

**FLORIDA BUILDING COMMISSION
EMBASSY SUITES TAMPA, USF
3705 SPECTRUM BOULEVARDTAMPA, FLORIDA 33612
Plenary Session
December 11, 2018
8:30 AM**

MINUTES

COMMISSIONERS PRESENT:

James Schock, Vice Chairman	Richard Goff
Hamid Bahadori	Jeff Gross
James Batts	Robert Hamberger
Bob Boyer	David John
Donald Brown	Brian Langille
Kelley Smith Burk	Brad Schiffer
Oscar Calleja	Fred Schilling
David Compton	Drew Smith
Nan Dean	Jeff Stone
Kevin Flanagan	Brian Swope
John Gatlin	Don Whitehead
Shane Gerwig	John Wiseman
David Gilson	Diana Worrall

COMMISSIONERS NOT PRESENT:

STAFF PRESENT:

Thomas Campbell	Justin Vogel
Mo Madani	Jim Hammers
Chris Howell	

MEETING FACILITATION:

The meeting was facilitated by Jeff Blair from the FCRC Consensus Center at Florida State University. Information at: <http://consensus.fsu.edu/>

Time: 8:30 am

Vice Chairman Schock welcomed everyone to Tampa and said that he had the very sad duty of reporting that Chairman Jay Carlson passed away last week. He said that on behalf of the Commission we offer our most sincere condolences to Jay's family and his many friends. Vice Chairman Schock stated that Jay will be deeply missed and fondly remembered. He said that Jay exhibited a fundamental commitment to fairness and consensus-building since his appointment to the Commission in August 2013, and in his leadership as Chair since February 2018. Vice Chairman Schock asked that there be a moment of silence in memory of Jay.

Moment of Silence Observed.

Vice Chairman Schock stated that Chairman Carlson's family was present and requested to address the Commission. Mrs. Carlson and their two son's John and Jacob addressed the Commission with gratitude for all the kindness and support given to Chairman Carlson and spoke of his great passion for the industry.

There was a brief break in the meeting for the family to speak individually with the Commission.

Vice Chairman Schock brought the meeting back to order and welcomed Commissioners, staff, and members of the public to Tampa and the December 11, 2018 plenary session of the Florida Building Commission. Vice Chairman Schock stated the primary focus of the December meeting is to consider regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, and recommendations from our various committees and workgroups. He further stated that specific actions will include receiving and accepting a report from UF regarding the Hurricane Michael initial damage project.

Vice Chairman Schock stated that members of the public are requested to sign the attendance sheet on the speaker's table in the center of the room. In addition, we have a sign-up sheet for general public comment. He advised as always, we will provide an opportunity for public comment on each of the Commission's substantive discussion topics (actions that are not procedural or ministerial in content). Vice Chairman Schock stated that if they want to comment on a specific substantive Commission agenda item, please come to the speaker's table when the issue is up for consideration so we know you want to speak. He said that public input is welcome, but should be offered before there is a formal motion on the floor. Vice Chairman Schock asked that all please remember to keep all electronic devices turned off or in a silent mode and thanked them for their cooperation.

Vice Chairman Schock advised all in attendance if they are licensed by the Building Code Administrators and Inspectors Board attending the Commission meeting and interested in CE credits must complete the CE sign-in sheet in the binder located on the speaker's table in the center of the room.

Roll Call:

Vice Chairman Schock asked that Jeff Blair perform roll call, a quorum was met with 26 members present at roll call.

Agenda Review and Approval:

Vice Chairman Schock requested that Jeff Blair cover the agenda items for the meeting today.

Jeff Blair welcomed participants to the December Plenary Session and introduced the agenda.

Commissioner Schilling entered a motion to approve the agenda as posted. The motion was seconded by Commissioner Schiffer. The motion passed unanimously with a vote of 26 to 0 in favor.

Approval of Previous Meeting Minutes and Facilitator Report for October 8, 2018

Vice Chairman Schock requested a motion for approval of the October 8, 2018 Facilitator's Summary Report and Meeting Minutes.

Commissioner Schiffer entered a motion to approve October 8, 2018 Facilitator's Summary Report and Meeting Minutes, as posted. The motion was seconded by Commissioner Schilling. The motion passed unanimously with a vote of 26 to 0 in favor.

Chairman's Discussion Issues and Recommendations:

Vice Chairman Schock recognized the following appointments:

Re-Appointment to the Commission:

Hamid Bahadori, of Lake Mary, is the vice president of Jansen Hughes, Inc., and is reappointed for a term beginning November 16, 2018, and ending February 7, 2021. Vice Chairman Schock stated that they are pleased to retain Hamid as the Commission's Fire Protection Technologist representative.

New Appointments to the Commission:

Vice Chairman Schock advised that the Governor has made the following new appointments to the Commission:

John Gatlin, of Tallahassee, is the chief engineer of the Florida Bureau of Fire Prevention. He advised that he fills the vacant State Insurance Representative seat and is appointed for a term beginning November 16, 2018, and ending March 11, 2021. Vice Chairman Schock welcomed Commissioner Gatlin.

New Appointments to the Commission (cont.):

David John, of Tarpon Springs, is an engineering manager with Stan Weaver & Co. He stated he succeeds Steven Bassett who is rolling off of the Commission as the Mechanical Engineer representative and is appointed for a term beginning November 16, 2018, and ending December 8, 2021. Vice Chairman Schock welcomed Commissioner John.

John Wiseman, of Nokomis, is the president of Core Construction Services of Florida, LLC. He advised that he fills the vacant General Contractor seat and is appointed for a term beginning November 16, 2018, and ending February 11, 2021. Vice Chairman Schock welcomed Commissioner Wiseman.

Appreciation for Steve Bassett:

Vice Chairman Schock stated that on behalf of the Commission he would like to appreciate Steve Bassett for his years of service on the Commission. He advised that Steve served multiple terms during the early years of the Commission before rolling off. Vice Chairman Schock further stated that subsequently he was once again appointed to the Commission on August 27, 2013 and served until he recently rolled-off on November 16, 2018. He added that in addition, Steve served on the Energy TAC, multiple workgroups, and as the immediate past chair of the Mechanical TAC. We commend and thank Steve for his years of dedicated service to the citizens of Florida.

TAC Appointments:

Structural TAC:

Vice Chairman Schock stated that Chairman Carlson had approved the appointment of Michael Guerasio to the Structural TAC to replace the retiring Cris Fardelmann. He thanked to Mr. Guerasio for agreeing to serve and thanks to Cris for his years of dedicated service on the TAC.

Swimming Pool TAC

Vice Chairman Schock stated that Chairman Carlson had approved the appointment of Michael Guerasio to the Swimming Pool TAC to replace the retiring Cris Fardelmann He thanked to Mr. Guerasio for agreeing to serve, and thanks to Cris for his years of dedicated service on the TAC

Workgroup Appointments:

Fenestration Water Resistant Workgroup:

Vice Chairman Schock advised that Chairman Carlson had approved the appointment of Craig Parrino to the Fenestration Water Resistant Workgroup. He thanked Mr. Parrino for agreeing to serve.

Chairman's Discussion Issues and Recommendations (cont.):

Residential Construction Cost Impact Workgroup:

Vice Chairman Schock advised that Chairman Carlson had approved the appointment of David Hilman of Custom Design Renovations, LLC to replace Ed Dion on the Residential Construction Cost Impact Workgroup. He thanked Mr. Hilman for agreeing to serve.

Commission Approval Process and TAC Recommendation Process for the 2020 Code Update:

Vice Chairman Schock stated the Commission will review and approve the Commission's Code Modification Approval Process, the TAC Code Modification Recommendation Process, and the TAC Public Comment Review Process for the 2020 Code Update Process at the February 19, 2019 meeting.

Commission Milestones:

Vice Chairman Schock reminded everyone that the updated Commission Milestones documents are linked to the Agenda and on the BCIS.

Executive Director Announcements and Discussions:

Future Meeting Location:

Mr. Campbell advised that the Commissioners of the following scheduled meetings and locations.

- February 19, 2019 meeting will be at the Hyatt Regency, Jacksonville.
- March 18-22, 2019 meeting will be at the Embassy Suites, Altamonte Springs (TAC Meetings for submitted code mods).
- April 16, 2019, location to be determined.
- June 18, 2019, location to be determined.
- August 12th, 13th and 14th, stating that this meeting will probably be only on the 13th and 14th dates.
- The Fenestration Water Resistant Workgroup will meet on February 18, 2019 in Jacksonville, the day before the Commission Plenary Session.

Accessibility Waivers:

Vice Chairman Schock advised that the Commission will now consider this month's requests for accessibility waivers. He stated Justin Vogel will serve as legal counsel and present the Accessibility Advisory Council's recommendations. Vice Chairman Schock asked that Mr. Vogel present the Council's recommendations regarding waiver requests.

Lilo Casado Waiver #315 - 2205 NW 70 Avenue, Miami 33122 - Issue: Vertical accessibility to a warehouse and mezzanine.

Mr. Vogel presented the waiver and advised that the Accessibility Advisory Council recommended granting the request based on economic hardship.

Commissioner Worrall entered a motion to accept the Council's recommendation to grant the request for waiver based on economic hardship. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Greenview Hotel (Greenview Hotel LLC) Waiver #359 - 1671 Washington Avenue, Miami Beach 33139 - Issue: Vertical accessibility to all levels.

Mr. Vogel presented the waiver and advised that the Accessibility Advisory Council recommended granting the request based on the grounds of technical infeasibility.

Commissioner Worrall entered a motion to accept the Council's recommendation to grant the request for waiver based on technical infeasibility. Commissioner Bahadori seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Product Approval:

Vice Chairman Schock advised that Commissioner Stone would present the POC's recommendations for entity approvals and the consent agenda for products recommended for approval, and Jeff Blair would present the POC's recommendations for product approvals with discussion and/or comments.

Commissioner Stone entered a motion to approve the 19 product approval entities as posted. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Product Approval Applications without Comments Consent Agenda:

Commissioner Stone entered a motion to approve the 136 products on the consent agenda list. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Product Approval Applications with Comments:

Jeff Blair presented the POC's recommendations for product approvals with discussion and/or submitted public comments.

28368 – Commissioner Stone entered a motion for conditional approval of 28368. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0.

DBPR APPLICATIONS:

No action is needed on the December 2018 DBPR Applications. There were 12 applications with comments to the 2017 Code. All comments have been resolved to staff's satisfaction no further action was required for approval of the products.

Accreditor and Course Approval:

Vice Chairman Schock advised Commissioner Dean would present the Education Program Administrators recommendations regarding applications for accreditor and course approval.

Commissioner Dean entered a motion to approve advanced accredited courses 917.0 and 922.0 Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of – 26 to 0 in favor.

Commissioner Dean entered a motion to approve 270.2 administratively approved updated course. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

Legal Report:

Vice Chairman Schock advised that Justin Vogel will report on relevant legal matters of interest to the Commission.

Rule Challenge Appeal Decision:

Mr. Vogel stated that oral arguments were held on October 23rd; on October 26th, the appellate court affirmed the ruling of the lower tribunal. This should conclude the litigation, and the Commission is on track to continue with its work plan for the development of the next edition of the code. He then asked if there were any questions.

No Questions were asked regarding the rule challenge.

Legal Report (cont.):

Commissioner Brown's Personal Liability Question:

Mr. Vogel stated that at the last meeting, Commission Brown posed a question about whether Commissioners could be held personally liable if the Commission were to inadvertently omit model code provisions that were necessary to maintain federal funding or discounts. He said at the time he said that he thought that was unlikely, but would investigate further. Mr. Vogel stated he had looked into it, and the answer is generally going to be "no." He stated as a general rule, if members of an administrative board are acting within its jurisdiction, in good faith, with no malice or corrupt motives, then they will not be exposed to personal liability for honest errors or mistakes committed in the exercise of their duties. Mr. Vogel said he doesn't foresee this being an issue. He then asked Commissioner Brown, if that answered his question?

Commissioner Brown acknowledged that Mr. Vogel's response had answered his question.

Petitions for Declaratory Statements:

Vice Chairman Schock stated if anyone wished to speak on a declaratory statement please come to the public comment table once the specific declaratory statement is introduced. He advised that Justin Vogel will serve as the Commission's counsel. Vice Chairman Schock stated that after legal counsel reviews the petition, he will ask for public comment on the petition.

DS 2018-070 by Michael Savage, Sr. of Marion County Department of Building Safety:

Mr. Vogel presented the declaratory statement and advised that the Code Administration TAC concurrently with the Electrical TAC considered the petition on November 27, 2018 and both TACs recommended staff analysis and the following answer:

Question: Due to the adopted provisions of the Florida Building Code, notably Sections 102.4, 102.4.1, and E3901.2, are sun rooms, namely Category III, required to comply with the receptacles spacing requirements specifically required under the FBC Residential code?

Answer:

Option #2/Staff:

No. The provisions of Section R301.2.1.1 of the FBC, Residential and AAMA 2100 as referenced from within section R301.2.1.1 are more specific than the provisions of Section E3901.2 of the FBC, Residential with regard to the definition of sunrooms and the placement of receptacle outlets, and therefore according to Section 102.1 of the FBC, Building, the requirements of Section E3901.2 including the receptacles spacing requirements do not apply to the projects in question. The electrical requirements for the project in question are subject to the requirements of AAMA 2100.

Public Comment:

Joe Hetzel, DASMA, stated he is in support of the staff analysis and TAC recommendation.

Joe Belcher, Aluminum Manufacturers, stated he is in support of the staff analysis and TAC recommendation.

Commissioner Gerwig entered a motion to accept the TAC recommendation of the staff analysis. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 26 to 0.

DS 2018-072 by Greg Miller of Palm Beach County Building Advisory Board:

Mr. Vogel presented the declaratory statement and advised that the Energy TAC considered the petition on November 29, 2018 and the TAC recommended staff analysis and the following answers:

- 1) A customer has applied to replace all windows in his home, which was constructed in 1990. The estimated cost of replacement windows is less than 30% of the assessed value of the structure.

a. To the question, does section **R501.7** of the Energy Conservation Volume require the replacement windows to meet the solar heat gain coefficient listed in Table R402.~~2~~.1.2 of the Florida Energy Conservation Volume? The answer is no. As per Section R101.4.2 and the definition of “Renovated Building” of the 6th Edition (2017) Florida Building Code, Energy Conservation Residential (the Code), the replacement windows in question are not required to meet the provisions of the Code including the solar heat gain coefficient listed in Table R402.1.2 of the Code.

b. To the question, does Section 101.4.2 exempt the replacement windows since they don’t exceed 30% of the assessed value of the structure? The answer is yes. As per Section R101.4.2 and the definition of “Renovated Building” of the 6th Edition (2017) Florida Building Code, Energy Conservation Residential (the Code), the project in question is exempt from the provisions of the Code.

- 2) A customer has applied to replace a window in his home, which was constructed in 1990. The estimated cost of the replacement window is less than 30% of the assessed value of the structure.

a. To the question, does Section **R501.7** of the Energy Conservation Volume require the replacement window to meet the solar heat gain coefficient listed in Table R402.~~2~~.1.2 of the Florida Energy Conservation Volume? The answer is no. As per Section R101.4.2 and the definition of “Renovated Building” of the 6th Edition (2017) Florida Building Code, Energy Conservation Residential (the Code), the replacement window in question is not required to meet

Petitions for Declaratory Statements (cont.):

DS 2018-072 by Greg Miller of Palm Beach County Building Advisory Board (cont.):

the provisions of the Code including the solar heat gain coefficient listed in Table R402.1.2 of the Code.

b. To the question, does the Section 101.4.2 exempt the replacement window since they don't exceed 30% of the assessed value of the structure? The answer is yes. As per Section R101.4.2 and the definition of "Renovated Building" of 6th Edition (2017) Florida Building Code, Energy Conservation Residential (the Code), the project in question is exempt from the provisions of the Code.

Public Comment:

Rob Nichols, Palm Beach County Building Department stated he was not in favor of the analysis and provided detail of the reasons why he was not in support.

Eric Lacey, RECA stated he felt this should not be a declaratory statement issue as it does not show the set of criteria required and is not appropriate in this format. He continued with the explanation of how he felt this issue should be resolved and suggested that the Commission reject this request.

Robert Fine, Esq. provided information on declaratory statements within the Commission purview and stated this request is well within the requirements.

Joe Belcher, JBCodes spoke on the similar declaratory statement filed in 2010 which he withdrew.

Doug Buck, FHBA spoke on policies.

Commission Gerwig requested clarification from Legal and Mr. Madani.

Justin Vogel, Esq. stated as he advised the TAC, this declaratory statement does meet the criteria and should be addressed.

Mr. Madani spoke on the 30% rule within the Energy Code and its effects.

Petitions for Declaratory Statements (cont.):

DS 2018-072 by Greg Miller of Palm Beach County Building Advisory Board (cont.):

Commissioner Flanagan stated he feels this declaratory statement is specific and is in favor of staff recommendation

Commissioner Smith entered a motion to accept the TAC recommendation of the staff analysis. Commissioner Calleja seconded the motion. The motion passed with a vote of 25 in favor and 1 voting against.

Committee Reports:

Code Administration Technical Advisory Committee:

Commissioner Gerwig provided a brief summary of the Code Administration TAC's November 27, 2018 teleconference meeting.

Commissioner Gerwig entered a motion to accept the report from the November 27, 2018 teleconference meeting. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 21 to 0 with 5 Commissioners out of the room at the time of the vote.

Education Program Oversight Committee:

Commissioner Dean provided a brief summary of the Education POC's November 28, 2018 teleconference meeting.

Commissioner Dean entered a motion to accept the report from the November 28, 2018 teleconference meeting. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 21 to 0 with 5 Commissioners out of the room at the time of the vote.

Electrical Technical Advisory Committee

Commissioner Flanagan provided a brief summary of the Electrical TAC's November 27, 2018 teleconference meeting.

Commissioner Flanagan entered a motion to accept the report of the Electrical TAC's November 27, 2018 teleconference meeting. Commissioner Batts seconded the motion. The motion passed unanimously with a vote of 25 to 0 with 1 Commissioner out of the room at the time of the vote.

Committee Reports (cont.):

Energy Technical Advisory Committee:

Commissioner Smith provided a brief summary of the Energy TAC's November 29, 2018 teleconference meeting.

Commissioner Smith entered a motion to accept the report of the Energy TAC's November 29, 2018 teleconference meeting. Commissioner Calleja seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Product Approval Program Oversight Committee

Commissioner Stone provided a brief summary of the Product Approval POC's November 29, 2018 teleconference meeting.

Commissioner Stone entered a motion to approve the report of the Product Approval POC's November 29, 2018 teleconference meeting. Commissioner Compton seconded the motion. The motion passed unanimously with a 26 to 0.

Approval of UF Presentation Regarding Hurricane Michael Initial Triage Damage Assessment Effort:

Dr. Prevatt provided a detailed power point presentation of the initial findings from Hurricane Michael including wind and water surge.

Commission Questions/Comments:

Commissioner Schock spoke on the storm surge and comparisons to other storms.

Commissioner Brown spoke on design limits and the exceeding of the damage where there were failures.

Commissioner Compton spoke further on wind speeds and the issues with design.

Commissioner Swope stated he would like to be sure and have construction dates of sites being used.

Commissioner Goff spoke of his review of properties that he had looked at and the difference of damages according to where you were viewing the properties. He stated that well inland there were areas of mass destruction.

Approval of UF Presentation Regarding Hurricane Michael Initial Triage Damage Assessment Effort (cont.):

Public Questions/Comments:

Doug Buck, FHBA spoke on wind speed design and stated that there was discussion of raising the wind speed at Mexico Beach.

Arlene Stewart, AZS Consulting, stated looking at slide 11 homes with higher grade takes care of some of the surge issues. She also stated there should be studies on the trees and damages therein.

Mike Silvers, FL. Roofing, spoke on roofing and issues.

Keri Hebrank told the Commission if they have the chance they should make a trip to the Panhandle to see the destruction.

Vice Chairman Schock stated if there was no further discussion he would ask for a motion to accept the UF Presentation/Report regarding Hurricane Michael Initial Triage Damage Assessment Effort.

Commissioner Gross entered a motion to accept UF's presentation/report regarding Hurricane Michael Initial Triage Damage Assessment effort; and, to approve using existing funds to expand the scope of work to conduct Phase II activities to include additional damage investigations/data collection, site visits to investigate the performance of building envelope products, and data processing and information extraction with the SOW to be negotiated and administered by DBPR staff. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 26 to 0.

Commissioner Comments:

Commissioner Flanagan thanked the staff for organizing time to remember Chairman Carlson and requested that a card be sent on behalf of the Commission.

Commissioner Schiffer requested flowers be sent if possible.

Commissioner Wiseman stated that there would be a celebration of life for Chairman Carlson on January 12, 2019 and he would make sure the Commission is provided with the details.

Public Comments: None

Vice Chairman Schock advised the next meeting will be in Jacksonville on February 19, 2019.

There being no further business Vice Chairman Schock adjourned the meeting at 11:42 a.m.