



**FLORIDA  
BUILDING  
COMMISSION**

"STRONGER CODES THROUGH SCIENCE AND CONSENSUS"



**FACILITATOR'S SUMMARY REPORT OF THE  
DECEMBER 28, 2023  
FLORIDA BUILDING COMMISSION  
WEB-BASED AND TELECONFERENCE VIRTUAL  
EMERGENCY MEETING**

**PROCESS DESIGN, CONSENSUS-BUILDING AND FACILITATION BY**



**REPORT BY JEFF A. BLAIR  
FACILITATED SOLUTIONS, LLC**

[FacilitatedSolutionsJB@gmail.com](mailto:FacilitatedSolutionsJB@gmail.com)  
<http://facilitatedsolutions.org>

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2601 Blair Stone Road, Tallahassee, FL 32399, (850) 487-1824*

**FLORIDA BUILDING COMMISSION  
DECEMBER 28, 2023 EMERGENCY MEETING  
FACILITATOR’S SUMMARY REPORT**

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*Florida Peninsula – From Space*



**FLORIDA BUILDING COMMISSION**  
**DECEMBER 28, 2023 EMERGENCY MEETING**  
**FACILITATOR’S SUMMARY REPORT**



**OVERVIEW OF COMMISSION’S KEY ACTIONS AND DECISIONS**  
**THURSDAY, DECEMBER 28, 2023**

**I. EMERGENCY MEETING SUMMARY AND OVERVIEW**

The Commission conducted the December 28, 2023 Emergency Meeting as web-based and teleconference virtual meeting. Specific actions included voting unanimously to: **1)** Initiate emergency rule making pursuant to subsection 120.54(4), F.S., delaying the implementation of Section 718 of the Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023) for at least three-months from December 31, 2023 to March 30, 2024, and adopt proposed Rule 61G20ER23-3 – Effective Date for Section 718 Building Sewer and Drain Rehabilitation Requirements based on the Findings and Rationale provided in the DBPR staff analysis; and **2)** Adopt Rule 61G20ER23-3 – Effective Date for Building Sewer and Drain Rehabilitation Requirements, with the following emergency rule text: Rule 61G20ER23-3 – Effective Date for Building Sewer and Drain Rehabilitation Requirements. Notwithstanding the Florida Building Code, the provisions of Section 718, Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023), are not in effect during the period of time that this emergency rule is in effect. This rule shall take effect immediately upon filing with the Department of State with an Effective Date of December 31, 2023, and an Expiration Date of March 30, 2024, and to delegate authority to Mo Madani to sign rulemaking documents on behalf of the Commission.

**II. CHAIR’S WELCOME**

Chairman Schock welcomed the Commission, DBPR staff, and the public to the December 28, 2023 web-based and teleconference virtual emergency meeting of the Florida Building Commission.

The Chair noted that the purpose of the Emergency Meeting was to evaluate a Petition to delay the implementation of sections 717 and 718 of the 8<sup>th</sup> Edition (2023) Florida Building Code, Plumbing, and for the Commission to determine if Emergency Rulemaking is warranted, and if so to subsequently delay the implementation of provisions pertaining to the rehabilitation of building sewer piping and sewer service lateral piping in the forthcoming Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023) during the period of time that the emergency rule is in effect.

The Chair explained, as always the Commission would provide an opportunity for public comment at the appropriate time during the emergency meeting. Chairman Schock expressed that if one wants to comment, they should wait until the facilitator requests public comment and stacks a list of names at

the appropriate time during the emergency meeting. The Chair noted that public input is welcome, but should be offered before the Commission begins discussion or there is a formal motion on the floor.

### **III. COMMISSION ATTENDANCE**

The following Commissioners participated in the December 28, 2023 virtual emergency meeting:

Jim Schock (Chair), James Batts, Michael Bourré (Vice Chair), David Brown, David Compton, Jeff Gross, Rodney Hershberger, David John, Brian Langille, Grey Marker, Asael Marrero, Brad Schiffer, Fred Schilling, Brian Swope, Tim Tolbert, and Stephen Wilcox.

(16 of the 16 seated Commissioners attended – 100%).

*Absent Commissioners:*

None.

### **DBPR STAFF PARTICIPATING**

Tom Campbell, Bob Ehrhardt, Sabrina Evans, and Mo Madani, Marlita Peters, and Jake Whealdon.

### **MEETING FACILITATION**

Meetings are facilitated, and meeting reports prepared by Jeff Blair from Facilitated Solutions, LLC. Information at: <http://facilitatedsolutions.org>.



### **PROJECT WEBPAGE**

Information on the Florida Building Commission project, including agenda packets, meeting reports, and related documents may be found at the Commission Webpage. Located at the following URL: <http://floridabuilding.org/c/default.aspx>

### **IV. AGENDA REVIEW AND APPROVAL**

Following are the key agenda items approved for consideration:

- To Approve Commission Emergency Meeting Agenda.
- To determine whether to engage in emergency rulemaking to delay the implementation of provisions pertaining to the rehabilitation of building sewer piping and sewer service lateral piping in the forthcoming Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023).

#### ***Commission Action:***

**MOTION** – The Commission voted unanimously, 16 - 0 in favor, to approve the agenda for the December 28, 2023 emergency meeting as presented/posted.

## V. PETITION FOR EMERGENCY RULEMAKING

The Chair explained that the Commission received a Petition for Emergency Rulemaking from Buchanan Ingersoll & Rooney representing Advanced Pace Technologies LLC d/b/a Advanced Plumbing Technology (“APT”). Specifically, the Petitioner requested reconsideration of the updated revisions to Sections 717 and 718 of the Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023), regarding the relining of existing building sewers and building drainage piping, or a six-month delay in implementation of the provisions to allow further evaluation of the unintended effects of the updated revisions to Sections 717 and 718 of Code.

The Chair clarified that the Petitioner’s presentation and the Commission’s discussions would be limited to the merits of the petition for relief – not the technical issues of the Code that are the subject of the Code provisions from which relief is being sought. The Petitioner would be asked to present to the members of the Commission what they believe to be the compelling evidence to support their request for relief utilizing the Commission’s Emergency Rulemaking authority.

Jeff Blair reviewed the Procedural Sequencing the Commission used for consideration of the Petition as follows:

- 1) DBPR Rules Attorney, Bob Ehrhard, acting as the Commission’s legal counsel, provided the legal background on the Petition.
- 2) Mo Madani, the Commission’s Technical Director, provided staff’s analysis on the Petition.
- 3) Commissioner Clarifying Questions regarding Staff Analysis.
- 4) Petitioner’s Presentation of their Petition for Emergency Rulemaking (Chris Parker representing Advanced Pace Technologies LLC d/b/a Advanced Plumbing Technology. (10 minutes collectively for Petitioner’s side).
- 5) Commissioner Clarifying Questions for the Petitioner.
- 6) Public Comment (3 minutes per person).
- 7) Chair’s Summary of Options for Commission Action (Motions).
- 8) Commission Discussion and Decision Regarding Responding to the Petition for Emergency Rulemaking.

Subsequently, Mo Madani reviewed Staff’s Analysis and Recommendation as follows:

### **Findings: Specific Reasons for Finding an Immediate Danger to the Public Health, Safety or Welfare:**

- The Commission finds that the request to delay the implementation of Section 718, Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023), itself holds the proof of a danger to the health, safety, and welfare of the public.
- The Commission finds that there is an economic impact to homeowners, who may experience increased costs and decreased access to services without this emergency rule, as demonstrated in testimony presented to the Commission on December 28, 2023.
- As explained in the request, the adoption of the provisions at issue would unnecessarily limit the materials and methods that may be used for the rehabilitation of building sewer and drains to proprietary ones owned by one entity.

- The Commission finds that there is a need to allow for the utilization of other means of rehabilitating building sewer and drains.
- The Commission has identified that there is a demonstrated need for more time to study this issue and correct it, and that there is insufficient time to do so through the standard rulemaking process because the 8<sup>th</sup> Edition of the Florida Building Code will go into effect on December 31, 2023.

**Rationale: Reasons for Concluding that the Procedure Used Is Fair Under the Circumstances:**

- The rule's limited scope and the exigent circumstances presented to the Commission mitigate any perceived shortcomings related to notice.
- The emergency rule is a minimal procedural administrative change that does not prohibit anyone from voluntarily utilizing the new standards.
- The emergency rule only has a permissive effect that permits additional activities under the 8<sup>th</sup> Edition of the Florida Building Code.
- It is necessary to address this issue as an emergency rule because of the implementation timeline of the 8<sup>th</sup> Edition of the Florida Building Code. The Code becomes effective on December 31, 2023, which would not allow the Commission to address the issue through traditional rulemaking.

Mo Madani noted:

- The emergency rulemaking would be limited to section 718 (Rehabilitation of Building Sewers and Building Drains) of the Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023), and not include section 717 (Relining Building Sewers and Building Drains).
- Rulemaking on the issue would be incorporated into the current Glitch Amendment process and not conducted as a separate rulemaking initiative.

The Chair explained there were two options for the Commission to consider regarding whether to initiate emergency rulemaking, as follows:

- **Option 1 (Staff Recommendation):** To initiate emergency rule making pursuant to subsection 120.54(4), F.S., delaying the implementation of Section 718 of the Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023) for at least three-months from December 31, 2023 to March 30, 2024, and adopt proposed Rule 61G20ER23-3 – Effective Date for Section 718 Building Sewer and Drain Rehabilitation Requirements based on the Findings and Rationale provided in the DBPR staff analysis.

**Option 2:** To Not initiate emergency rule making pursuant to subsection 120.54(4), F.S.

Following the opportunity provided for questions and answers, public comment, and Commission discussion, the Commission took the following actions:

***Commission Actions:***

**MOTION** – The Commission voted unanimously, 16 – 0 in favor, to initiate emergency rule making pursuant to subsection 120.54(4), F.S., delaying the implementation of Section 718 of the Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023) for at least three-months from December 31, 2023 to March 30, 2024, and adopt proposed Rule 61G20ER23-3 – Effective Date for Section 718 Building Sewer and Drain Rehabilitation Requirements based on the Findings and Rationale provided in the DBPR staff analysis.

**MOTION** – The Commission voted unanimously, 16 – 0 in favor, to adopt Rule 61G20ER23-3 – Effective Date for Building Sewer and Drain Rehabilitation Requirements, with the following emergency rule text: Rule 61G20ER23-3 – Effective Date for Building Sewer and Drain Rehabilitation Requirements. Notwithstanding the Florida Building Code, the provisions of Section 718, Florida Building Code, Plumbing, 8<sup>th</sup> Edition (2023), are not in effect during the period of time that this emergency rule is in effect. This rule shall take effect immediately upon filing with the Department of State with an Effective Date of December 31, 2023, and an Expiration Date of March 30, 2024, and to delegate authority to Mo Madani to sign rulemaking documents on behalf of the Commission.

## **VI. ADJOURNMENT**

The Chair thanked Commission members, staff and the public for their participation, and adjourned the meeting at 10:44 a.m. on Thursday, December 38, 2023.