chairman Rodriguez opened for corrections or additions to the minutes of the March 26, 2002 meeting.

Commissioner D' Andrea moved to approve the minutes. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND UPDATE OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair presented no changes in the workplan from the last meeting. He stated everything appears to be on schedule with the workplan as outlined.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez stated that refinements have been made to the TAC assignments. He explained that the changes were made in attempt to

include the Commissioners' personal wishes, as well as incorporate the new Commissioners. He stated he had kept four items in mind when making the appointments, i.e.; 1) each Commissioner sit on two standing committees, 2) there be at least two Commission members per TAC, 3) there be no more than eleven members to each TAC, with exception to the Accessibility TAC, which has twelve, according to AANCI standards, and 4) the chair of the TAC's assigned be experienced.

Chairman Rodriguez announced Will Willis will reeplace Coz Tornese on the Code Administration TAC . He stated Hamid Bahadori will replace Dale Greiner on the Code Administration TAC. He stated on the Plumbing TAC, Dale Greiner will replace Christ Sanidas who will be going to the Fire TAC, replacing Sam Walthour, who has rotated off the Commission. He continued stating on the Energy TAC, Ron Bailey will replace George Wiggins, who will move to the Structural TAC. Chairman Rodriguez further stated Walter Smith will fill a producer vacancy on the Fire TAC. He continued stating for the Structural TAC, George Wiggins will replace Medard Kopczynski, and Raul V. Rodriguez will replace Frank Quintana.

Chairman Rodriguez stated the newly formed Education TAC will be comprised as follows: the producers will be Dick Browdy, chairman, Michelle Kain, Construction Industry Licensing Board, and Clarence Tibbs, Electrical Contractors Licensing Board. He continued stating the consumers will be Colleen Walter, Florida Board of Landscape Architects, Mike Rodriguez, Florida Board of Architects and Interior Designers, and Henn Rebane, Florida Board of Professional Engineers. Chairman Rodriguez then stated the general interest group will consist of Ed Kinberg, Richard Reynolds and Burt Folce of the building construction advisory group (BCIAC) that has joined the Commission, Dennis Franklin, Building Code Administrators and Inspectors Board, Max Rodriguez, Miami Dade Community College, and Herminio Gonzalez(?), Miami Dade Code Compliance.

SPECIAL RECOGNITION OF RETIRING COMMISSIONERS AND MANUFACTURED BUILDINGS PROGRAM ADMINISTRATOR

Chairman Rodriguez recognized Medard Kopczynski stating that he had been very generous with his time to the Commission. He stated even after moving to Maine, Commissioner Kopczynski continued his responsibilities to the Commission until the Governor had made the new appointments. He presented Commissioner Kopczynski with a plaque recognizing his service to the Building Commission.

Commissioner Kopczynski expressed his gratitude to the Commission and to the people who are making this a successful process.

Chairman Rodriguez recognized Commissioner Jim Mehlretter. He stated Commissioner Mehlretter is a structural engineer and led the effort in making the Product Approval System progress during the entire process, resulting in something quite different than anyone had in mind at the beginning. He stated Commissioner Mehlretter was not present, but had received a letter of recognition and would also be receiving a plaque in appreciation for his service to the Commission.

Chairman Rodriguez then recognized Sam Walthour, a Fire Protection Technologist, who had been serving on the Commission, and the predecessor board, for a very long time and had done so with grace.

Chairman Rodriguez continued with recognition of Larry Jordan, who is retiring from State government after 32 years of service. He stated Mr. Jordan has been a part of the Department of Community Affairs Codes and Standards since the beginning of the Manufacture Building program. He explained that when Mr. Jordan began his tenure as Planning Manager for the Manufactured Building Program, there were fewer than ten certified manufacturers in the program. He added that today there are more than 100 manufacturers and more than 20,000 buildings installed in Florida each year. He stated that under Mr. Jordan's direction the program has changed from a paper process to electronic systems. Chairman Rodriguez extended the Commission's gratitude for his service and a certificate recognizing his service to the Florida Building Commission.

Mr. Jordan thanked Chairman Rodriguez and the Commission.

Mr. Dixon added this was not the first time that Florida had tried to develop a single statewide code, but the third. He explained in the 1950's there was a process where the building officials around the state got together and tried to develop a single code that all communities could adopt. He continued that this effort resulted in adoption of the Standard Building Code in the northern part of the state and the document that the building officials developed became the South Florida Building Code, which went into effect in Miami, Dade, and Broward counties.

Mr. Dixon continued stating in Mr. Jordan is the last remaining staff member from 1974 when the Florida Legislature passed the first statewide Minimum Building Codes Act. He explained the 1974 law directed the

Florida Board of Building Codes and Standards, the Florida Building Commission's predecessor board, to develop "a" statewide building code to be brought back to the legislature in 1976 for adoption as the single statewide code. He continued stating the effort fell apart as Southeast Florida and Northwest Florida conspired to keep it as an individual community code based system. He stated the result of the second effort to achieve a statewide code was communities were offered four different codes that they could adopt as a local code process, the one that the Commission is a part of, was successful in bringing about a single statewide code, the Florida Building Code.

Mr. Dixon then stated Mr. Jordan was at the department through all those years. He noted Mr. Jordan saw the scaling up of staffing, the catastrophic effects of what the Legislature can do overnight; as which it killed the 1970's effort to establish a statewide code, and he saw the final product come about. He added the one gentleman at the department who was the leading force in the development of a statewide code, Jack Haslam, the former administrator, did not live to see this. He continued stating Mr. Jordan is a survivor who has done a great job. He further stated Mr. Jordan had helped the manufactured buildings industry move from infancy to a prominent place in the community in Florida, and that Mr. Jordan had helped establish program standards and implemented programs that have improved the quality of the product. Mr. Dixon added it is fitting that Mr. Jordan see this move to the next step before he leaves office.

SPECIAL OCCUPANCY TAC REPORT AND RECOMMENDATIONS (FROM APRIL 26, 2002 MEETING)

Mr. Dixon presented a brief overview of the report of the TAC. (See *Florida Building Commission, Special Occupancy TAC, Minutes of the March 25 and April 24, 2002 Meetings* Attachment)

Commissioner Thorne moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ACCESSIBILITY TAC REPORT AND RECOMMENDATIONS

Commissioner Richardson presented the report of the Accessibility TAC. (See *Florida Building Commission, Accessibility Technical Advisory Committee, Report of the May 13, 2002 Committee Meeting* Attachment.)

Commissioner Lipka moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CODE ADMINISTRATION TAC REPORT AND RECOMMENDATIONS

Commissioner Thorne presented the report of the Code Administration TAC. (See *Florida Building Commission, Administration Code Enforcement Technical Advisory Committee, May 13, 2002 Committee Report Attachment.*)

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

ELECTRICAL TAC REPORT AND RECOMMENDATIONS

Commissioner Mc Combs presented the report of the Electrical TAC. (See *Florida Building Commission, Electrical Technical Advisory Committee, May 13, 2002, Committee Report Attachment.*)

Mr. Dixon added that when the Commission updates the editions of the model Codes, the requirement, through the settlement with the Home Builders Association on their rule challenge, is that the update can be taken as one proposed amendment. He explained the same standards do not have to be applied to it as those for individual amendments. He furthered if any person objects to any one change that is in the update model codes, they can request that it be taken up separately, which then would have to go through the whole process for that individual change.

Commissioner McCombs asked if the committee itself can make the proposal.

Mr. Dixon responded that someone would have to submit a committee proposal through the information system that proposed an update to the referenced standard. He explained it has to be proposed of as adoption to the latest edition of NFPA standard 70. He stated the committee could initiate it, but one of the members or staff would need to enter it into the information system so it can be formally recorded.

Commissioner McCombs asked for clarification as to whether staff

can enter it.

Mr. Dixon confirmed staff can enter it.

Commission D'Andrea moved approval of report. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair offered clarification regarding the request the TAC has made for the Commission to adopt the 2000 NEC/NFPA 70, stating it is not something that the Commission could take action on at this meeting.

PRODUCT APPROVAL/PROTOTYPE BUILDING/MANUFACTURED BUILDINGS PROGRAMS OVERSIGHT COMMITTEE (POC) REPORT AND RECOMMENDATIONS

Commissioner Quintana opened by announcing his resignation from Miami Dade County after 14 years of service. He has accepted a position at Florida International University.

Chairman Rodriguez added Commissioner Quintana's new position will not allow him to be available to the Florida Building Commission, resulting in another vacancy until the Governor makes an appointment. He extended the Commission's gratitude for Commissioner Quintana's service to the Commission.

Commissioner Quintana presented the report of the committee. (See *Florida Building Commission, Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee Report Attachment.*)

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

EDUCATION PROGRAM OVERSIGHT COMMITTEE REPORT AND RECOMMENDATIONS

Commissioner Browdy presented the report of the Education Program Oversight Committee. (See *Florida Building Commission, Education Oversight Committee, May 13, 2002 Attachment.*)

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

PLUMBING TAC REPORT AND RECOMMENDATIONS

Commissioner Shaw presented the report of the Plumbing TAC. (See *Florida Building Commission, Plumbing TAC, May 13, 2002, Report of the Committee Attachment.*)

Commissioner Greiner moved approval of the report. Commissioner Wiggins seconded the motion then asked if pipe sleeving was not a specific code provision. He also asked what type of piping it was determined to be deleterious towards, pvc or copper.

Commissioner Shaw responded stating the corrosion issue was a request the Building Commission and the Public Service Commission had asked the manufacturers to provide criteria for to determine if their pipe would be suitable for use and under what chemical conditions would there be concerns. He stated that the FlowGuard Gold manufacturers, through Novian, had given direction to the Commission that they could find no application of any water quality from the aquifer or any additive in the potable water system that would adversely affect Flowguard Gold PVC. He further stated he would expect within a short period of time a declaratory statement as to whether that means Flowguard Gold is suitable for use in this application within the Code. Commissioner Shaw explained the Code it states there should be tests done to determine compatibility, but if the manufacturer states there isn't anything incompatible, the Commission may determine that there is no need for compatibility testing.

Commissioner Shaw then addressed the sleeving issue stating past codes throughout the United States have always addressed sleeving as pipe entered vertically through the concrete. He explained it originally started with fly ash being introduced into the concrete product that adversely effects copper pipe, therefore sleeving was part of the Code. He continued stating most manufacturers found the easiest path was to sleeve the pipe because it did no harm and worked with the Code. He stated what Novian manufacturers determined now with the termiticide being entered into that sleeve to prevent them from coming up into it, the sleeving has to be sealed at the top using a caulk. He further stated both the termiticide and the caulk could be agents that would damage the pipe. Commissioner Shaw continued stating certain agents are not compatible

with the pipe. He explained there is no advantage to the sleeving and it did not prevent a corrosive action in the sleeving. He stated the new recommendation is that sleeving is bad because of the termiticide issue and they would rather not see sleeving at all than to see sleeving that had to have caulking or termiticide inserted into it.

Commissioner Wiggins clarified the only question he had was whether the Florida Building Code requires the sleeving.

Commissioner Shaw responded that the Code only requires sleeving through footers and stemwalls.

Commissioner Lipka stated Commissioner Shaw basically answered the question, but he commented there had been discussion of putting it directly in the concrete going under a slab or through it. He stated there sleeving is required. He further stated as long as the sole use of this is for water it is acceptable, but if it is to be used for other things there may be a requirement to double wall it. He added he believes it is a little more complicated than what is being said.

Commissioner Bassett asked why the termite material is detrimental if it is interjected at the sleeve as it is not detrimental when the whole ground is treated.

Commissioner Shaw replied that had been discussed and the issue was whether when it is sprayed over the ground it is able to dissipate. He explained that when it is put into the sleeves and stays in liquid form for a long time, it doesn't flash in that state, therefore it could have an adverse effect to the pipe. He continued that some of the caulking used is not compatible with certain pipes therefore some of the new codes require that the sleeving be filled with caulking and then sealed which causes the pipe to fail. He furthered the sleeve serves no functional purpose other than the fact that it was written into the Code because it was easier to write it in than write it out at that time.

Chairman Rodriguez called for a vote on the motion to approve the report. Vote to approve the motion was unanimous. Motion carried.

MECHANICAL TAC REPORT AND RECOMMENDATIONS

Commissioner Patterson stated the TAC met with a quorum. She stated there were presentations from Larry Banks with Del Air, Philip Winroth, and Jim Cummings in reference to the balanced air return. She

reported this was discussed at length with no conclusion therefore the TAC requests another meeting at the next Commission meeting. She also requested that the Mechanical TAC be allotted more time for its meeting as there a number of issues to discuss.

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

STRUCTURAL TAC REPORT AND RECOMMENDATIONS

Commissioner Parrino presented the report of the Structural TAC. (See *Florida Building Commission, Structural TAC, May 13, 2002, Report of the Committee Attachment.*)

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

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Bunnie Armstrong presented the applications for accessibility waivers. She informed the Commission there were four recommendations for deferral, as follows:

#2, Crazy Konch Café

Ms. Armstrong explained this was the second time the application had come before council. She stated the council found there were too many questions, the overheads were not very clear, and the information in the packet was not clear. She continued stating the Council's recommendation was to defer one more time to give the applicant an opportunity to come and provide the additional documentation necessary to enable Council to make a decision.

Commissioner D'Andrea moved to defer and request the applicant produce additional documentation. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 Colony Theater Restoration and Stage House Improvements

Ms. Armstrong stated no one was present representing the owner or applicant. She continued stating the Council recommended deferral to

give the applicant an opportunity to appear.

Commissioner Corn moved approval to defer. Commissioner Wiggins seconded the motion.

Commissioner Greiner asked if the applicant informed the Council that they would not be present at the meeting.

Ms. Armstrong replied they had no indication if they were to appear or not. She further stated this application seemed rather complex therefore the Council did not review it and voted to defer it and allow the applicant a chance to appear.

Chairman Rodriguez asked if the applicants are notified of the Commission's decisions.

Ms. Smith responded that all of the applicants receive notice of both meetings by certified mail.

Commissioner Shaw asked if the applicant doesn't request a continuation and does not communicate, would it then be appropriate to issue, based on the facts available, a denial and let them reapply if they are interested.

Mr. Bragg responded that some of the applications are mostly complete when they arrive at the department. He stated it is possible to take action based on the information within the four corners of the application without any oral presentation from the applicant. He gave an example of an applicant who was late for the meeting who found out after arriving that his application had received a recommendation for approval due to the completeness of the information. He continued stating there are others that raise more questions than answers and the Council believed that based on the information provided, it did not have the necessary data to provide a responsible recommendation to the Commission. He further stated he agreed there should be a limitation on the number of times an applicant can reapply.

Commissioner Corn asked if the application could be reviewed ahead of time and the applicant be notified if the application is not complete enough.

Chairman Rodriguez replied the problem is that the applicant is the one coming before the Commission requesting the waiver and it is their

responsibility to complete the information requested. He stated what is being done here is giving them another opportunity, which is not necessary.

Ms. Armstrong added in addition to what is in the packet, part of the process is to discuss the application with the applicant. She explained quite often information which could be helpful to the applicant or that the Commission uses to determine it's decision comes from that discussion with the applicant.

Commissioner Wiggins asked if it would be appropriate in the information that we send to an applicant to notify them the application will be heard based on the information that is in the application. He continued it should also state the Council requests the presence of the applicant to answer specific questions because the application will be heard and decided upon whether the applicant is there or not based on the merits of the application without deferral.

Mr. Bragg stated something like this has been started. He reminded the Commission there is one final order disapproving an accessibility waiver pending in a court of appeals. He explained the adequacy of notice is being called into question, but that was based on shortness of time that the Commission met. He continued as far as the information given there are telephone numbers and contingencies. He concluded stating as far as the information that is given he is not sure how much more we could do at present.

Commissioner Greiner stated he finds it disconcerting that an organization would make an application of this magnitude and not take the time to be in front of this Accessibility Council.

Chairman Rodriguez stated an emergency can come up, but it is easy to call ahead so the Council will be aware.

Mr. Long interjected there was a case this session that came before the Council four separate times. He stated during that process that the entire process was all entirely wrong. He explained because the application contained new law, the Council needed Mr. Bragg's input before it could determine if it had any right to make a decision at all. He stressed the applications are not plain and simple and are often very complicated.

Chairman Rodriguez called for a vote to approve Council's

recommendation of a deferral. Vote was unanimous. Motion carried.

#7, Marriott - Marco Island Resort

Ms. Armstrong stated DCA received notification that the applicant request the application be deferred.

Commissioner D' Andrea moved approval to defer. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

Ms. Armstrong stated Neil Mellick had sent a message relative to the Crazy Konch Café, indicating the Council had strongly recommended that the applicant appear.

Chairman Rodriguez responded that it had been a part of Commissioner D'Andrea's motion.

#1 Mater Academy

Ms. Armstrong stated this was the third time the applicant had come before the Council. She explained the Council had asked that legal staff clarify what the responsibilities were for a charter school undergoing alterations to provide vertical access to all levels of the building. She continued stating legal staff advised the Council yesterday that the school is a Title 2 facility, but it was still unclear whether it had to provide vertical accessibility. She stated applicant, since the last meeting, had changed the plans and will be providing vertical accessibility by a lula. However the applicant has requested two years time to have it installed. She further stated the Council asked Julia Shaw, who was in the audience, what she felt was appropriate in a Title 2 facility in alteration. She continued stating Ms. Shaw's response was that the alteration had to be done immediately. She stated the Council's motion was to recommend to grant a time extension to install the lula provided the applicant come into compliance with Department of Justice's time frame. (See *Academia Mater Academy East Charter School Attachment.*)

Commissioner Greiner asked if the applicant gave a reason for needing that amount of time.

Ms. Armstrong replied it was originally a financial hardship.

Agnocio Suloweta(?), Vice President of Mater Academy

Mr. Suloweta stated the reason the plans changed subsequent to the last meeting was because they had entered into a contract to buy the adjacent three lots to the facility. He explained they had determined, in order to be able to install the lula, they would have to remove the existing paved access area to the building on the right hand side. He added with the purchase of the adjacent lot on the right, they would be able to reconfigure the parking for the entire complex. He continued stating it will take some time to build the adjacent facility because part of the plan is that the second floor will no longer consist of three classrooms, but will be a media center with complete accessibility to the entire second floor. He stated the building that would be constructed next door will take up some of the classes that will be taken from the existing second floor.

Commissioner Greiner asked for clarification that the applicant would be doing all of the rest of this construction and install the lula last.

Mr. Suloweta responded it will be completed at the same time.

Commissioner Greiner asked if the project would take two years.

Mr. Suloweta replied they are in the process of getting acquisition and development financing to continue with the construction of the facility. He stated there seems to be very positive feedback from the city of Miami. He further stated it is in an area that requires schools due to severe overcrowding.

Commissioner Greiner asked, with the time necessary to complete construction, would it not work that the lula be completed by the time of CO.

Mr. Suloweta responded it was very possible that they would be able to do that.

Commissioner Greiner asked, with respect to a time frame, when will the reconstruction of the existing building be done and will the lula be ready at that time.

Mr. Sulaweta replied the existing building is a completely remodeled building.

Chairman Rodriguez offered clarification stating the building is completed and it was at the end of the process that this was brought to the architect's attention. He explained the solution that was proposed was

not acceptable to the Council or to the Commission and the applicant has now come back with new plans. He stated Commissioner Greiner wanted to know if the LULA will not be operational until the construction of the new building is complete. He offered further clarification stating the applicant has asked for two years for that.

Mr. Suloweta responded stating that was correct and offered clarification why. He explained looking at the access on the first drawings where the lula would need to be placed would prevent any access to the building from the back by vehicles. He continued stating they will be abandoning the existing driveway to the rear of the building, because they have acquired the adjacent properties, and using the new property for access.

Commissioner Shaw stated he recalled the first floor building has different levels on the second floor which make them inaccessible by a single elevator unit. He stated it appears that the classrooms on the upper floor will be eliminated, but before that can be done the other building has to be built. He continued stating as the other building is built and the classrooms on the upper level are eliminated, the second floor of the existing building will be converted to a media center and the vertical accessibility will be completed at that time. He stated the time frame would have to be extended to allow for completion of the new building before the remodeling of the existing building begins.

Commissioner Patterson asked if the second floor will be used during the construction of the new building.

Mr. Suloweta replied they would be using the second floor during the construction.

Commissioner Patterson asked for clarification that during that time the second floor would be inaccessible.

Mr. Suloweta stated it will not be accessible until construction is completed. He offered they might opt to phase in the lula prior to that time if it becomes practical to install it during the construction of the adjacent building.

Chairman Rodriguez asked if the property had been acquired yet.

Mr. Suloweta replied they are under contract to close on the property.

Chairman Rodriguez suggested once the property has been acquired, the applicant would be able to install the LULA because the traffic can be redirected and the Commission does not have to approve a scheme which renders the second floor inaccessible for two years.

Ms. Maria Rivez(?) stated the issue is there are three classrooms with 25 to 30 children each and if they are removed they have no where else to go.

Chairman Rodriguez offered if the installation were done in the summer it would be better than rendering the second floor unusable for two years.

Commissioner Browdy asked if the existing building permit could be associated with the new building and have one permit covering the entire site. He explained this would allow them the time available that the building permit allows, which is twelve months to complete the LULA and if it takes longer the applicant would have to come back before the Commission. He asked if the existing building permit could be modified to incorporate the new site, which shows the lula on the plans and shows it accessible. He pointed out this would eliminate the need for a waiver.

Commissioner Greiner asked if the second floor will be rendered not usable during construction.

Mr. Suloweta replied at some point it would be evacuated because of the remodeling work that has to occur there.

Commissioner Greiner asked if that was part of the original permit or will the applicant final this permit out then go back and get a second permit to remodel the second floor. He suggested if this was the case that the applicant not get a CO for the second floor until the lula is in.

Chairman Rodriguez stated that a CO would not be granted until there is an accessible second floor, unless the Commission recommend that they do that.

Commissioner Greiner stated he wants to get this done but he is having trouble with the schedule.

Chairman Rodriguez stated what the Commission is struggling with is something that will not close down the school but will not render the second floor inaccessible for two years.

Commissioner Richardson asked what age groups will be served at the facility.

Ms. Rivez responded the existing building holds kindergarten through second grade.

Commissioner Richardson asked if they were using children standards or adult standards.

Mr. Rivez asked in what sense.

Commissioner Richardson offered the restrooms, for example, referring to the height of the toilet seats, sinks, etc.

Ms. Rivez stated they have accessibility for children like any other public school.

Commissioner Richardson asked if there was a Waiver application for use of children's standards somewhere in the future.

Ms. Rivez replied that she was not aware of one.

Commissioner Richardson pointed out that there are a number of restrooms that will not meet the requirements for bathrooms.

Ms. Rivez stated the architect of the project was not here and she cannot answer that question. She offered she does know that any other issue other than accessibility has been addressed and it was her understanding that it should be fine.

Commissioner Richardson restated it does not look fine in the proposed plans and offered the comments to basically give the applicant notice.

Commissioner Kidwell asked if the applicant is not operating under a temporary CO at present.

Mr. Suloweta responded they were.

Commissioner Kidwell asked if the construction that was permitted for was complete with the exception of this pending waiver.

Mr. Suloweta confirmed that was correct.

Commissioner Kidwell asked if the different levels on the second floor are only near the stairs at the front of the building and there is no way to walk from one classroom to another without going outside.

Mr. Suloweta offered clarification why the idea of completely abandoning the classrooms on the second floor. He explained that after it was determined a lift would have to be installed the issue became how were the children going to get from classroom to classroom. He continued that it was evident they would have to go out into the hallway and if they had to go into the hallway it would have to be lifted, which would mean the stairs would have to be taken out, and the project became very expensive. He stated when the properties next door became available they realized that they could build a new building a lose the three classrooms in the exiting building to construct a media center with accessibility. He continued stating the construction of the new building will take some time. He explained the funding cycle of the school is very limited which is why they requested two years time to raise the money to construct the new building.

Commissioner Kidwell asked if the temporary CO was extended by Miami-Dade.

Mr. Suloweta confirmed it was extended pending the resolution of this Council.

Commissioner Kidwell stated he believes, being familiar with permitting on sites and buildings, the two year period is a reasonable request. He continued stating the applicant cannot get through South Florida Water Management District in less than a year. He explained as the additional properties are purchased, the lula cannot be installed because it falls into a setback until the adjacent properties are purchased, and the paving cannot be done until a permit is received from Swiftmud or an exemption of some sort.

Commissioner Corn stated the Commission should keep in mind that the Council did approve a two-year waiver.

Ms. Armstrong interjected stating the applicant requested a two year extension. She explained the Council had concerns and discussed them with Julie Shaw, who stated that the alterations were to be done immediately. She stated the alterations were done and because there was concerns and uncertainty that under Title 2, with the alterations and the charter school element, the Council's recommendation was that,

based on the time extension that the applicant follow the Department of Justice regulations. She explained those regulations were somewhat ambiguous, which has led to this large discussion.

Commissioner Corn apologized for the incorrect statement. He continued stating there is a building with six classrooms and 50 percent, which are on the bottom floor, are completely accessible, the adjacent properties have been purchased, and the driveway to the rear has to be kept in use until the classrooms in the building next door can be completed. He stated two years does not seem like an unreasonable request, in fact it may not be completed within two years. He further stated once the building next door is completed, then the second floor will be made accessible. He further stated with the lula being on the outside of the building overcomes the problems they had with the different levels of the second floor. He offered the plan seems like it could work. He then moved for approval of the waiver with the condition of an extension of two years. Commissioner Wiggins seconded the motion.

Commissioner Sanidas stated it is obvious this would not meet the codes. He asked what was told to the building official when they applied for the permit.

Mr. Suloweta responded apparently an error was made. He explained the actual issue of accessibility to the second level was not discussed because they thought they were exempt. He continued stating the process has all been done in good faith, there was an application, there was a permit, the architects thought they were exempt and it was not until the last few days before the CO was to be granted was there any indication that there might be an issue.

Commissioner Bassett stated if the motion fails he has a proposal for compromise.

Mr. Long offered further clarification stating the Council reviewed the plans and found that the first floor was not actually accessible because of the grading problems. He further stated some of the problems with the way the rooms on the second floor were designated out it would be virtually impossible for a person with disabilities to get out of the building. He continued stating the Council contacted the local officials and found an error had been made. He explained it will never meet accessibility requirements the way it is set up now. He commented even the new plans have problems which can be worked out. He concluded stating the Commission's decision should be that either the school be

closed or give the applicant additional time to make the building accessible and to create more classrooms.

Mr. Harding added over this time the Council has taken this full circle and under Title 2, the committee feels it should follow Department of Justice's recommendations. He stated it should be left with the Department of Justice if any extra time constraints to bear on this case, because it is not under the Commission's authority to give the two years. He further stated it should be argued that in the final order it should state it is between Department of Justice and the petitioner what the exact time frame is.

Commissioner Greiner asked if the Commission can rule on ground the applicant does not own using that in the context of being able to build the lula.

Mr. Bragg stated based on the obvious facts, Title 2 of the Americans of Disabilities Act applies to this project because it is a different kind of public school. He explained Title 2 requires accessibility for buildings in which any governmental programs, services or facilities are offered. He stated the Council's recommendations was to allow the owner such time to meet the accessibility requirements the Department of Justice was willing to give under Title 2. He further stated a final order that a final law that is open-ended may be invalid. He recommended there be some date of closure and that the final order state that the waiver should be allowed for whatever time the Department of Justice is willing to give, but in no event later than the date on the order, which provides a terminal date. He continued stating even two years may not be adequate and the owner need only come back before the Commission to request whatever extension in time that is needed based on facts they would then be able to lay before the Council and the Commission.

Chairman Rodriguez asked if the maker of the motion and the person who seconded the motion would except Mr. Bragg's recommendation.

Commissioner Corn and Commissioner Wiggins both accepted the recommendations.

Chairman Rodriguez stated the motion is to approve the waiver for as much time as Departmen of Justice believes it can, but not to exceed two years.

Mr. Bragg added he had not come to this meeting studied up on the

enforcement proceedings under Title 2. He stated the owner should be cautioned that it is theoretically possible for the Department of Justice to come knocking at their door regarding this. He continued stating if the owner is willing to risk that, it is up to them. He offered he does not want anyone to be under a misconception of what we are doing here. He explained every final order the Commission issues approving a waiver is accompanied by a warning caution that it is subject to anything under the Americans of Disabilities Act and that in the event of a conflict that Act will be controlling over the final order.

Chairman Rodriguez asked the applicant if they were clear with that risk.

Mr. Suloweta stated it was perfectly clear and they will accept that risk.

Commissioner Richardson stated Mr. Bragg had just made the point she wanted to make and reiterated that the requirements under Title 2 are long passed and they are not going to come and say you will get extra time. She commented they only come knocking on the door if they are enjoined in a lawsuit or if they are coming after you themselves in some way. She reiterated there was nothing this Council could do to grant additional time under federal requirements.

Chairman Rodriguez called for a vote. Vote was unanimous. Motion carried.

#3 Southwood Head Start

Ms. Armstrong stated the applicant had requested waivers from the mounting heights in restroom facilities. She further stated the Council recommends granting the waiver with the condition that the mounting heights comply with the ADAG requirements for children's facilities.

Commissioner D' Andrea moved approval of the Council's recommendations. Commissioner Greiner seconded the motion. Vote was unanimous. Motion carried.

#5 LunAire Environmental Chamber

Ms. Armstrong stated the Council recommended to grant the waiver with the condition that it only be extended for the period of its

current use as a containment chamber with five or less employees.

Commissioner Shaw moved approval of the Council's recommendation. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

#6 Marion County Landfill

Ms. Armstrong stated the Council recommended granting the waiver based on its unique usage. She further stated the Council did not find technical infeasibility or disproportionate costs of any type.

Commissioner Shaw moved to approve Council's recommendation. Commissioner Wiggins seconded the motion.

Commissioner Richardson asked if the facility is a Title 2 entity.

Mr. Bragg responded by stating that he and Ms. Armstrong disagree as she believes it is and he believes it is not. He stated if any services, facilities or programs were offered on site to members of the public it would be. He further stated his understanding is that the purpose, use and function of this facility is not open to the public. He continued stating no services, programs or facilities are offered there. He explained that Marion County has the same unit of government that collects solid waste from your home or business and that is the service being offered, but it is offered at your home not on site. He stated there are many governmental facilities that are not subject to the architectural requirements of Title 2 because members of the public are not allowed in. He explained there is some debate over buildings that can be turned over to some other use, but he was not aware if the Department of Justice has worked all of these things out. He stated any building regardless of ownership where public services are offered are subject to Title 2 even though the building may be owned by private parties and leased by the governmental entity. He commented he would consider it a mistake to make simple legal ownership the litmus test of whether the building is subject to the architectural requirements of Title 2. He further commented it is one factor to be considered, but the most important factor is where members of the public in and out of the building incident to receiving programs, services or facilities. He stated if they are, it is clearly subject to Title 2.

Commissioner Richardson asked if it is not subject to the requirements of Title 2 what should be applied.

Mr. Bragg replied it would be subjected to Florida Law only.

Commissioner Bassett stated many of these facilities offer public tours. He asked if that changes anything.

Mr. Bragg responded there is a lot of debate going on in the Department of Justice as to whether the availability of tours makes a difference. He stated he understands that in one instance regarding a firehouse the Department of Justice has taken the informal position that because tours are allowed on the upper level that it is subject to the Title 2 architectural requirements. He offered that he or someone on his staff could research this further. He explained the example he gave was a couple years out of date as that was the last time he had looked into the issue. He stated to his knowledge the Department of Justice has never passed judgement on whether a solid waste treatment facility is subject to it.

Commissioner Richardson asked if there was anyone here from the Marion County Landfill.

Chairman Rodriguez called for a vote. 19 in favor, 1 opposed (Richardson). Motion carried.

BREAK

Chairman Rodriguez directed the Commission to Commissioner Patterson.

Commissioner Patterson invited the Commission to her home at 6:00pm on June 30th, the night before the next Commission meeting begins, for dinner and drinks. She will be sending out a formal invitation and she requested that anyone attending please RSVP.

LEGAL STAFF

REPORTS/DISCUSSION/RECOMMENDATIONS/APPROVAL

Mr. Blair reviewed the declaratory statement process. (See *Commission's Declaratory Statements Process Attachment*.)

Commissioner Greiner stated for reasons of disclosure he had attended a meeting on May 9th that involved swimming pool/spa organizations and other industry personnel. (See *May 9, 2002, Declaration of Exparte' Communication Attachment*.)

Mr. Richmond stated most of the participants who were present at that meeting are present today and the same information will be presented to the Commission. Mr. Richmond then presented Declaratory Statements for discussion and approval. (10:45am)

Second Hearings

Structural
DCA-DEC-248 by Certified Windows and Doors, Inc. on window replacements

Mr. Richmond described the petition for declaratory statement stating it had been discussed sometime ago and pertains to window retrofits on commercial buildings. He clarified there are two different types of buildings: one within the high velocity hurricane zone and outside the high velocity hurricane zone. He stated the order has been drafted, with staff having a comment on that and one addition to be made to the order for clarification. He explained in Section B, Paragraph 7a, the words "without window protection" would be added after the phrase "for an enclosed building" clarifying that the building would not require shuttering, were that assumption to be made. He continued stating in Paragraph 11, the last line which contains the specific technical requirements currently in the Code for emergency exit from a building, would be stricken and the phrase "meeting the Code requirement at the time the building was permitted" would be added. He asked for a motion to approve, subject to those two amendments.

Commissioner Parrino asked for the language of the declaratory statement to be repeated.

Mr. Madani responded stating the first comment has to do with a building that is enclosed but is not in the wind borne debris region. He explained a building that is not located in the wind borne region can be built enclosed without requiring that glazed openings be protected. He read specific language clarifying the declaratory statement, "The placement of windows are required to comply with Chapter 16 as follows: a) outside the wind borne debris region, replacement windows are required to meet the wind design pressure for enclosed buildings without protection and must be anchored as per Chapter 17."

Mr. Madani continued stating the other clarification has to do with the means of egress. He explained this is in existing buildings and the clarification was that the opening of a window or a clear opening should

be required to comply with the Code that the building was permitted under and not be forced to comply with the new Code. He stated the added language reads "meeting the Code requirement at the time the building was permitted."

Commissioner Parrino moved approval of the declaratory statement with the language added by staff. Commissioner Lipka seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-007 by Roll a Way Storm Shutters on allowable stress for shutter designs.

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated this involves the design calculation requirements in connection with the design of exterior roll shutters for hurricane protection. He explained the recommendation was extremely technical and is contained in the proposed order. He stated the conclusion stated that a load combination exists with wind loading only and that assuming the gravity load for the design component is zero does not mean that no load combination exists. He further stated that load combination number four, identified in Paragraph 1 above, does exist with the assumption that the dead load is zero. He concluded stating the criteria of Section 1609.4.3 apply in the absence of a load combination simultaneous use of both the one third increase in allowable stress and the twenty five percent reduction in combined loads is not permitted under the Florida Building Code. He then opened for clarifying questions or public comment.

Commissioner Wiggins moved approval of the declaratory statement. Commissioner D' Andrea seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-022 by Dow AgroSciences on termite baiting systems which involved the product Sentricon.

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated there was a question whether Sentricon was an approved termiticide under the Code for use in new construction. He continued by stating the recommendation of the TAC, as approved by the Commission, was that the Commission could not endorse or reject a product at this time through declaratory statement. He further stated if it were allowed it would be allowed through the alternative means and methods and would be subject to the building official's approval. He explained since the declaratory statement was decided it has been

reported that the Sentricon product has been approved on the list of the Department of Agriculture and Consumer Services list of registered termiticides for new construction. He stated, although it has not been independently verified, it was his understanding that there would be a request that a paragraph be added directing any potential reader that the list should be consulted to determine if it is a registered termiticide.

Public Comment

Samantha Newhouse, representative of Dow AgroSciences who submitted the petition to the Commission.

Ms. Newhouse stated when the petition was submitted, the registered termiticide list had not been published yet. She continued the termiticide is now on the list and Dow AgroSciences wanted to be sure that the Commission was aware of that.

Commissioner D' Andrea moved approval of the declaratory statement with the additions as stated by Mr. Richmond. Commissioner Greiner seconded the motion.

Commissioner Wiggins stated in his understanding this baiting system is not a termiticide. He further stated there is no termiticide that is used until such time that termites are detected and the baiting system items are placed in the ground at which time a termiticide would be placed in the ground. He continued stating this is an entire system and not just a termiticide. He noted that saying this is an approved termiticide may be a bit cumbersome.

Mr. Richmond responded the way he views it, the Code defers to the Department of Agriculture and Consumer Services to determine what is put on the list of registered termiticides. He stated this product is on that list, therefore this subject needs to be brought before that agency. He further stated the paragraph that would be added is simply a reference to that list to determine what has been registered. He noted the Commission is not reaching any conclusion, but deferring in a manner that is consistent with the Code.

Commissioner Sanidas stated there is a preconstruction treatment of the soils to prevent termites from interfering with the construction. He continued in his understanding the Sentricon does not take effect for six months after it is installed.

Chairman Rodriguez clarified Commissioner Wiggins' question is

that it is the Department of Agriculture's call not the Commission's.

Mr. Richmond stated there was another declaratory statement on the list which may allow for further clarification of this issue. He offered his understanding of the Code would be that it is the Department of Agriculture's decision.

Commissioner Sanidas continued stating his understanding is the Department of Agriculture determines whether or not the chemical will kill termites, not if it meets the Building Code standards, which is his concern.

Mr. Richmond responded stating the Building Code defers to the list of registered termiticides maintained by the Department of Agriculture and Consumer Services.

Commissioner Sanidas stated the list does not give instruction on how to use the termiticides, which concerns him.

Chairman Rodriguez called for a vote. 19 in favor, 1 opposed (Sanidas). Motion carried.

DCA-02-DEC-052 BY Indian River County on wind speed line.

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated this pertains to the 140mph contour line that is contained in Figure 1606. He explained the issue was whether it should be interpreted that 140mph applies although the contour line is dashed as opposed to a solid line. He stated the conclusion was the last wind speed is 140mph and the contour line of 1606 designating that line being dashed is not of consequence to the wind speed for the areas between 130 and 140mph should be subject to linear interpretation as permitted under ASCE798.

Commissioner D' Andrea moved approval of the declaratory statement. Commissioner Lipka seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-064 by Door And Access Systems Manufacturers Association on locking a garage door in a closed position.

Mr. Richmond explained the language relating to the petition. He stated the petition pertains to garage door installation alternatives. He continued stating there were three alternatives: 1) a garage door operator

with no mechanical locking device, 2) a mechanical locking device the home owner must activate or 3) an installation utilizing a vertical reinforcement post the home owner must install prior to a high wind event. He stated the petitioner asked for the Code compliance of those as well as a declaratory statement regarding whether those would be considered active locking or passive locking, relative to the high velocity hurricane zone. He further stated installation with no mechanical locking device was found not to be in compliance with Section 2411.3.1.5 and is neither passive or active locking because there is no mechanical locking device. He noted that the installation utilizing a locking device that the homeowner must activate does comply with Section 2411.3.1.5 and is considered active locking. He stated installation utilizing vertical reinforcement post is also in compliance with 2411.3.1.5 and is considered active locking. He further stated that the Code requirement refers to whether the specified doors will perform in the manner required given the wind speeds involved. He explained the specific requirements are that they be designed to withstand the uniform lateral pressure in excess of 50 percent of the design wind pressure per Chapter 16. He noted that stated there is no technical data provided to make that determination.

Commissioner D' Andrea moved approval of the declaratory statement. Commissioner Thorne seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-075 by Go Bolt on corrosion resistance of hardware.

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated the petition pertained to the corrosion resistance of frame connector hardware in a project in Hillsborough County, Florida, known as Linebaugh Apartments. He further stated Section 2301.2.3 of the Building Code requires that the quality and design of wood members and their fastenings used for load supporting purposes should conform to with good engineering practices. He continued stating the Commission is without the authority to determine what constitutes good engineering practices. He explained this would be up to the Engineer's Board and the individual engineers and their professional judgment. He stated whether connectors are required to be galvanized or have some alternative protective coating is left to the discretion of the designer of record and the ultimate discretion of the building official. He further stated the hardware may conform with the specification design standard referenced in the Florida Building Code building volume.

Public Comment

Joe Hale, employed by Veri-bolt, Inc.

Mr. Hale stated in the previous Building Code this issue was brought forward by Mr. Gobel(?) with the intention of stating that the product was not approved because the product was not galvanized. He noted that Mr. Gobel marketed his product as being galvanized. He stated during the previous discussion of this issue Mike O'Reardon, the Vice-President of Evaluation Services with SBCCI, reported that Mr. O'Reardon indicated under the 1999 Standard Building Code steel anchor bolts and rods used to anchor wood walls are not required to be galvanized or corrosion resistant. Mr. Hale clarified that Mr. O'Reardon point was these were not brick ties or narrow flat thin pieces of sheet metal, above 3/16" in thickness, therefore they did not need to be corrosion resistant because they were sealed in a wall. He stated he believes the declaratory statement is broad in scope as written. He stated if one considered all of the truss plates and clips that are manufactured, which are zinc-plated from strips of zinc coated material that, through the manufacturing process, an unplated edge is exposed. He stated he understood that because the connectors are in a sealed wall they do not have to be corrosion resistant. He further stated the parent company, Bolt and Nut Incorporated had been manufacturing anchor bolts and other threaded products for over 25 years. He commented that of the millions of pounds of anchor bolts the companies have produced not a single one has been zinc-plated. He stated under the previous Code there were only two approved coatings that were corrosion resistant, ASTN153 Hot Dipped Galvanized and ASTN695 Mechanically Galvanized, which all occurred after the manufacturing. He further stated what is not addressed in the declaratory statement are products modified in the field such as a zinc rod whose ends are cut off leaving an unplated surface exposed or a truss clip that is manufactured from zinc-plated steel that has a plain edge exposed. He reiterated he did not believe the information he had presented was brought before the board and wanted to go on record as having discussed it.

Chairman Rodriguez offered clarification stating all the Commission was saying is that it defers to the Building Official or the architect of record.

Mr. Hale responded that he did understand that. He stated his big concern is that a person from another meeting he attended read this declaratory statement and then presented it as the law of the land.

Commissioner Greiner offered further clarification that the declaratory statement allows the designer the ability to come to a conclusion that the anchoring system does not need protective coating.

Mr. Richmond interjected stating the Florida Building Code is silent on the issue of galvanization specifically. He stated it does defer to the Engineering practices and the Building Official's has the authority of permitting or not permitting based on the certification of the engineer who has indicated that galvanization is or is not required.

Commissioner Greiner expressed concern that the Commission would be getting into a situation where protective coating would be required on anchor bolts and there are millions of anchor bolts out there which are not protected by anything inside a sealed wall

Commissioner D'Andrea moved approval of declaratory statement. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

Fire

DCA02-DEC-074 by Walker Parking Consultants on stand alone parking garage.

Mr. Richmond offered clarifying language relating to the petition. He explained the petition pertains to a specifically described parking structure which contains a mercantile occupancy on the first floor. He stated the petition requested the Commission determine if the structure can be designated as a free standing open-air parking structure, as the provision is used in Section 553.895 (2) which would also exempt it from the sprinkler requirements in that section. He further stated that the term "stand-alone" parking garage is not defined, however the common meaning of the term would not apply to a single structure designated as a parking garage which is utilized for purposes other than parking. He explained this proposed project is a mixed occupancy, thus does not comply with the criteria for stand alone parking garage.

Commissioner Sanidas moved approval of the declaratory statement. Vote was unanimous. Motion carried.

Mechanical

DCA01-DEC-239 BY Fabian Construction on dryer vent

Mr. Richmond stated the declaratory statement was discussed by

the TAC. He further stated an amendment was submitted, however, that through a communication breakdown, the petition still does not meet the specificity requirements. He continued stating he did not need any action on this at this time and it would be dismissed. He added if the petitioner would like to resubmit pertaining to a specific project, he is welcome to do that.

Plumbing

DCA01-DEC-252 by Par-Kut International on toilet facilities for kiosks

Mr. Richmond offered clarifying language relating to the declaratory statement which addresses prefabricated steel and aluminum buildings used in the parking and security industry for parking lot attendants and cashier booths. He stated the issue was the necessity to have a bathroom facilities installed in such buildings. He further stated the petitioner felt his building fell within the definition of a kiosk. He continued further stating that in the Commission's analysis it referred to the commentary for the International Plumbing Code, which serves as the base document for the Florida Plumbing Code. He noted the Code defined the exemption as applying to small structures including toll booths, photo processing booths, kiosks and parking lot booths. He stated the Commission found the building proposed by the petitioner falls within the exception contained in Section 403.4 of the Florida Building Code Plumbing Volume.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Greiner seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-002 by Interplan, LLC on unisex toilet rooms

Mr. Richmond explained the language relating to the declaratory statement stating the petition sought clarification regarding the inclusion of a unisex toilet room and referred to a conflict between the text of Section 403.7 and a footnote to Table 403.1. He stated the conclusion of the Commission was the footnote to the table of 403.1 was a typographical error and the unisex toilet room would be required in a building where the total number of toilets is six or more.

Commissioner D' Andrea moved approval of the declaratory statement. Commissioner Greiner seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-024 by City of Gainesville, Florida on ventilation of toilet rooms

Mr. Richmond presented clarifying language relating to the declaratory statement. He explained the petition was relative to bathrooms and toilet rooms in one and two family residential buildings. He stated the conclusion of the Commission pertained to varying requirements between the Mechanical Code, which required mechanical ventilation, and the Building Code which allows passive ventilation. He offered the resolution being that a bathroom of a one or two family residence should be allowed to be ventilated either by passive or mechanical ventilation per Section 1203.4.2 of the Florida Building Code.

Commissioner Shaw moved approval of the declaratory statement. Commissioner D'Andrea seconded the motion. Vote was unanimous. Motion carried.

Pool Barriers

DCA02-DEC-023 by Kenneth Pfeiffer on existing fences as pool barriers

Mr. Richmond presented clarifying language relating to the declaratory statement. He stated the provision refers to the potential for dual fence requirement in the Florida Building Code pertaining to the pool barriers. He further stated the petition cites the potential for conflicting sections and differentiates between the barriers envisioned by the Code and the Chapter 515, F.S. He continued stating the conclusion reached was that the project submitted with the petition complies with the intent of the Florida Building Code.

Public Comment
Kenneth Pfeiffer

Mr. Pfeiffer stated the purpose of the petition was for clarification. He continued stating the outcome of any vote on this is of secondary nature to him. He explained he wanted to be told what it is he has to do to get his projects approved. He commented that projects are being bounced daily and he averages between 75 and 100 residential swimming pools a month. He stated he was having difficulties with various municipalities and all of their different interpretations of the Code. He further stated until there is clarification on this very minor portion of the Florida Building Code, there will be numerous visits to the Commission by the pool industry. He noted that today's agenda holds quite a few

declaratory statements relative to only swimming pools, which covers approximately ten pages of the Florida Building Code. He continued stating those engineers and architects who were present and familiar with the ACI code would notice the ACI produces their Code with a commentary, which actually spells out line item by line item what it is the Code is saying. He stated that he understood the Code to be in its' infancy, however at some time, perhaps the Commission could consider providing some commentary relative to at least some portion of the Code. He restated this would clarify those items thereby eliminating many of the declaratory statements that are obtained. He continued stating the actual outcome of what the petition called for is secondary to him, as he primarily needs clarification to deal with the municipalities based on what the Florida Building Commission has decided. He noted unless there was something else in writing through zoning regulations this will be the law of the state of Florida. He quoted Governor Bush as saying relative to the Florida Building Code, this would give a contractor who basically operates in Tampa the opportunity to go to Ft. Lauderdale and do business there under the same rules. He stated that was not an option in the swimming pool industry. He further stated with all the municipalities he deals with, Dade, Broward, Monroe, Collier and Palm Beach he has to maintain a working knowledge of more variations of this one code than he had to encompassing the Dade and Broward County additions of the Florida Building Code, the Southern Building Code, etc. He commented he has more things to remember based on different interpretations of the Florida Building Code than he did on all others combined. He reiterated he is hoping to achieve clarification and let the board know that in this one instance something as mundane as a swimming pool is creating tremendous amounts of problems when it comes to engineering designs and interpretations by the various building departments.

Commissioner Shaw asked if the declaratory statement the Commission is providing resolves the fence issue the petition referred to.

Mr. Pfeiffer responded he was not sure as the city of Homestead, which is a municipality within Dade County, is currently requiring secondary fencing, in accordance with what the Florida Building Commission determines. He stated when this first came out the beginning of February, Dade County sent to it's various municipalities through Code compliance an individual who sat down with each and explained what the new Code compliance with swimming pools meant. He recalled they were, at that time, requiring secondary barriers. He continued he was not sure if Dade County has gone back and met with all of these people to inform them that secondary barriers are not required.

Commissioner Greiner asked if it was not true that once a declaratory statement is accepted and approved then it can be used as a basis for a change to the Code in the glitch area.

Mr. Richmond apologized that the petitioner had not had the opportunity to review the order as it was drafted to resolve this issue with clarity. He stated as a matter of the law it can only conclusively apply to the one situation that is described in the petition. He explained that is the way Chapter 120, F.S., is written and there is nothing that can be done about that. He added that his discussion with the Building Official's Association the previous day determined that the orders should be looked at in terms of their value to apply in their jurisdictions by asking themselves the question "How does this situation differ from the one the Commission has already responded to?" He added if that were done that with this declaratory statement he believes the problem facing Mr. Pfeiffer would be resolved.

Commissioner Quintana added his understanding was the declaratory statements are not binding on the building officials, however they may eventually make their way to the Building Code on the cycle. He suggested until then, as a way to inform building officials and departments around the state, it would be a good idea to post the Commission's decision on the web site on a declaratory statement immediately so it can be accessed by anyone around the state.

Mr. Richmond stated it is not only that the declaratory statements may be incorporated into the Code, they must be written into as a Code amendment, as their effect is limited by operation of Chapter 553, F.S. He further stated that these should be available on the web site by June 1st.

Mr. Pfeiffer asked to be informed of what the Committee's findings were on his petition as he has not heard.

Chairman Rodriguez stated that it will be posted on the web site, but Mr. Pfeiffer could have a copy of the report prior to that posting.

Commissioner Greiner moved approval of the declaratory statement. Commissioner D'Andrea seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-040 by Miami-Dade Permitting And Inspection Center on pool barriers

Mr. Richmond presented clarifying language relating to the petition. He stated the petition was relative to a sectional fence and whether that fence complied with Section 424.2.1.7 of the Florida Building Code. He explained this was the discussion regarding retractable versus removable sections. He stated the Commission's finding was that materially they were the same, therefore legal interpretation was referenced to DCA01-DEC-244, which the Commission previously found the retractable fence to be in compliance. He continued stating it was found specifically that only one pole need be attached such that it is not removable without the aid of tools and that a gate is not a required element of the barrier under the Florida Building Code.

Commissioner Shaw stated he did not have a copy of the declaratory statement and asked if it were available.

Mr. Richmond responded he only had the copy he was using. He stated this declaratory statement was one of the final ones to be drafted and may not have been copied. He continued stating he believed the Commission action had been made available together with the petition. He noted the declaratory statement was very simple and straightforward, cross referencing the prior declaratory statement issued by the Commission, and it finds the gate requirement was not an affirmative requirement of the Code. He stated every time a barrier is installed, if there is a gate, it must comply with the gate requirements. He further stated a removal section is not equivalent to a gate.

Commissioner Bassett stated this describes a barrier that is made up in sections. He asked for clarification that only one section is required to have a permanent attachment or do each of the individual sections require permanent attachment.

Chairman Rodriguez responded only the end section requires permanent attachment.

Commissioner Greiner moved approval of the declaratory statement. Commissioner D'Andrea seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-046 BY Lake County on pool alarms

Mr. Richmond explained the language of the declaratory statement. He stated the issue was whether battery alarm systems could be used to detect access to the pool through windows or doors of dwelling walls,

which serve as a barrier around a swimming pool. He continued further stated the conclusion was the Code clearly requires hardwired or plug-in type alarms, therefore battery powered alarms are not permitted as the sole use of protection.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Lipka seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-047 BY Lake County on pool covers

Mr. Richmond offered clarifying language of the declaratory statement. He stated this case refers to the use of an approved safety pool cover complying with Standard ASTM F1346-91 as the sole means of protection in the absence of any alarms or barriers as outlined in Chapter 424 of the Florida Building Code. He further stated the committee's conclusion was the use of an approved pool safety cover, in the absence of any other approved safety measures as defined in Chapter 424.2, is sufficient to comply with the requirements of the Code.

Commissioner Sanidas stated his understanding is this is a pool cover of net materials which has to be manually hooked up before and after use of the pool. He continued stating the reason he brings this up is because he has been questioned whether or not this would be acceptable as the only barrier. He asked if the gate of the fence surrounding the pool has to be self-closing then why doesn't this have to be self-closing.

Mr. Richmond responded stating the Code currently recognizes it as independent of any other requirements, as does Chapter 515, F.S. therefore consistent in both provisions of law. He stated if additional requirements are desired to be imposed it must be done through the Code amendment process. He further stated he was not sure if that would qualify as an unintended consequence, as the Commission is currently seeking to limit those amendments.

Commissioner Sanidas stated the ASTM section being referred to is whether or not it is structurally sound for the weight factor, not the safety factor.

Commissioner D'Andrea stated the declaratory statement request specifically if a pool cover complies with the ASTM document can it be used. He continued stating the Code says it can, if it complies, therefore it would indicate it can be used as a stand alone as long as it complies.

He further stated if there was a problem with that document, it should be reviewed.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. 19 for, 1 opposed (Sanidas). Motion carried.

DCA02-DEC-050 by Lake County on pool perimeters

Mr. Richmond offered clarifying language relating to the petition. He stated this petition pertains to the standard screen enclosure used as a barrier and whether it complies with the specific requirements of 424.2.1.7 of the Florida Building Code. He presented the conclusion of the Commission, as interpreted by legal, was the use of a standard screen enclosure around a swimming pool does comply with the requirements of Section 424.2.2 of the Florida Building Code Building Volume.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-051 by Lake County on pool enclosures

Mr. Richmond found a discrepancy in his files and called for a vote on the previously considered Dec statement which should have identified as DCA02-DEC-051 for clarification. Commissioner Greiner moved to approve DCA02-DEC-051. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

Mr. Richmond requested, based on the misidentification, the Commission move to reconsider DCA02-DEC-050.

Commissioner Greiner moved to reconsider DCA02-DEC-050. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

Mr. Richmond then presented clarifying language pertaining to DCA02-DEC-050. He stated the petition is a request pertaining to the use of a yard fence similar to the one determined from DCA02-DEC-023. He explained the cross reference method was used referring to the Commission's determination of that declaratory statement and finding that this project, as well, complied with the intent of the Florida Building Code.

Commissioner Wiggins asked how this declaratory statement differed from DCA02-DEC-023, as it appears to basically defines the fence as a pool barrier.

Commissioner Greiner responded that this particular request had to do with a yard that was fenced with a substantial distance, one hundred feet, between the fence and the pool deck. He stated the fence complied with the requirements of the Florida Building Code, but the question was more on the issue of whether a fence was required at the edge of the deck.

Mr. Richmond stated that the rational used in DCA02-DEC-023 was that the distance was not the relevant consideration. He explained the relevant question was whether the fence protected the pool from unauthorized access and whether it complied with the technical requirements of Chapter 515, F.S., together with the intent of the Code as identified.

Commissioner Greiner stated he believed it was similar to DCA02-DEC-023 on a larger scale.

Mr. Richmond clarified DCA02-DEC-023 was the cross reference used with this case.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

First Hearings

Structural

DCA02-DEC-063 by Door and Access Systems Manufacturers Association on garage door wind load guide

Mr. Richmond recommended dismissal based on the wind load guide is not appropriately approved through the declaratory statement process. He asked for an action of the Commission to recommend the dismissal.

Commissioner Wiggins moved approval to dismiss the declaratory statement. Commissioner D'Andrea seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-114 by Florida Extruders International on design

pressure for windows

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated the declaratory statement refers to performance criteria of Section 1707.4.5.2, Section 1707.4.5.3, and Section 1707.4.5.4. He explained that has been identified as design pressure on windows/**mullion**. He stated the petitioner has requested clarification on whether the intent is to require mullions design to 1.5x the design pressure for all performance criteria of Section 1707.4.5. He presented the Committee had recommended the answer be no, as it is clear in Section 1707.4.5.4 that mullions be designed to factor of safety of 1.5, which means it must be able to resist 1.5x the designed pressure load. Mullions must be designed to transfer the design pressure load in accordance with Section 1707.4.5.2 with a maximum deflection of L/175 must be at the design pressure loads in accordance with Section 1707.4.5.4.

Commissioner D'Andrea moved approval of the staff recommendation for the answer to be no. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-115 by Florida Extruders International on design pressure for windows and glass doors

Mr. Richmond explained the language pertaining to the declaratory statement. He stated the declaratory statement contained a few questions from the petitioner. He continued stating the first question the committee considered was whether the load combinations specified in Section 2.3 and 2.4 of ASCE 7 have any applicability to wind and sliding glass door analysis. He presented the answer recommended by the committee was, yes, assuming the gravity load for the design component is zero does not mean that no load combination exists. He stated it was the TAC's opinion that load combination does exist with the assumption that the dead load is zero. He continued with an additional question that if the answer to question one was yes, how are ASCE 7 load combinations to be reconciled against Chapter 24, Section 2405.3 and 2405.3.2.1 load combinations. He presented the recommendation of the committee was it is the intent of the Code to treat Chapter 24 and Section 1606 independently and the KD value should not be used in Chapter 24. He further stated it is the intent of the Code that the wind loads be determined by 1606 and be applied to the load combinations of Chapter 24 without any adjustment.

Commissioner D'Andrea moved approval of the TAC's recommendations. Commissioner Thorne seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-125 by Florida Home Builders Association on emergency escape and rescue openings

Mr. Richmond offered clarifying language relating to the declaratory statement. He stated the petition pertained to emergency and escape rescue openings and specifically a rescue opening into an area that is enclosed by screen enclosure. He continued stating the petitioner questioned whether the requirement for the escape and rescue opening intended to provide that the opening must discharge into an open area that leads to a public way and can the escape opening be to a screen enclosure open to the atmosphere where a screen door is provided leading away from the residence. He presented the Committee's recommendation was that an emergency opening or escape opening can open into a screen enclosure open to the atmosphere where a screen door is provided leading away from the residence.

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

DCA02-DEC-130 by Dr. Jack Reinhardt Inc. on termiticides

Mr. Richmond presented clarifying language pertaining to the declaratory statement which discusses registered termiticides that are labeled for new construction. He stated the petitioner's request for clarification whether the mean registered termiticide labeled for new construction needs to be registered with the state through the Pesticides Bureau of the Department of Agriculture and Consumer Services. He continued stating the Committee had broken this into two questions, the first "What is the meaning of registered termiticide labeled for new construction?" He presented the answer was registered means it is registered with the Bureau of Pesticides and Pest Control, Florida Department of Agriculture and Consumer Services in reference to Chapter 487, Florida Statutes. He continued with question number two "Does a termiticide registered with the Pesticides Bureau and labeled for new construction comply with the Building Code?" He presented the answer recommended by the Committee was, yes.

Commissioner Wiggins noted the declaratory statement refers back

to the previous question of the Setricon baiting systems. He stated that he assumed if the Commission refers the item as having been a registered termiticide then it appears that the Committee would be saying it is automatically approved by the Building Code. He expressed he felt this was nothing further from the truth. He stated that this is a system is not in place, does not meet several provisions of the Code and questioned if all of those issues were discussed at the Committee meeting.

Mr. Madani explained that the committee struggled with these two questions. He stated that after looking at the first question, if the answer was yes then the second question can be addressed. He continued stating that if it is stating that the list put together by the Department of Agriculture is the list of registered termiticides the Code refers to the answer to the second question would be yes.

Commissioner Kidwell stated for disclosure that Ryland Homes, mentioned in the declaratory statement, is a continuing client of his. He continued stating that he did not feel there was a conflict of interest there and indicated that he would be voting.

Commissioner Parrino stated there was extensive discussion in the committee on this particular issue. He further stated there was a concern on whether this would be blanket approval for baiting systems to be used in all building jurisdictions. He continued stating the conclusion, in his understanding, was the Pesticides Bureau only approves the termiticides itself, not the application, which is covered in the Building Code. He noted the Building Code specifically addresses soil treatment using a registered termiticide or other approved method. He stated that a baiting station is another approved method. He further stated that when another method is used it is purely at the discretion of the local building official to allow that particular other approved method.

Commissioner Corn stated it may be an approved product, however it must be used in the right place. He commented although APA approves a certain type of plywood, it does not mean that plywood can be used any place. He added if the Code requires pretreatment of the slab, it does not mean that this is an approved pretreatment method. He concluded stating he believes these are two separate questions.

Commissioner D'Andrea noted that he agreed with the first part but would vote no on the second part as he believes the answer would be no.

Mr. Madani offered further explanation referring to Section 1816.1. He stated there are two options given 1) anything listed as a registered termiticide is acceptable as termite treatment and 2) anything not included in the list will be under other approved methods. He further stated in his understanding if referring to the list approved by the Department of Agriculture, Setricon will be found as an approved system.

Commissioner Parrino added the Department of Agriculture is registering termiticides and he believes that is something different than a system when looking at compliance with the Building Code.

Commissioner Wiggins noted the Code requires or other approved means. He stated that the baiting system is another approved means, not a termiticide. He further stated in that system there is an application of a termiticide should termites appear in the baiting system boxes. He continued stating that a broad-based statement that it complies with the Building Code is totally incorrect, as there should be a clarifier or a complete rephrasing of the question that segments this into the two different sections.

Public Comment

Samantha Newhouse, Dow AgroSciences

Ms. Newhouse stated she felt a couple of details should be brought to the attention of the Commission. She explained that registered termiticides encompasses a number of products, including liquid termiticides, a bait product or a termiticide applied to the wood surface itself. She stated, as testified by Steve Dwinell, Assistant Director of the Department, the Department of Agriculture and Consumer Services, the Bureau is charged with a number of things. She referenced Chapter 487 from the Florida Statutes which charges that department with the review, the efficacy, and determining what is and is not a termiticide. She continued stating at this point, when looking at Section 1816, it does specifically call for a registered termiticide or other approved method. She further stated the Section 1816.1.1.7 refers to if a soil treatment is used it, not a liquid termiticide. She implored the Commission to review the Section 1816 of the Code to determine it's applicability in regard to registered termiticides.

Commissioner Shaw asked Ms. Newhouse if she was a scientist.

Ms. Newhouse responded she was not.

Commissioner Shaw stated when the Chlordane product was lost, the products that remained available all had very short lives. He explained the products used to pretreat are not permanent. He stated the product life cycle does not live out the life of the building. He questioned if the alternative methods may not be more effective long term since they can be reapplied or retested rather than the pretreatment which occurs once and five years later it is of no value.

Commissioner Bassett asked Ms. Newhouse if their system can be used if there is already an infestation in the house.

Ms. Newhouse responded it could.

Commissioner Wiggins asked if the system goes into use and it is removed after two months how effective is the prevention of the infestation of termites for that building.

Ms. Newhouse responded the builder is required to provide termite protection to that structure for a period at least one year. She stated the pest control operator is required to do that service by Florida Statutes, as well as continue to offer that service over a five year period. She explained the retention rate with their product specifically has been very good, however if that treatment is not completed at a two month period there is no protection to the structure. She added the same applies and should be mentioned that if a liquid treatment is not applied correctly it provides no protection either.

Commissioner D'Andrea moved approval of the TAC's action by answering question number one with a yes and to amend the declaratory statement to read if the answer is yes then this does not mean it complies with the Florida Building Code Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-132 by Icynene, Inc. on roof deck insulation and attic ventilation

Mr. Dixon announced that this declaratory has been withdrawn.

BREAK

Chairman Rodriguez dismissed the Commission for a five minute break prior to the Closed Session.

RECESS PLENARY

Chairman Rodriguez recessed the plenary session at 12:00p.m.

**ATTORNEY/CLIENT CLOSED DOOR SESSION ON
ADMINISTRATIVE CHALLENGE OF POOL ALARM
REQUIREMENTS**

RECONVENE PLENARY

Chairman Rodriguez reconvened the plenary session of the Commission meeting at 12:45p.m.

**CONTINUE LEGAL STAFF
REPORTS/DISCUSSION/RECOMMENDATIONS/APPROVAL**

Mechanical

DCA02-DEC-062 by AIRTEMP on balanced air return

Mr. Richmond stated this declaratory statement is postponed at this time due to failure to comply with petition requirements. He further stated it had been recently submitted so staff will be working with the petitioner.

Chairman Rodriguez asked if there was any action necessary from the Commission.

Mr. Richmond responded that none was necessary.

Commissioner Patterson stated the declaratory statement had two questions and the committee did act on one of the questions and the other was postponed.

Mr. Richmond stated as a technical matter at this time, the petition does not comply with legal requirements. He further stated that a complying petition would be required before we can go forward and answer those questions.

Commissioner Patterson asked if both questions would be answered at the same time.

Mr. Richmond responded that would depend on the amended petition

when it is submitted. He stated the amended petition is required before a declaratory statement can be issued.

DCA02-DEC-127 by Mike Morello, Inc. on clothes dryer exhaust

Mr. Richmond stated the petitioner had asked for clarification on the criteria of Section 504.3, clothes dryer exhaust clean out and an interpretation of the vertical riser provision in that section. He presented the recommendation by the TAC indicated that cleans out may include the exhaust duct connection to an individual dryer outlet if it is accessible and readily disassembled.

Commissioner Patterson moved approval of the TAC's recommendation. Commissioner Wiggins seconded the motion. Vote was unanimous. Motion carried.

DEC02-DEC-131 by Pinellas County on water heaters installed in garages

Mr. Richmond stated this section pertains to water heaters installed in garages and the requirement to elevate water heaters in garages. He continued stating TAC's recommendation was that Section 502.2 of the Plumbing Code and the relevant section in the Mechanical Code be made consistent with action taken by the Commission to require appliances located in garages be installed per the manufacturers recommendations during the current glitch fix cycle.

Commissioner Shaw stated the TAC had already addressed this issue through actions of the Commission on the gas code by having them installed according to the manufacturer's recommendation. He explained at the time that was done with the Gas codes, it was not done in the Plumbing or Mechanical Code. He stated the Plumbing TAC is recommending that the language in the Gas Code prevail and that this qualifies for a glitch fix due because of the inconsistencies within the Code.

Mr. Richmond asked for clarification as to what the declaratory statement was to say.

Commissioner Shaw offered that the declaratory statement should read that appliances installed in garages shall be installed according to manufacturer's recommendations.

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

DCA02-DEC-036 by VAK-PAK, Inc. on pools

Mr. Richmond stated the recommendation was to dismiss this declaratory statement based on insufficiency.

DCA02-DEC-048 by Lake County on pool drains

Mr. Richmond stated the petitioner asked whether the criteria in Section 424.2.6.6.4 allow a single main drain and a skimmer to provide the required two suction inlets. He continued stating the TAC's recommendation was that the answer is yes as long as the main drain and skimmer are installed in compliance with the Code and are plumbed so that water is drawn through them simultaneously through a conduit line to the pump.

Public Comment

Dan Johnson, Swim Incorporated, and representing Florida Pool and Spa Association and NSPI affiliate

Mr. Johnson stated he wanted to offer clarification that at the TAC meeting yesterday he testified in favor of this declaratory statement allowing for a combination of a main drain and a skimmer as meeting the requirements of the Code. He further stated the way the Code is written it does meet the requirements, however he wanted to make it clear to the Commission that neither the Florida Pool and Spa Association nor the NSPI endorses this configuration.

Commissioner D'Andrea moved approval of TAC's recommendation. Commissioner Sanidas seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-049 by Lake County on suction inlet covers

Mr. Richmond stated the declaratory statement has been withdrawn by the petitioner.

DCA02-DEC-060 by Triodyne Safety Systems on suction inlets/outlets

Mr. Richmond stated the petition was submitted February 21, 2002 yet fails to limit itself to a specific action or project therefore he has recommended dismissal with no action necessary from the Commission.

DCA02-DEC-061 by Triodyne Safety Systems on pool anti-vortex covers

Mr. Richmond stated this declaratory statement fails to limit itself to a particular project and therefore should be dismissed with no action necessary from the Commission.

DCA02-DEC-070 by Philip J. Childs on a skimmer as a pool inlet

Mr. Richmond stated the petitioner asks if the criteria in Section 424.2.6.6.4 allows a single main drain on the floor and a skimmer on the wall as the required suction inlets if the drain line and the skimmer lines join together even six inches before the pump. He further stated this declaratory statement seemed very similar to one the Commission considered earlier this meeting. He stated the TAC agreed with the petitioner as long as the skimmer and main drain are installed in compliance with the Code and are plumbed such that water is drawn through them simultaneously through a common line to the pump.

Commissioner D'Andrea moved approval of TAC's recommendation. Commissioner seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-071 by Leisure Bay on pool skimmer/drains in above ground pools

Mr. Richmond stated this declaratory statement petition was submitted on May 1, 2002 and will be held over until July. He explained the request was for the Commission to call into doubt a permitting decision of a local building official which would be an issue of an appeal not a declaratory statement. He further stated that no action from the Commission is required at this time.

DCA02-DEC-073 by Mermaid Pools on pool drains

Mr. Richmond presented clarifying language relating to the declaratory statement. He stated the petitioner asked if the criteria of Section 424.2.21.3 allow an auxiliary pump to be used to drain the pool when needed for fiberglass pools. He continued stating the TAC

recommendation is that no main drain is required for draining residential fiberglass swimming pools. He added the pool or auxiliary pump could be used to drain the pool and meet the requirements of 424.2.21.3.

Commissioner Shaw stated the issue had been brought to the Commission's attention previously and specifically asked about fiberglass pools, however it was identified at the TAC that there is no criteria in the Code identifying fiberglass pools being different than any other pool. He asked if this limitation will apply only if a pool is fiberglass or will the limitation be to any pool that will be installed. He added there is a Code for above ground pools and a Code for pools below ground, however there is no Code for fiberglass pools. He stated that it may be thought that all pools could qualify for this and he found it appropriate the Commission should address the question.

Commissioner Greiner stated he would also mention notice #3, which was put out by the Commission last month indicates that an auxiliary pump could be used for any pool. He further stated that what the Commission is considering applies to all pools.

Mr. Richmond offered further clarification that the petition was submitted on an urgent basis to address what was considered an urgent need as viewed from the construction community and should not be used as precedence to determine the declaratory statements which are more binding in nature as an official act of the Commission.

Commissioner Sanidas added that if the specific type of pool, fiberglass, does not have to have a drain in the bottom of it, he believes the Commission would not be following its' guidelines. He further stated the material the pool is constructed from does not matter and all pools, including fiberglass, should have drains in them. He continued by stating it is just a matter of whether the manufacturer wants to put in one there. He commented by stating that one of these manufacturers does not have to would be giving them an advantage over the other manufacturers and that would be inappropriate.

Commissioner Greiner moved approval of recommendation by committee. Commissioner Corn seconded the motion.

Commissioner Shaw stated the motion did not specify strictly fiberglass. He asked if the declaratory statement could be modified to include pools without identifying fiberglass.

Mr. Richmond stated the question was given to the Commission in the context of fiberglass pools, therefore that is the context in which the Commission must respond. He explained the Commission cannot expand the declaratory statement.

Commissioner Bassett requested clarification regarding what exactly the Commission is voting on. He asked to hear the motion.

Mr. Richmond restated the recommendation from the TAC was that no main drain is required for draining residential fiberglass pools. He continued stating the pool or auxiliary pump could be used to drain the pool and meet the requirements of Section 424.2.21.3.

Chairman Rodriguez called for a vote on the motion. 18 in favor, 2 opposed (Sanidas, Bassett). Motion carried.

DCA02-DEC-077 by George Pellington on vacuum relief for pools and spas

Mr. Richmond stated the issue was whether the Section 424.2.6.63 of the Code intends to permit the use of devices such as the Hayward Pool Products, Inc. SP1048 kit to be used as back-up system which shall provide vacuum relief for pools and spas. He continued stating the TAC's recommendation was that this question be answered no and that the Hayward product does not meet the intent of the Code.

Commissioner Bassett asked if this would not be considered a product approval issue if stating whether a particular product meets the intent of the Code.

Mr. Richmond responded there are three subcategories of products that are approved for use in this area. He stated that this is submitted as "the other approved products." He further stated the "other approved" is something that can only be done by the local building official. He continued stating if the Commission wanted to reverse the TAC recommendation, it could only recommend that he talk to his building official to see if it is approved by him. He explained the building official has to approve it under the Equivalent Life Safety Standards. He stated the intent of the TAC was that this product does not meet the intent of the Code. He further stated in finding that this product does not comply with the other approved products category it is certainly consistent with what the Commission can do through a declaratory statement.

Commissioner Greiner stated he only had three pages on this declaratory statement and wondered if there was an amendment to this making it sufficient.

Mr. Richmond responded he had a petition that was made specific to Volusia County interpretation, which contained some lack of clarity and conflicting interpretations. He explained it was a situation he had originally looked at as potentially one asking whether the building official was right or wrong. He stated the petitioner remedied the situation simply by asking for a clarification and the building official was at least identified as needing clarification, as well, through use of the declaratory statement. He offered the declaratory statement had been filed with the Department on May 3, 2002.

Commissioner Corn asked for further clarification of what is not suitable in this case. He asked if someone could offer a description.

Mr. Richmond responded stating he would have to defer it to the people who heard it. He stated it was identified by a specific product name when described to the Plumbing TAC .

Commissioner Shaw stated the issue before the TAC was the language written in the Code. He further stated one of the things he asked as chairman was that BOAF make a response to the different interpretations so there was some basis to compare with. He continued stating the BOAF recommendation was to approve the device for that particular use. He commented the TAC felt differently. He stated there seemed to be reasonable controversy between BOAF and the TAC, himself and the TAC and will probably require due diligence from the Commission through the public comment.

Chairman Rodriguez asked if the BOAF recommendation endorses the product.

Commissioner Shaw responded it did and the TAC vote opposed to the BOAF recommendation.

Chairman Rodriguez asked Commissioner Shaw if he agreed with BOAF.

Commissioner Shaw stated that he supported BOAF which made him the dissenting vote on the TAC.

Commissioner Wiggins asked if someone could get him the summary of the TAC's findings that led to their recommendation.

Commissioner Shaw stated one of the problems with the swimming pool subgroup is the fact that the TAC members are not swimming pool contractors. He further stated that the committee understands hydraulics, the dynamics of things, however in the specific nature of these technical matters the committee did not have sufficient time to conduct the education and research necessary to bring the TAC up to speed. He stated he had been reading on the product and was aware of it, but other TAC members had not seen it before and received only the information that was given to them during discussions. He stated once the discussion ended by the subcommittee, they were asked to vote without any further information. He commented the discussion by the TAC was very limited and in his opinion further education might have modified their decision or at least be more clear as to their opposition to the BOAF statement.

Public Comment

Robert Rung, Advanced Development Manager, Hayward Pool Products

Joel Gray, District Sales Manager, Hayward Pool Products

Mr. Rung presented the product for those unfamiliar with it. He explained that the product is known in the trade as an anti-vortex cover, as it would prevent air from being entrained. He stated in designing these products they were intended to support mechanical loads and resist entrapment of people. He reported in function, one of the hazards is that covers are removed by means unknown and if the cover is removed it activates a flapper valve. He illustrated the interaction of the anti-vortex cover and the flapper valve. He explained the principles used by him were the same as the direct suction vacuum systems. He stated that this is the only product of the ones listed in Section 424.2.6.6.3, alternative devices, that meets any recognized standard at all. He noted the standard that it meets is the ASMEA112.19.8.M of suction outlets for pools and spas. He stated that their product was tested by Underwriter's Laboratory for the standard relevant for this product line. He stated by conforming there is an assurance of sufficient durability.

Mr. Rung stated the issue was entrapment avoidance. He continued stating each suction outlet shall protect against user entrapment by either an approved anti-vortex cover, a 12" x 12" grate or larger, or other approved means. He offered that their product falls under the category of

approved devices being approved according to the ASME A112 standard. He stated all pools and spas shall be required to have an alternative back-up system which would provide vacuum relief coverage should grate covers be missing. He commented that is directly addressed by their product. He explained even if the grate cover is missing that portion of the system is isolated from the pool. He continued stating the alternative vacuum relief devices shall include an approved vacuum relief system. He stated there are no standards for those, as there are in development. He explained the starting point for changes was a vacuum of 4 and ½ inches of Mercury, a differential across the opening. He explained the 4 and ½ inches comes from an irrelevant surgical article with no scientific basis. He stated if the 4 and ½ inches, which is typical industry standard sized port, were to be used a force of one hundred eleven pounds could be developed, which is substantial amount in trapping an individual who may not be able to get free. He continued stating partly because of these discussions at the recent meeting of the ASTM15.51 committee on this subject, the requirement of 4 and ½ inches was dropped and was changed to a force of 15 pounds. He stated compared that 15 pounds is far less than the one hundred and eleven pounds potentially developed by an open drain with a body part attached.

Mr. Rung continued stating the second device is an approved vent piping, which he considers workable. He stated the third device is other approved devices or means, which stops the problem intrinsically, as it is an intrinsically safe system. He commented there had been some discussion if it is appropriate that this relieves the vacuum. He stated he personally believes that to be an academic point. He further stated it isolates the system just as the vacuum port does, which makes it entirely irrelevant what is happening on the other side. He stated the intent of their product is to protect personnel.

Mr. Gray added their product has been approved in over twenty counties in Florida and numerous municipalities. He offered a letter received from an independent engineer in Orlando. He further stated there is no empirical evidence to discount the product. He noted it had been through all the required testing.

Chairman Rodriguez interjected he believed the Commission understands the merits of the product.

Gary S. Duren, representing the Florida Association of Plumbing

Mechanical Gas Inspectors, member of the Plumbing TAC

Mr. Duren stated the main concern the TAC had was in discussing a back-up system that provides atmospheric relief. He continued stating the first two examples that system is independent of what happens at that drain. He expressed his concern over the focus in the descriptive language which states "should the covers be missing." He stated there are other issues to consider including the cover being only partially missing or not missing at all. He explained there is still entrapment hazard that exists there. He stated that unless the cover is entirely missing there is no protection there.

Paul Pennington, representing Vac-Alert Industries

Mr. Pennington stated that at a facilitated meeting lasting more than two hours there was representation from at least seven different safety vacuum relief systems that are actual safety vacuum relief systems. He further stated this product is not one of those. He continued stating if a child was entrapped and this device held the child down or if it broke and half and the flapper part did not work, the child would still die. He offered that scenario did happen in the case of the Bucy drowning case. He stated Ms. Bucy has been a witness to the committee prior to this. He continued stating there has been a lengthy process that was supposed to have happened in March that did not happen. He stated that everyone is fully versed on this issue and if he had known this was going to happen he would have brought seven different manufacturers of actual safety vacuum relief systems into the audience.

Commissioner Wiggins asked Mr. Pennington if the case he mentioned regarding the drain cover breaking was a Hayward product that was demonstrated here.

Mr. Pennington responded it was not a Hayward product. He stated it was a drain cover identical to that one. He explained when it broke it broke in half, which leaves the spring system is on the other half. He stated the Hayward product had only been available for about one month.

Dan Johnson, Swim Incorporated

Mr. Johnson stated there is no technical rationale to reject this device. He stated he believed the decision reached by the TAC was a bad decision, as it was based on bad information. He further stated he was in agreement with Commissioner Shaw that there was not sufficient time for

proper discussion and proper information was not disseminated. He continued stating after the decision was made, there was a presentation of data, factual not emotional, based on the Consumer Products Safety Commission reports of incidents over the last seventeen years. He noted when the data is analyzed it indicates that only 38% of the incidents occurred in pools, only 24% of the entrapments were in pools and 40% of all the deaths that occurred were not because of entrapment, but hair entanglement, which is not even being addressed. He reiterated that entrapment is being addressed by this Code. He stated he believes the problem that the Commission is facing is closely related to the fact there are no experts on that TAC having anything to do with swimming pools, as Commissioner Shaw stated. He further stated they were operating on data presented in an emotional environment, examples given with no supporting data, and the last example given came after public comment had closed and was of an incident in a commercial spa, not a residential pool.

George Pellington, Petitioner

Mr. Pellington stated the issue is the Code intended three independent layers of protection, one layer given through the multiplicity of drains, another layer which includes a cover designed specifically for anti-hair entanglement or anti-body entrapment and a third layer for protection which would provide vacuum relief. He continued stating that as a committee alongside industry professionals under the ASTM F15.51 decided to define what a safety vacuum release system was. He stated the committee unanimously agreed that it would provide vacuum relief, operate with or without the covers in place, and when it did operate it would operate in such a way that it did not defeat the other layers of protection. He further stated he believed all of the TAC members understood this. He continued stating he believed there was enough discussion to make this point very clear. He stated in order to afford the optimum and maximum protection to the bathing public under the existing Code as written, the intent was to provide three layers of protection with the third layer being a true vacuum relief operating while the others were in place. He reiterated he believed the TAC members understood this and voted on it to optimize protection under the Code. He stated he disagreed with the concept that it was not discussed thoroughly and he believed the decision to be proper.

Commissioner Thorne moved approval of the TAC recommendation. Commissioner Bassett seconded the motion.

Commissioner Shaw requested the BOAF recommendation be read.

Mr. Richmond read the BOAF recommendation entitled "BOAF Informal and Non-Binding Interpretation Regarding Code Section 424.2.6.6.3, Subject: The Use of Devices Such as Hayward SP1048RKit referenced DCA02-DEC-077." He stated the question "Is it the intent of the section of the Code previously identified to allow the use of devices such as the product identified to be used as a back-up system which shall provide vacuum relief for pools and spas?" He presented the answer "Yes." He read the reason "Section 424.2.6.6.3 is very specific in stating in addition all pools and spas shall be required to have a back-up system which shall provide vacuum relief should the grate covers be missing." He recited the conclusion "Since the Hayward product shuts down the suction of the drain if the cover is removed, it would meet the letter of this Code Section under number three, other approved devices or means." He read comment "If it is determined to be the intent of this section to provide protection if the cover is broken, this section should be revised during the glitch clean-up Code change cycle."

Commissioner Wiggins stated the recommendation is derived from the BOAF Code Development Committee, which is comprised of building officials and plans examiners from all over the state.

Commissioner Bassett stated he is in support of the motion. He offered his reasons in supporting the motion 1) Someone with the disability of extreme girth can get trapped in that drain cover, if they swam down across that drain cover 2) It only works if someone leaves the second device in. He stated if someone removed the drain cover, there is a good possibility the second device would be removed so the full drain is open, therefore posing a hazard of being entrapped on the large opening. He restated he would rather see something in place that provides no matter what happens to the other two layers of protection, a person could not get trapped.

Mr. Blair offered clarification of the motion on the floor. He stated the motion is to vote in favor of the TAC recommendation which is to vote no on the question.

Commissioner Shaw added that after the meeting some of the members discussed if there would be a second drain it would be considered a back-up. He stated that is part of the redundancy of the system. He explained the system being discussed has two drains and each drain is equipped with these back-up levers and they have anti-

vortex covers. He stated to be trapped on this drain would require the other drain to be sealed simultaneously and then if the cover was missing the flapper would go shut. He reiterated it is a redundant system and the difficulty the TAC had was trying to comprehend all of the redundancies and how they interact with each other.

Chairman Rodriguez called for a vote. 1 in favor (Thorne), 19 opposed. Motion failed.

Commissioner Shaw moved approval of BOAF recommendation. Commissioner Wiggins seconded the motion.

Mr. Richmond interjected in terms of the BOAF recommendation to the extent that they find that it falls under item 3, other approved means, all the Commission can do is refer it to the building officials in the local jurisdictions to determine if it complies in terms of life safety. He stated he did not feel it would be appropriate to adopt the full BOAF recommendation to the extent that the Commission finds that it is another approved means, approved in the Code as defined, as approved by the local building official.

Commissioner Shaw asked if it would be appropriate to attach the BOAF comments to the recommendation.

Mr. Richmond responded that the declaratory statement should stand on its own. He stated that BOAF can definitely communicate with its members.

Chairman Rodriguez requested clarification of the language of the motion.

Mr. Richmond stated in the spirit of the BOAF recommendation, the Commission enters a declaratory statement finding that this item may or may not qualify as an "other approved means" of vacuum release under subsection 3 of this paragraph of the Florida Building Code. He added the Commission defers to the authority of the local building official to find whether or not it complies with that section.

Commissioner Shaw entered a motion as stated by Mr. Richmond. Commissioner Bahadori seconded the motion.

Commissioner Corn asked the reason the Commission has to say the product may apply.

Mr. Richmond stated if the Commission says it must apply, it goes into a Product Approval situation. He further stated that the language of the Code specifically says "other approved means" which is very general section whereas approved is specifically defined within the Code as approved by the local building official, rather than approved by the Commission.

Commissioner Greiner offered further clarification regarding the motion. He stated that some of the concept was if there was an actual vacuum release, it is in a situation where there are also two main drains, and a vent line or SVRS system and when the drain is compromised the release of the vacuum in the system is done. He commented one of his questions had been whether that happen in a case where this particular product is used with a single main drain and a skimmer. He continued that in a situation without a vent pipe or SVRS, it would be adverse to what the Code's intent was. He offered a friendly amendment to the motion that the product could be used under certain circumstances, such as dual main drains.

Commissioner Shaw accepted the friendly amendment.

Chairman Rodriguez called for a vote. 19 in favor, 1 opposed (Thorne). Motion carried.

DCA02-DEC-078 by Josam Company on grease recovery devices

Mr. Richmond presented clarifying language of the declaratory statement. He explained the petitioner asked whether automatic grease traps are allowed to be installed by Section 1003.4 of the Code as opposed to passive grease traps as defined in Chapter 2. He stated the TAC's recommendation is the Code permits automatic grease recovery devices that conform to PDIG101 inside or outside the building.

Commissioner D'Andrea moved approval TAC's recommendation. Commissioner Greiner seconded the motion. Vote was unanimous. Motion carried.

DCA02-DEC-087 by Sioux Chief Manufacturing Inc. on water hammer arresters

Mr. Richmond explained the language pertaining to the declaratory statement. He stated this relates to whether Section 604.9 of the Code requires access panels for water hammer arresters when the

manufacturer states that no maintenance is needed for the life of the unit. He presented the TAC's recommendation was that no access be required if the manufacturer of the water hammer arresters states the product never needs maintenance.

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

DCA02-DEC-092 by H & H Mechanical Inc. on water closet fixtures

Mr. Richmond presented clarifying language relating to the declaratory statement. He stated the petitioner asked whether the intent of Section 706.3 of the Plumbing Code allows a double sanitary tee fitting to pick up back to back or adjacent water closets as long as they discharged through several feet of pipe or change of direction before entering the sanitary cross. He noted the petitioner had attached some specific plans in request for declaratory statement, which is why it complies with the specific facts and circumstances requirement. He presented the TAC's recommendation was that a double sanitary tee is an acceptable fitting to pick up back to back or adjacent water closets as long as they discharge through several feet of pipe or change direction before entering the sanitary cross.

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

Pool Barriers

DCA02-DEC-133 by Affordable Fence & Screen Inc. on screen doors and pool gates

Mr. Richmond provided clarification pertaining to the declaratory statement. He stated that this is a clarification between gates and screen doors, therefore it has not been submitted to a TAC. He referenced a supportive document submitted to Mr. Madani (See *Issue: Declaratory Statement #DCA02-DEC-133* Attachment.) He presented the staff's recommendation relative to question number one is that it does make a difference which side the device is on. He stated that Section 424.2.17.1.8 is specific with regard to the location of the release mechanism. He further stated the release mechanism must be located on the pool side of the gate. He presented staff's recommendation for the second question is that 424.2.17.1.8 is specific with regard to the release

mechanism as well and also must be located on the pool side of the gate.

Commissioner D'Andrea moved approval of staff's recommendation. Commissioner Greiner seconded the motion. Vote was unanimous. Motion carried.

Commissioner Richardson expressed concern on an issue that is related to Section 424.17.1-424.17.1.7 regarding the specifications for the gate latches and requiring the 54 inch height minimum. She stated when this is looked at in a public setting, there is a problem because the maximum reach range in the Access Code are 54 inches for a side approach and 48 inches for forward approach, which conflicts with the gate latch requirements. She further stated it not only conflicted with the Florida Building Code it also conflicts with the Federal ADA. She stated the requirements which were formulated through the legislative process seem to fall outside the requirement to reconcile conflicts before they are passed. She asked if there was anything that can be done to correct this particular conflict and to stop these types of conflicts from happening in the future.

Commissioner Greiner responded that the section being referred to is relative to residential swimming pools, not public swimming pools.

Commissioner Richardson asked if the gate latch requirements do not apply in a commercial setting.

Commissioner Greiner clarified that it does not apply in a commercial setting.

Commissioner Richardson stated that in her own home she cannot get in and out of her own pool, because she cannot reach the latch since she is in a wheelchair.

Commissioner Greiner responded that the mechanism has to be on the pool side. He stated the mechanism can be placed at 54 inches, however a particular type of installation lock is made that the release mechanism can be released from a different height.

CODES

Mr. Blair briefly explained the workshop process. He stated the purpose of the workshop is to get the Commission back into engaging some issues as a body, rather than deferring to a TAC or an Ad Hoc Committee. He further stated the Chairman has decided to return to that collaborative consensus building process on certain issues. He then explained the issue of the workshop today is to focus on what the Commission's policy should be relative to the relationship between the Florida Building Code and The International Code. He noted there would be no decisions made at this workshop, only to hear public comment, thus engaging the local building officials and other interested parties to share their views on the issue. He explained the goal of this meeting would be to capture key points to inform the Commission. He asked that questions and answers be held until at a later meeting as the Commission begins to take this issue up as a body.

Chairman Rodriguez called for public comment.

Public Comment

Ralph Hughes,

Mr. Hughes offered comment regarding the correlation of the Florida Building Code with the International Codes. He stated four years ago the Commission set out to develop the Florida Building Code and there was lengthy consideration given to using the Standard Code or the International Code as a base to work from. He noted that the decision was made to use the 1997 Standard Building Code. He further stated subsequent to that, it was decided to also incorporate the 1999 amendments to the Standard Code. He commented that those are both history now as the Florida Building Code is in place for the state of Florida. He stated if anything is in the International Code that would be beneficial to the people of the state of Florida it should be incorporated into the Florida Building Code. He continued by stating this should only be done after any modifications necessary have been made to ensure it to be in the best interest of Floridians. He further stated it should be kept in mind that the Florida Building Code will be modified, updated or revised as necessary by Floridians with the authority to do so resting on the Florida Building Commission.

PUBLIC COMMENT

Ron Schroeder, Triodyne Safety Systems

Mr. Schroeder offered comment concerning the technology that is available to prevent entrapment. He stated in 1998 Professor Ralph Barnett invented the drain cover his company represents. He clarified he was not there representing that product, but to represent the technology that will save children from drowning or becoming entrapment victims in pools. He stated the ANSI/ASME A112.19M standard is poorly written, although many people have opted to use it. He presented the standard and commented that from all the pages of that standard only five pages contain the actual standard. He continued stating two years ago he asked Professor Barnett for a stronger standard to make sure it would work to prevent kids from drowning as a result of entrapment. He reported the professor did revise the standard with an addendum to bring in studies to make sure there were no other entrapment issues created by solving the other entrapment issues. He stated he then asked the professor to revise the standard which worked very well. He continued stating the revised standard was sent to several different committees but for some reason it has not been changed. He explained the professor had actually revised it to four sentences which would make pool main drains safe. He stated when he came before the Commission two years ago he presented that it would have taken \$54.00 to make a pool or spa safe, as far as they were concerned from the entrapment issue. Mr. Schroeder cited that standard as utilizing dual hydraulically balanced drains with anti-entrapment covers. He stated there are currently two companies whose products qualify. He reiterated if there was a return to two hydraulically balanced drains and anti-entrapment covers, there would be no entanglements of children's hair.

Mr. Schroeder offered comment there were other covers out there that did not meet the standard and he, personally, was a professional witness to three different cases involving children that have been entrapped. He stated that the covers not meeting the standards are the ones causing the entrapments. He stated he had to return to the BOAF conference, however he invited anyone who was interested in seeing how \$50.00 could fix can stop children from being hurt in pools and spas he would be happy to show them. He then stated he wanted the Commission to be aware he would not be returning. He commented he felt he had done all that he could to emphasize the importance of this issue. He reported he had seen a subcommittee actually discussing single suction sources and separated, unbalanced hydraulic systems. He then stated at this meeting the use of anti-vortex covers has been discussed. He offered he had witnessed Commissioner Shaw use the term anti-vortex cover six

times in the same sentence with the word safety. He concluded by stating he felt he had not done a very good job of informing the Commission and stated he did not want to continue wasting their time.

Paul Roth, Owner, Rollaway Protective Pool Fence
Bill Fillingame, Owner, Potect-a-Child Pool Fence
Dave Walls, Owner, Pool Barriers, Inc.

Mr. Roth presented what these individuals feel is a working guideline and definition of a mesh safety barrier. He asked the Commission to review the document. He then stated their goal is to ask the Commission at the next meeting, if appropriate, an informational notice to be placed out into the building official realm for a clarification on this particular issue. He asked for assistance in helping the building officials around the state understand their product and be able to alleviate questions concerning this at these important meetings. (See *Guidelines and Definitions of a Mesh Safety Barrier* Attachment.)

Dan Johnson

Mr. Johnson reiterated the importance of an issue he discussed earlier relative to the data from the Consumer Product Safety Division. He explained there is probably more information out there than what was provided at the meeting, however Consumer Product Safety Division is the revered source in America for that type of data. He repeated there were 147 incidents and 36 deaths. He explained the information was broken down into categories by the nature of the death, by the vessel of the death and by the nature of the entrapment, entanglement or evisceration. He stated that the codes and standards that are currently operated under are not relevant to that data, because they are based on insufficient, inaccurate data, or lack of data altogether, as he witnessed during the TAC committee hearing. He supported Mr. Schroeder, who spoke on anti-hair snare main drain cover, and offered support of their focusing on that issue, as it is one of the major issues with regard to death in swimming pools, spa, or hot tubs. He continued by stating he could not be certain of wholeheartedly adopting that company's product without testing, however he stressed the importance of addressing this area immediately.

Commissioner Greiner asked if there was a current movement to rewrite ANSI/ASME 112.

Mr. Johnson responded that discussion is underway at this time. He

stated he is not certain if it is to rewrite ANSI/ASME 112 or to write a new standard under the ANSI/NSPI banner. He commented he was at the ASTM51.15 hearing where these issues were discussed in some detail. He stated that he hoped to come up with something far better than is available right now, because the ANSI standard simply does not address the right problem. He stated he believes the problem the industry as a whole has faced is there was never a clear definition of the problem.

Commissioner Greiner asked if the changes Mr. Johnson referred to in the NSPI document will address hair entrapment.

Mr. Johnson responded it would include hair entrapment, as well as all manners of entrapment, entanglement or evisceration.

Tom Downing, Downing Window and Door

Mr. Downing stated since March 1st he has not signed a contract to replace a window or door in an existing house because of the new Code. He further stated when trying to explain to the average homeowner who has lived in a home that has sixteen windows that they have to meet all of these new codes because they want to replace one, two or three windows. He continued by stating he agrees with the issue of egress and always supports that. He stated the new Code with the windload of 130mph and the windborn debris region that was placed on Pinellas County that the panhandle is exempt from is difficult to explain to that homeowner. He continued stating several examples of situations he has encountered and found difficult to help the homeowners understand. He expressed his frustration at having been told the Code would be a unified Code and then finding variances in different counties as far as no permits actually required for some of the work. He stated he agreed with the Code that it was written for new construction from the footer to the peak of the roof. He further stated a house that was built 40 years ago to a different design load and pressure load and make the windows withstand 125-130mph winds. He offered by example of the replacement of all windows and shutters, but no replacement of the rusted garage door, indicating the uplift from that area to the existing roof. He stated he felt as though he had been doing public service since March 1st, informing people what Florida has decided and for two hours they are frustrated and mad at him and he is upset and did not make a dime. He further stated the people are completely uninformed, as there was no information on TV or in the newspapers. He asked the Commission if there was anything in the makings that could help him coming down from the state of Florida ensuring that every bidder on a job will be telling that homeowner the

same thing.

Chairman Rodriguez expressed his understanding of Mr. Downing's frustration. He explained the Commission is in the process of developing a Rehab Code.

Mr. Downing asked if it will be state wide.

Chairman Rodriguez stated it would be statewide, but he could not give any information of what it will be. He stated there is not a predictable outcome at this point.

Mr. Downing asked if there was any thought to this on the onset of changing the code outside of new construction.

Chairman Rodriguez responded there was obvious concern. He stated that all of these difficulties are being worked through, but only so much can be addressed at one time. He reiterated that a Rehab code is being developed and on the education side there is a lot to be done.

Commissioner Shaw offered that this is where the Commission encourages participation in helping develop the answers for the concerns expressed.

Mr. Downing asked when the new interpretation is available will every building official in a certain county sign off on it.

Chairman Rodriguez stated the purpose of the Code is to create continuity from one part of the state to the other. He further stated the building official has the last word.

Mr. Downing asked if that meant he could raise the Commission's standards but could not take away from it.

Chairman D'Andrea added the Suncoast Chapter, which includes Manatee, Sarasota, Pasco, Hillsborough, and Pinellas counties, has a Code Development Committee. He stated that committee has now taken on the task of Code interpretation. He explained the members of the committee are the building officials from each jurisdiction within those counties. He stated the commitment from those officials is that they will submit these interpretive issues. He noted one of the first issues would be on Chapter 34 which is relevant to the issues of windows. He stated that all of the building officials in those areas have agreed to abide by the

committee's decision in interpretation. He further stated the committee hopes to achieve continuity within those four counties from every jurisdiction on a specific item. He concluded stating this will hopefully be of some immediate help to Mr. Downing over the next several months until the Rehab Code is going at the state level to fix it statewide.

Mr. Downing requested further clarification that when the Rehab Code comes into play it will be backed by the Florida Building Commission.

Chairman Rodriguez confirmed that was correct.

John McFee, Windows and Doors Manufacturer's Association

Mr. McFee stated his organization represents 125 window, door, and skylight manufacturer's, as well as suppliers to the industry. He offered thanks to Jim Richmond for participation in the technical conference last week, who came forward with information on the Code and helping with the educational process. He said the meeting was well-attended and he wanted Mr. Richmond to know how much they appreciated the opportunity to meet with him and that they would look forward to working with him in the future.

Chairman Rodriguez thanked Mr. McFee for taking the time to come and offer public appreciation for the staff, as the Commission is certainly indebted to them for the work they do.

Commissioner D'Andrea offered comment that he was in agreement with evaluating other building codes for use in the state of Florida. He stated it might be helpful to the Commission if a comparison can be updated to utilize in looking at the differences between the 1997 Standard Building Code, the International Code and the Florida Specific Amendments.

Chairman Rodriguez stated this could be accomplished in the workshop. He asked if staff could have that available before the first meeting.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR COMMISSION'S JULY MEETING

Mr. Blair opened discussion on and briefly reviewed the committee assignments and issues for July's Commission Meeting. He stated the meeting will be held July 1st and 2nd in Orlando. He further stated

meetings will be held for the Education Program Oversight Committee, the Product Approval Prototype Building Manufacturer Committee, the Code Administration TAC, Rehab Committees, Plumbing TAC, Structural TAC, Accessibility Advisory Council, Accessibility TAC, Mechanical TAC, Electrical TAC, Building Fire TAC, and Energy TAC.

Commissioner Greiner requested the TAC assignments be issued in writing.

Chairman Rodriguez responded stating Mr. Dixon will reissue it formally so that all Commissioners will receive a copy.

Commissioner Shaw stated he had suggested to Ila Jones that Chairman Rodriguez send letters to the TAC members he had appointed because many have not been notified.

Chairman Rodriguez responded he would do that.

SUMMARY AND REVIEW MEETING WORK PRODUCTS

Chairman Rodriguez summarized the work products addressed and acted on in the meeting. He stated the Commission had decided on the Chair's discussion issues and recognized the retiring commissioners. He further stated Accessibility Waiver requests were heard and decided on. He continued by stating the Education and Product Approval/Prototype Building/ Manufactured Buildings Program Oversight Committees were also decided on. He stated the Commission decided on Special Occupancy, Accessibility, Code Administration, Plumbing, Mechanical and Structural TAC reports and recommendation. He further stated declaratory statements were heard and decided on. He continued by stating the Attorney Client Closed Door Session was conducted on the administrative challenge of pool alarms requirements. He stated comments were heard and discussed the relationship of the Florida Building Code to the International Codes, and that Public Comment had been heard.

ADJOURN PLENARY

No further business discussed, meeting adjourned at 1:30pm.