



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

**MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION MINUTES
February 2, 2010**

Approved April 7, 2010

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:31a.m., Tuesday, February 2, 2010 at the Embassy Suites Hotel, Tampa, Florida.

COMMISSIONERS PRESENT:

Raul L. Rodriguez, AIA, Chairman
Jeffrey Gross
Angel "Kiko" Franco
James E. Goodloe
James R. Schock
Herminio F. Gonzalez
Robert G. Boyer
Hamid R. Bahadori
Drew M. Smith
Christopher P. Schulte
Mark C. Turner
Scott Mollan
Jonathon D. Hamrick
Joseph "Ed" Carson
Raphael R. Palacios

Kenneth L. Gregory
Nicholas W. Nicholson
John "Tim" Tolbert
Dale T. Greiner
John J. Scherer
Anthony M. Grippa

COMMISSIONERS ABSENT:

Richard S. Browdy, Vice-Chairman
Jeff Stone
Randall J. Vann
Donald A. Dawkins
Doug Murdock, Adjunct Member
Craig Parrino, Adjunct Member

OTHERS PRESENT:

Rick Dixon, FBC Executive Director
Ila Jones, DCA Prog. Administrator
Jim Richmond, DCA Legal Advisor
Jeff Blair, FCRC Consensus Solutions
Mo Madani, Technical Svcs. Manager

WELCOME

Chairman Rodriguez welcomed the Commission, staff and the public to Tampa and to the February 2010 plenary session. He stated the one-day Commission format provided time for workgroup meetings to be held in conjunction with Commission meetings while reducing travel and meeting costs. He then stated the primary focus of February's meeting was to consider any additional recommendations to the 2010 Florida Legislature.

Chairman Rodriguez stated if anyone wished to address the Commission on any of the issues before the Commission they should sign-in on the appropriate sheet(s). He then stated, as always, the Commission would provide an opportunity for public comment on each of the Commission's substantive discussion topics. He further stated if one wants to comment on a specific substantive Commission agenda item, they should come to the speaker's table at the appropriate time so the Commission knows they wish to speak. He concluded by stating public input was welcome, and should be offered before there was a formal motion on the floor.

Chairman Rodriguez then conducted a roll-call of the Commission members.

REVIEW AND APPROVE AGENDA

Mr. Blair conducted a review of the meeting agenda as presented in each Commissioner's files. He amended the agenda stating there would be no Mechanical TAC report.

Commissioner Carson moved approval of the meeting agenda as amended. Commissioner Goodloe entered a second to the motion. Vote to approve the motion as amended was unanimous. Motion carried.

REVIEW AND APPROVE DECEMBER 9, 2009 MEETING MINUTES FACILITATOR'S REPORT

Chairman Rodriguez called for approval of the minutes from the December 9, 2009 and Facilitator's Report.

Commissioner Nicholson moved approval of the minutes from the December 9, 2009 Commission meeting and Facilitator's Report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez announced the following appointments to the TACs and workgroups:

Energy Code Workgroup

Raphael Palacios was appointed to the Energy Code Workgroup

Energy TAC

Dave Wojasac was appointed to the Energy TAC. He will be replacing Steve Bassett.

Fire TAC

Jon Hamrick was appointed to the Fire TAC.

Roofing TAC

Tim Tolbert was appointed to the Roofing TAC. He will be replacing Jon Hamrick.

Flood Resistance Standards Workgroup

Gary Brevoort was appointed to the Flood Resistance Standards Workgroup. He will be replacing Tom Lanese.

Green and Energy Efficient Roofs Subcommittee

Ralph Davis was appointed to the Green and Energy Efficient Roofs Subcommittee to the Energy Code Workgroup. He will be replacing Brad Weatherholz.

Accessibility Code Workgroup

Scott Cannard was appointed to the Accessibility Code Workgroup. He will be replacing Steve Watson.

Special Occupancy TAC

Mark Boutin was appointed to the Special Occupancy TAC. He will be replacing Doug Melvin.

Chairman Rodriguez next addressed the Commission's budget. He stated the Commission's Budget Committee met on February 1, 2010. He then stated the

Committee had provided the Commission with an overview of the budget and answered member's questions. He further stated in addition to the committee members there were numerous Commissioners present including Commissioners Schulte, Schock, Boyer, Tolbert, and Hamrick. He stated Jack Glenn was also in attendance and provided some very important input. He then stated Ila Jones provided an informational presentation of the budget through December 2009 and a projection of the budget for 2010 through June.

Chairman Rodriguez offered a review of the highlights of the presentation as follows: 1) cash on hand as of July 2009 was \$1,568,000.00; 2) total revenue received \$1,369,000.00. He stated at one point the Commission had total cash availability of \$2,938,000.00. He then stated there was a series of disbursements including salaries and other personnel services, expenses, contracted services, insurance, etc. for a total of \$1,115,780.00. He further stated the actual cash balance remaining was \$1,822,000.00. He continued by stating moving forward Ms. Jones estimated the projected revenues to be an additional \$816,000.00 and the appropriation encumbrance balance makes the total estimated disbursement to be \$2,434,713.00 for the year. He stated the estimated cash balance at the end of the year to be was only \$203,847.00. He then stated the goal was to be able to manage the previously mentioned other personnel services.

Commissioner Carson moved approval of the budget report as presented. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez then addressed teleconference conference calls for Legislative updates. He stated as the Commission has done in past years regularly scheduled teleconference calls would be scheduled during the upcoming Legislative Session. He then stated the calls would commence on the first day of session, March 1, 2010, and would be noticed in the FAW as required. He further stated the teleconference calls would be an opportunity to receive updates from Jim and provide him with any needed guidance and recommendations on issues of interest or concern to the Commission.

The teleconference schedule dates are as follows:

Monday, March 1, 2010 at 10:00 a.m.
Monday, March 15, 2010 at 10:00 a.m.
Monday, March 29, 2010 at 10:00 a.m.
Monday, April 12, 2010 at 10:00 a.m.
Monday, April 19, 2010 at 10:00 a.m.
Monday, April 26, 2010 at 10:00 a.m.

Commissioner Carson moved approval of the proposed teleconference meeting schedule. Commissioner Boyer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez then directed the Commission to Mr. Richmond for an update on Legislative issues.

Mr. Richmond stated there were a number of issues pending before the Florida Legislature this year which impact the Commission and its work. He explained the primary vehicle for Building Code issues would be SB648, Senator Bennett's bill. He stated Representative Aubuchon had filed a bill currently identical which was HB663. He then stated Senator Bennett's bill was up in regulated industries currently as a strike everything amendment. He continued by stating if the Commissioners had the opportunity to review the bill they would find most Building Commission related items come from the Reports to the Legislature, both current and previous years. He stated there were other issues including elevators and fire safety provisions. He then stated one issue discussed at length with the Product Approval POC was a provision rolled forward from the previous years' bill, relative to products submitted on the basis of the certification and an accelerated approval process for those. He further stated the POC was unable to achieve a recommendation on the issue. He explained he needed to know a firm position of the Commission. He stated the only substantive concern he had found was whether it would require a change to the Building Code Information System. He continued by stating staff had developed an alternative which was presented to the POC yesterday, but a motion supporting the recommendation failed by a tie vote. He then stated there was a further exception the Commission was working on with the wind design of roof mounted mechanical equipment.

Mr. Richmond explained the issue was raised last year stating it did not have to be designed and the provision remains in the bill. He stated it was deemed to comply with the wind design standards if it was attached correctly. He then stated he hoped in working with the industry a result could be achieved which everyone could agree on. He further stated even though the bill was up in the committee it had five committees of reference. He continued by stating the sponsor of the bill had given assurance he would work on any issue that required work. He stated it was an uphill battle with the product approval issue because it was essentially a product of the Legislature from the last year. He then stated it went through the entire legislative process but failed to achieve a final floor vote before the session ended.

Mr. Richmond stated another issue, reflected in SB498, sponsored by Senator Aronberg, was the regulation concerning Chinese drywall or corrosive drywall. He then stated the bill, one of four bills filed relative to the issue, directs the Commission, in consultation with the Department of Health, to develop and adopt a

regulation of emissions from drywall and prohibit the installation of anything which either emits too much or contains too much. He explained he believed that to be a technical drafting error because the authority for standards the Commission has was for emissions but there was then discussion on what the drywall contained. He stated he had discussed the issue at length with Mr. Madani and internally it would not appear the research available was currently at a point the Commission could adopt something. He then stated the Commission would have to go into the market and develop its own information and move forward from there. He further stated he had a conference call scheduled to get a better idea of which direction the bill seemed to be heading.

Mr. Richmond continued by stating he had some discussions with staff on the Committee of Community Affairs, as well as some particular legislators, who also pointed to the need to have some perceived need of a remediation standard and a process to eventually give some sort of seal of approval to remediated homes. He stated the Commission was being considered as a potential vehicle to accomplish that. He then stated the Commission had been monitoring the Chinese drywall proceedings both at the federal and state level. He continued by stating at the state level the Department of Health had been assigned the lead from the state government. He further stated he knew the DOH was somewhat uncomfortable in the position because he believed the research had not demonstrated any direct and severe health impact. He stated there had been complaints of respiratory problems or other conditions of that nature, not a circumstance of carcinogens which could affect generations to come. He then stated the Department could consider getting rid of the issue, but was difficult to say at present.

Commissioner Grippa asked if there was any formal data. He then stated if there was he would appreciate staff assisting the Commission review it and come back with their thoughts. He stated he heard two contradictory statements: 1) there was no data, and 2) there were no long term harmful effects. He further stated before the Commission makes those statements he would like to review all of the materials as they come forward. He then asked if the Commission had approved certain manufacturers of Chinese drywall through the Product Approval process.

Mr. Richmond responded by stating some preliminary work had been done and the preliminary findings were that there was no severe health impact. He reiterated it was very preliminary and he did not believe the data was conclusive. He then stated staff had collected a decent amount of information, which could be circulated, but most of the information was available at the DOH website. He further stated their website had been maintained well if for no other reason than as a conduit to what the Consumer Product Safety Commission was doing from the federal side and to receive information in front through their own contractors and research.

Chairman Rodriguez responded to Commissioner Grippa's second question by stating the Commission only approves envelope Product Approval process and drywall would not be one.

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated regarding the remediation issue, about two weeks ago he received from a Senate staff member a document prepared by a plans examiner in one of the Central Florida counties. He then stated the document requested homeowners take a position on incorporating those standards into the Legislation. He further stated the senior officers of the association took a vote and the recommendation back to the Senate staff member was they would be much better served to do as was done with mitigation and direct the Commission to formulate mitigation standards as opposed to writing a 15 page mitigation standard into statute. He continued by stating that document was in circulation but the construction industry's recommendation was to defer to the Commission to develop the standard as opposed to adopting something into the law.

Chairman Rodriguez stated the Commission was being considered as the proper forum to discuss these issues instead of writing them into law without the benefit of the discussion by the TAC.

Mr. Richmond stated the Governor's budget was released on Friday, January 30, 2010. He then stated unfortunately the section directly impacting the Commission had some type of error but it appeared as though all staff to the Commission were maintained and held on to a minimum of what was appropriated last year. He offered clarification stating as the report was reviewed in depth it bounces between numbers shifting between the current year and last year and they flip flop. He stated at one level it looked as though the Commission was appropriated slightly more funds and at the next level those numbers reverse and it looks like there was slightly less appropriation. He continued by stating the lower number looked like what the Commission was budgeted for last year, but he needed to clarify and obtain some more firm information to deliver on the issue. He concluded by stating it does look hopeful at least by the Governor's recommendation.

Chairman Rodriguez next addressed the April 2010 Commission meeting in Gainesville. He stated the meeting would be conducted on April 6 and 7, 2010. He then stated the Plenary Session would be Wednesday, April 7, 2010. He further stated there would likely be a workgroup or committee meeting on the afternoon of Monday, April 5, 2010.

REVIEW AND UPDATE OF COMMISSION WORKPLAN

Mr. Dixon conducted a review of the updated Commission work plan. (See *Updated Commission Work Plan February 2, 2010*).

Mr. Dixon stated there were no changes or additions in the work plan.

Commissioner Greiner moved approval of the updated work plan. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER ACCESSIBILITY WAIVER APPLICATIONS

Chairman Rodriguez directed the Commission to Marlene Stern for consideration of the Accessibility Waiver Applications.

Ms. Stern presented the waiver applications for consideration. Recommended approvals were presented in consent agenda format with conditional approvals, deferrals and denials being considered individually.

Recommendation for Approval with No Conditions:

#9 Park Lido Hotel

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council unanimously recommended approval because it was unnecessary as accessible rooms were available on the second floor via elevator.

Commissioner Carson moved approval of the council's recommendation for approval item 9. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Recommendation for Approval with Conditions:

3 Adventist Health Systems

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council unanimously recommended approval with the condition the applicant provide one accessible seating location is moved to the front of the theater and companion seats, rather than accessible ones, are located on the ends of the rows.

Commissioner Grippa asked if the building was a hospital or if it was an auditorium attached to a medical building.

Ms. Stern stated it appeared to be only an office building.

Commissioner Grippa asked for clarification it was not attached in any way to a medical center.

Ms. Stern responded stating she was not aware of it being attached to a medical building.

Commissioner Grippa stated it was his concern the Commission would be granting a waiver and he could not determine why. He then stated it seemed if it was a hospital, if it was attached it should be accessible as any place on earth. He asked if Ms. Stern could explain why a waiver should be granted. He stated in reviewing the waiver application it appeared as though the applicant just did not want to pay.

Ms. Stern stated the building was new and fully accessible except for the auditorium which has tiered seating. She then stated it had been considered technically infeasible to provide access to each row of seats in such an auditorium. She further stated accessible seats were provided in various locations which provide good lines of sight and dispersed throughout. She stated for those reasons the condition was added.

Commissioner Grippa asked Ms. Stern if she believed the number of accessible seats to be reasonable and customary as compared to other similar type of 140 person auditorium.

Mr. Stern stated the number was approximate. She then stated in Chapter 11 of the Florida Building Code there were guidelines indicating how many accessible seats would be required given the total number of seats and the applicant satisfied the criteria.

Chairman Rodriguez stated the location of the seats was as important as the number of seats and the applicant had met both criteria.

Commissioner Carson moved approval of the council's recommendation. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#4 Latitude 30

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council unanimously recommended approval with the condition the applicant provided seats on the back row are removable.

Commissioner Carson moved approval of the council's recommendation. Commissioner Tolbert entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Deferrals

#5 Xixon Cafe

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the application was recommended for deferral to allow the applicant to provide additional information.

Commissioner Greiner stated his issue was if the application had been deferred two times why not deny the application since the applicant had not been present for either deferral.

Chairman Rodriguez stated if the applicant did not show for a third time the application for waiver would be denied.

Commissioner Carson moved approval of the council's recommendation for deferral. Commissioner Palacios entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#6 K-8 School "EE"

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the application was recommended for deferral to allow the applicant to submit further information regarding the plans since the council had questions but no one from applicant was present.

Commissioner Boyer moved approval of the council's recommendation for deferral. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#7 Hernando High School "EEE"

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the application was recommended for deferral to allow the applicant to submit further information regarding the plans since the council had questions but no one from applicant was present.

Commissioner Hamrick moved approval of the council's recommendation for deferral. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#8 City of Miami College

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the application was recommended for deferral to allow the applicant to submit further information regarding the plans since the council had questions but no one from applicant was present.

Commissioner Carson moved approval of the council's recommendation for deferral. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#2 The Pink House

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the application was recommended for deferral as requested by the applicant, who could not attend the meeting.

Commissioner Greiner moved approval of the council's recommendation for deferral. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Denial

#1 Pine Creek Sporting Club

Ms. Stern explained the petitioner's request for waiver as it was described in each Commissioner's files. She stated the council unanimously recommended denial.

Larry Schneider, Architect, specializing in accessibility consulting

Mr. Schneider stated the petition was requesting a waiver from vertical accessibility in a very unique project. He then stated he had been involved with accessibility since 1985 and had never seen a request like this for vertical accessibility. He continued by stating in Florida Statute 553.512 allows the Commission to grant a waiver for any items unnecessary, unreasonable or those that would cause extreme hardship. He stated Florida Statute 553.509 mandates that "you shall provide vertical accessibility to all levels above and below the occupiable grade level, regardless whether the Code requires an elevator or not. He then stated Pine Creek Sporting Club was an exclusive member-only hunting and

fishing club, a true private club. He further stated the approximate 2800 acre area has different phases for ranches and 23 cabins. He stated there was a clubhouse, barn, hunting stables, 800 acres for guided quail hunts and wild hog hunting, lodge with a pool and Jacuzzi, shooting sports area including clay course, 5 stand shooting areas, rifle and pistol range, skeet shooting, tower shots, and a simulated quail flush course. He continued by stating the petitioner was looking for vertical accessibility to the Oak Hammock Tree House as the rest of the project had been built in compliance with the Florida Accessibility Code. He stated the 2,800 acres had a lot of structures on site. He then stated there had been a request to provide an accessible path of travel to all of the elements through the site, it was accepted as an alternative the club agreed to. He further stated the club had purchased two golf carts which were modified for accessibility to provide access making every element accessible except the upper floors of the tree house.

Mr. Schneider stated the Federal regulations 36.102, Exemptions and Exclusions, the Federal ADA exempts private clubs i.e. under the ADA there was no requirement for accessibility for the facility in any venue. He then stated the regulation stated the rule did not apply to any private club. He further stated the definition for private club was found in Section 307 of the ADA and states: "*A private club means a private club or an establishment exempted from coverage.*" He continued by stating the facility met those qualifications. He stated from a federal point of view there was no issue for accessibility. He then stated Florida Statute 553.505 states private clubs were required to meet the Florida Accessibility Code. He stated the project had been constructed and was still being constructed to meet the Florida Accessibility Code in all other elements. He then stated the waiver for the tree house, which was built as an oak tree stand and has three levels, the first of which will be accessible. He continued by stating the waiver was for the second and third levels, the areas were 225 feet square feet and 100 square feet. He stated the issue of providing vertical accessibility to all areas was an extreme hardship and was unreasonable. He then stated he could not believe the intent of the Legislature was to have accessibility in this type of element to all three levels. He further stated the petitioner had obtained quotes for the 2 lifts required because there were two levels. He stated one lift was quoted at \$25,000.00 and the other at \$23,000.00. He then stated structures would be required around the lifts to protect them in hurricanes such as footers, block walls, plus a bridge would be necessary to get from the lift to the level without cutting into the tree, and power would be required as there was no electricity at facility currently. He continued by stating the estimated cost the tree house was \$56,000.00 and the cost to provide vertical accessibility was \$189,000.00 based on the estimates received.

Mr. Schneider then presented a slide show explaining in details of the facility and explained what it would require to provide accessibility. He stated the bridge would be necessary to get to the two levels. He further stated it took more than an

hour of the council meeting to discuss the waiver and he did not believe the council was comfortable with the results of the vote.

Chairman Rodriguez asked Mr. Schneider if there were any pictures of the ramp to the first level.

Mr. Schneider stated he did not because the ramp had not been built. He then stated the owner stated he would build a ramp.

Chairman Rodriguez stated the project was an after-the-fact project.

Mr. Schneider stated the building was built and a flag was raised after construction.

Chairman Rodriguez asked if the building was permitted.

Mr. Schneider responded stating yes, it was permitted.

Chairman Rodriguez asked if the local authorities had not picked it up.

Mr. Schneider stated at the end it was indicated vertical accessibility would be required.

Commissioner Greiner stated he did not find any documentation from the building official.

Mr. Schneider stated there was none and none was required.

Commissioner Greiner stated the request was for an after-the fact issue and there was no documentation from the building official until he was permitting it or after the fact.

Mr. Schneider stated the building department was requesting vertical accessibility be provided, which was why it was before the Commission.

Commissioner Greiner asked why it was requested and if they had reviewed plans.

Mr. Schneider stated he would assume they had.

Commissioner Greiner asked if there was no comment on the application.

Mr. Schneider responded stating there was no comment.

Commissioner Greiner asked if that was part of the application.

Mr. Schneider stated it was not a requirement of the application. He then stated in summary the facility was a private club, not covered by the requirements of the ADA. He further stated the Accessibility Code requires vertical accessibility to each element. He continued by stating the clubhouse lodge and all common area elements at this hunt club have been made accessible. He further stated accessible vehicles had been provided to provide access to the elements of the property. He further stated the building was a three level tree house and a waiver was requested for the two upper levels, which were approximately 225 square feet and 100 square feet. He stated the installation of the lift to the two upper areas was unnecessary and unreasonable.

Commissioner Greiner asked Ms. Stern if the TAC had not found the request to show unreasonable, unnecessary or show extreme hardship. He then asked what the results of the vote were.

Ms. Stern stated the first motion was to grant the waiver based on hardship and the motion did not pass. She then stated there was a lot of discussion as Mr. Schneider had mentioned. She continued by stating the second motion was to deny and the motion passed unanimously. She further stated the problem was the building was new construction and it could've been planned from the beginning but it was not planned from the beginning to be accessible.

Commissioner Greiner stated he was a little confused about the chain of events. He asked if all of the structures being built on the site met the requirements for accessibility why did this one not. He asked who raised the flag and how many structures on the site were built without a permit.

Mr. Schneider responded to Commissioner Greiner's first question stating the owners had no qualms about making the lodge accessible or anything else. He stated the waiver request was no different than the two the Commission had just granted on the feeders.

Chairman Rodriguez reminded Mr. Schneider that was not the question.

Mr. Schneider stated the structures and facilities are being used by the members only such as the barn area and the shooting areas. He then stated the building department wanted a path of travel, made of concrete or asphalt, accessible to all of the elements. He continued by stating after being brought on board a recommendation was made to use golf carts.

Chairman Rodriguez stated Mr. Schneider had already used 15 minutes. He then stated the bottom line was there were no plans. He further stated he doubted

the building was built with the rest of the buildings, more of an afterthought. He continued by stating it was not clear who raised the flag. He stated it was wonderful to hear all the good things that his client had done but the Commission only needed to hear about the tree house.

Commissioner Greiner stated he agreed with Chairman Rodriguez. He then stated his biggest concern was the number of buildings being built without permits. He continued by stating it seemed as though it was being corrected only because someone had raised a flag. He further stated he could lean toward unreasonable, unnecessary and hardship but he was concerned how it all of the sudden came to the building department's attention when it sounds like it was already built.

Mr. Schneider stated he did not have the answer to that. He then stated to the best of his knowledge it went through the process and the building department raised the flag at the end.

Commissioner Greiner stated he had still not seen any plans.

Mr. Schneider stated he did not believe he would find any drawings for the structure.

Commissioner Gregory asked if Mr. Schneider was aware of any permits pulled for any of the structures for the site.

Mr. Schneider asked if he meant for the structure or all of the other projects.

Chairman Rodriguez responded just for the tree house.

Mr. Schneider responded stating he believed there was a permit to build the tree house.

Chairman Rodriguez asked Mr. Schneider if he had seen the permit.

Mr. Schneider responded he had not.

Commissioner Grippa asked if there had been a permit for the structure would it be a mitigating circumstance. He stated he had a hard time reconciling how the previous two waivers were approved and would have a lot more public in it than a tree stand. He then stated there was a tree stand in a private camp and if someone did not like it they would not join which was why it was exempted from the federal ADA.

Chairman Rodriguez stated this was Florida.

Commissioner Grippa stated he understood but opposed to a public auditorium, where two have now been exempted.

Chairman Rodriguez stated the auditoriums were not exempted, but approved with conditions.

Commissioner Grippa stated it might be worthwhile, if there were additional questions or to determine if there was a permit, to send it back to the TAC. He then stated he had a hard time (interrupted by Chairman Rodriguez)

Chairman Rodriguez stated the TAC spent an hour on the application and unanimously voted to deny the waiver.

Commissioner Grippa stated he had a hard time reconciling in his mind how Adventist Health Systems and other stadiums are approved but a private hunting club was not. He then stated he believed it was a difference in opinion because he would want more information and to see whether a permit was pulled.

Commissioner Schock stated the application had already gone back to the Advisory Council.

Mr. Blair offered clarification for everyone the application would go back to the Accessibility Advisory Council.

Commissioner Schock stated he had some real problems with the cost breakdown with installing a lift with a generator to run it up and down.

Commissioner Schock moved to approve the council's recommendation for denial. Commissioner Goodloe entered a second to the motion.

Commissioner Franco stated he was concerned the waiver council was going through all of the process without having asked to see the permit drawings to determine whether the building or structure was submitted and reviewed.

Ms. Stern stated the representative for the applicant stated there was an approval given originally and the council found that acceptable. She then stated it was not something the council questioned.

Commissioner Franco asked if the council accepted the structure was permitted, approved for building by the officials and never questioned whether there were any problems with accessibility.

Ms. Stern responded stating some members of the council found that it was unusual but did not question further. She then stated the concern was mostly that it

was new construction and there was no reason it should not be vertically accessible. She further stated whether it was approved or not by the building official and later questioned by a building official did not seem relevant to their concern.

Commissioner Franco stated his concern was as a designer the process was entered reading the codes and statutes to determine that the project was in compliance. He then stated there was a submission process for building officials and plans review and it was approved. He continued by stating the structure was built and at the end the building official indicates there was a problem with vertical accessibility.

Chairman Rodriguez offered clarification there was no evidence that had occurred.

Commissioner Franco apologized stating he thought there was evidence.

Chairman Rodriguez stated there was an assumption to the best of Mr. Schneider's ability he believed there was evidence. He further stated the council did not ask for it because they were not architects, engineers or contractors, but people who were advocates of accessibility. He reiterated there was no evidence of a permit for the tree house.

Mr. Schneider stated he respectfully requested a deferral to provide the Commission with the information. He then stated the Commission would then have all of the facts to make the decision.

Chairman Rodriguez stated there was a motion on the floor to deny. He then asked if the Commission wanted to defer if it would have to have a substitute motion.

Mr. Blair responded stating the Commission could vote it out, the maker of the motion could withdraw the motion, or there could be a substitute motion to vote on.

Commissioner Scherer stated his decision would be a lot easier if he knew if a permit had been pulled or not.

Commissioner Schock stated if it was acceptable to the second he would withdraw his motion.

Commissioner Goodloe withdrew his second.

Commissioner Palacios moved approval to defer application for applicant to provide additional information. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL

Chairman Rodriguez directed the Commission to Commissioner Carson for presentation of entity approvals.

Commissioner Carson stated the following six entities were recommended for approval by the POC:

CER 3916 Quality Auditing Institute Ltd.

CER 8526 CPA-Composite Panel Assoc

TST 2469 IBA Consultants

TST 6049 Trinity/ERD - South Carolina

TST 6679 Air Ins, Inc.

TST 8139 Structural Building Components Research Institute

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated there was a consent agenda for all those issues that were posted with the same result from all four compliance methods either for approval, conditional approval or deferral. These were the ones without comment or there was no change to the recommendation as proposed presented. He stated if no commissioner wished to pull any if the products for individual consideration he asked for a motion to approve the consent agenda for all four compliance methods for approval, conditional approval and deferral.

Commissioner Carson entered a motion to approve the consent agenda as amended for all four compliance methods for approvals, conditional approvals and deferrals. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair presented the following products for consideration individually:

11544-R1 JELD-WEN

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13002 Comfort View Products LLC

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13392 Comfort View Products LLC

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13393 Comfort View Products LLC

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

7694-R1 CELLOFOAM NORTH AMERICA INC

Mr. Blair stated the product was recommended for deferral with the condition of having the Administrator report on similar applications for this type of product.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12756 Sto Corp.

Mr. Blair stated the product was recommended for denial.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13187 Air Louvers Inc

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant change the subcategory to Exterior Door Components and indicate on limits of use: This application is for the glass frame only to be used as a component of an approved assembly.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13341 Air Louvers Inc

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to change subcategory to Exterior Door Components and indicate on limits of use: This application is for the metal louver only to be used as a component of an approved assembly.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13366 Traco Windows and Doors, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to provide analysis of anchors to demonstrate material compliance and if not compliant and installation is as tested indicate "No" for HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

4097-R3 Kalwall Corp.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to remove from evaluation report the wording curve and arched vaults under Section 3, Product Information.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

4230-R3 Kalwall Corp.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to remove from evaluation report the wording curtain wall under Section 3, Product Information.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

10212-R1 Bonneville Windows and Doors

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12892 YKK AP America

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to provide gasket letter providing testing of gasket as used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12912 EFCO Corporation

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12913 EFCO Corporation

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13055 YKK AP America

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide gasket letter providing testing of gasket as used and indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13239 YKK AP America

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide gasket letter providing testing of gasket as used and indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13255 YKK AP America

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide gasket letter providing testing of gasket as used and indicate on limits of use: Not to be used for small missile application inside the HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13338 Amarr Garage Doors

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13340 Kawneer Company, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide testing of gaskets and thermal brake to comply with Sect 2411.3.4 and remove or test those sizes with an aspect ration larger than 1.5.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13347 Kawneer Company, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provides testing of gaskets and thermal brake to comply with Sect 2411.3.4.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13379 Precision Foam Fabricators

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant revise evaluation report using acceptance criteria of public domain.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13381 Precision Foam Fabricators

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant revise evaluation report using acceptance criteria of public domain.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13398 Bonneville Windows and Doors

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to provide additional detail of internal construction of product.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13399 Bonneville Windows and Doors

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate "No" for use within HVHZ for products .2 and .4.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13407 Solar Innovations, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to indicate on the details of the product the mark of the hardware on the hardware schedule.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13411 Energy Saving Window & Doors, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to remove limit of use "Not to be used for small missile requirements.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13412 Energy Saving Window & Doors, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to remove limit of use "Not to be used for small missile requirements.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13414 Energy Saving Window & Doors, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to remove limit of use "Not to be used for small missile requirements.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13433 YKK AP America

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant to provide gasket letter providing testing of gasket as used and provide proper sealant.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12929 Barrette Outdoor Living

Mr. Blair stated the product was recommended for deferral with the condition the applicant change method to Evaluation Report by Florida PE to evaluate lateral resistance of wall, including support of door and evaluate anchors used.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12930 Barrette Outdoor Living

Mr. Blair stated the product was recommended for deferral with condition the applicant perform complete testing as required by code.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12931 Barrette Outdoor Living

Mr. Blair stated the product was recommended for deferral with condition the applicant perform complete testing as required by code.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13163 Heritage Glass Inc.

Mr. Blair stated the product was recommended for deferral with the condition the applicant remove conditions not tested or certified (impact systems need to be tested), provide testing/certification of ASI 335 for all substrates or remove its use and provide analysis of anchors to Administrator to verify compliance.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13177 HERITAGE SHOWER DOORS/CHAMPION SYSTEMS, INC

Mr. Blair stated the product was recommended for deferral with the condition the applicant remove conditions not tested or certified (impact systems need to be tested), provide testing/certification of ASI 335 for all substrates or remove its use and provide analysis of anchors to Administrator to verify compliance.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

4451 PlyFASTner LLC

Mr. Blair stated the product was recommended for denial.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13389 CertainTeed Corporation Siding Products

Mr. Blair stated the product was recommended for recommended for conditional approval with the condition the applicant remove the equivalency of standards on application and incorporate into the evaluation report the testing plan and compliance with testing standards required for the product.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13354 JELD-WEN

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER APPLICATIONS FOR ACCREDITOR AND COURSE APPROVAL

Accreditor Approvals

Michael Clark stated there were no accreditor approvals.

Course Approvals

Mr. Clark stated there were seven courses being submitted for consideration by the Florida Building Commission that have been reviewed by the Education POC:

Advanced 2007 FBC Bonding Metal Framing Members, BCIS Course #403.0

Commissioner Hamrick moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced Accessibility Building Code 2010, BCIS Course #395

Commissioner Hamrick moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion.

Commissioner Hamrick asked if the course was one being approved with conditions.

Mr. Clark responded stating yes. He then stated the condition was “subject to clarification of the picture in slide #23 regarding accessibility to the building and sidewalk egress by the instructor during the course offering.

Vote to approve the motion was unanimous. Motion carried.

Advanced Florida Accessibility Building Code for Building Construction, BCIS Course #404.0

Mr. Clark stated the course was recommended for approval with a condition. He then stated the condition was subject to clarification of a picture in slide #14 regarding accessibility to the building and the sidewalk egress by the instructor during the course offering.

Commissioner Hamrick moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Chapter 11, Energy Efficiency, BCIS Course #398.0

Commissioner Hamrick moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Online Required Advanced Code 2010, BCIS Course #396.0

Mr. Clark stated the course was recommended for approval with a condition. He then stated the condition was subject to: on slide #63 the addition of the word ‘standard’ to be placed in front of wire glass not permitted.

Commissioner Hamrick moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Required Advanced Code 2010, BCIS Course #379.0

Mr. Clark stated the course was recommended for approval with a condition. He then stated the condition was subject to: on slide #63 the addition of the word ‘standard’ to be placed in front of wire glass not permitted.

Commissioner Browdy moved approval of the POC recommendation. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**CONSIDER LEGAL ISSUES AND PETITIONS FOR DECLARATORY
STATEMENT: BINDING INTERPRETATIONS: REPORTS ONLY
DECLARATORY STATEMENTS:**

Legal Issues:

None

Binding Interpretations:

None

Declaratory Statements:

Second Hearings:

DCA09-DEC-309 by Alan Plante of Orange County Division of Building Safety

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Hamrick stated in the conclusion there was a typing error in item #6 in the first line.

Commissioner Hamrick moved approval of the committee recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-347 by George Merlin of George Merlin Associates Inc.

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Paul Radanskas, private citizen, Sarasota County

Mr. Radanskas stated the question regarding the declaratory statement involved a number of things: 1) how would a building official interpret the wording "proposed renovation" i.e. minor renovations or tearing down entire building to the slab and replacing a 1500 square foot building with a 6000 square foot new house; 2) unlimited cost i.e. taking a house worth \$200,000.00 and end up with one worth

\$2,000,000.00; 3) modifying the foundation and what does a modification entail. He stated in Webster's modify is defined as making a modest change without fundamentally altering what was already there. He then stated if removing all of the walls more than a modification was being made; 4) not modifying the original foundation i.e. if a structural slab was poured over the existing slab was it not going over the modification. He then stated the intent of the ordinance was if a building was storm damaged a building of a similar sized nature would be expected to be rebuilt there not a building 3-4 times larger than the original. He continued by stating the homes and projects in question were within 100 feet of the gulf. He stated the DEP had declared the beaches in Sarasota County severely eroded, some as much as 5-6 feet per year. He then stated the ability to obtain a coastal armory approval and permit from the county was very difficult because of the ordinance. He further stated he believed the declaratory statement very vague and open to interpretation by anybody who would read it.

Greg Yantorno, private citizen, Sarasota County

Mr. Yantorno stated he was a 41 year resident of Sarasota County, a state certified building contractor licensed in Florida for 37 years and a licensed building code administrator. He then stated he had spoken to the Commission on December 9, 2009 and shared his concerns in two points: 1) the applicants' typical project would voluntarily demolish the home down to the slab on grade with a shallow foundation then a new one or two story home was constructed on the existing slab on grade without the benefit of pile supported foundation or being elevated to the 100 year flood. He stated in some cases the existing slab was cut and jack hammered out to accommodate new plumbing. He further stated in some case the 8-inch, 10-inch, or 12-inch concrete cap was added to the existing slab. He continued by stating it was a substantial improvement in rebuilding per Florida Statute 161.54(12), provisions of 3109.1.1 applied to substantial improvement and exemptions were only for modifications, maintenance and repair. He stated the answer to the proposed project outlined in declaratory statement 347 was too vague for the applicant, the building department and other contractors and so was the question. He then stated the description of the project details renovation to an existing single family dwelling and a second story addition. He further stated the declaratory statement being considered renovation to the single family dwelling **under 4(a)?** have no limitation on cost of work. He continued by stating renovation in an existing single family dwelling is vague in itself. He asked would that mean he gut the entire existing structure, remove all of the windows and doors, remove one or more exterior walls and then rebuild adding a second story addition. He stated as an architect to renovate the existing single family dwelling may mean to demolish down to the slab. He then stated to a building code official reading the interpretation the word renovation may mean adding a new kitchen and maybe make some provisions for the stairway to the second floor addition. He stated the Structural and Special Occupancy TAC met January 26, 2010. He then stated they

voted unanimously (16-0) to dismiss the declaratory statement 001 due to the lack of specific information. He further stated 001 was essentially the same as 347 except the applicant specifically stated the existing single family dwelling had most or all of the existing roof and walls demolished. He stated regarding the historical application, the 2003 letter from the DEP does not exempt a similar project from the requirements of Rule 62B-33.007. He then stated it indicated under the criteria submitted a DEP permit was not required therefore the DEP could not enforce the design standards of Rule 62B-33.007. He continued by respectfully requesting the Commission to defer declaratory statement 347 and require the applicant to submit plans or a more detailed submittal for consideration. He asked the Commission to provide an answer which clearly describes all proposed work. ??? Schelackey? of the DEP stated even the DEP would require a full set of plans be submitted before rendering a decision. He then stated the purpose of the Commission was to provide a declaratory statement that would provide contractors, architects and code officials with a clear interpretation. He encouraged the Commission to combine 347 and 001 as both were essentially the same with slightly different scenarios and provide the answer for both.

George Merlin, Architect, petitioner

Mr. Merlin stated he had been an architect with Sarasota County since 1986 and had designed many oceanfront homes. He then stated he had dealt with the state, prior to the state handing the baton to the Building Code, when all of the structural review was done by the state. He stated he requested the declaratory statement because once the baton was passed from the DEP to the state various local building departments have varied in their interpretations. He then stated he worked from Tampa Bay to Charlotte Harbor and with a dozen building departments there were subtle differences. Until a couple of years ago, after the baton was passed to the building departments, even in Sarasota County, major renovations including second story additions over existing foundations within the limits of those foundations without modifying those foundations was work permitted, as it had been done during his 20 years of practice dealing with the state. He then stated the TAC review committee heard comments at length, answered numerous questions and heard numerous concerns then voted unanimously to answer to the affirmative his question: "Does the historical interpretation of the state continue on with FBC?."

Mr. Blair asked Mr. Merlin if he was supportive of the statement as drafted.

Mr. Merlin responded stating he was in support of the statement as drafted. He then stated a couple of the statements made by the two previous speakers were not in his request. He further stated the statements were potentially inflammatory or exaggerated. He continued by stating he was not talking about additions 3-4 times larger, starting out with an existing home valued at \$200,000.00 ending up to be worth \$2,000,000.00, or pouring a structural cap over an existing foundation which

would be clearly altering or modifying the existing foundation. He further stated he was talking about a major renovation including a second story which would cost a lot of money, but over the existing foundation within the limits of the foundation.

Rod Jacobs, Certified Residential Building Contractor in the state of Florida

Mr. Jacobs stated he does a lot of work in Sarasota County particularly on the waterfront. He then stated he was in favor of answer as drafted. He continued by stating it was important for the Commission to realize the TAC and the first vote settles the interpretation of the language in the Florida Building Code as it applies to projects being addressed. He further stated, as referenced by Mr. Richmond, there was also a strong policy statement the Commission needs to make so the public has a clear understanding of what can and cannot be done with their waterfront property. He stated numerous clients he had worked with do not have a clear understanding of what can be done with their property. He then stated by clarification of the language was extremely important to the property owners.

Commissioner Greiner stated the answer was as clear as it could be with respect to the Code. He then stated if there were any questions to the engineers' calculations regarding the foundation, the authorities having jurisdiction have the ability to question those calculations or have peer review.

Commissioner Greiner moved approval of the committee recommendation. Commissioner Hamrick entered a second to the motion.

Commissioner Nicholson stated he understood what staff had stated. He stated as an engineer when a house was over 50% destroyed cost-wise the houses have been elevated above the flood plain on the coast. He then stated he believed it should still be required. He further stated he completely disagreed with the rule. He stated if a house was being taken down to the foundation it should be rebuilt properly and should be built so the living standards were above the flood plain. He then stated if that was not the rule he would recommend to the Legislature the rule be changed. He continued by stating he did not see why structures were being put back in the flood plain so they can be damaged and someone would have to pay the cost of the damage. He reiterated he did not understand it, but disagreed with it.

Vote to approve the motion resulted in 12 in favor, 8 opposed (Nicholson, Franco, Smith, Mollan, Boyer, Palacios, Grippa, Carson). Motion carried.

Commissioner Nicholson asked what process the Commission had to go through to get the rule changed. He stated he believed it needed to be modified.

Mr. Madani responded by stating if there was a need to change the language now that is in the Code, and anybody can provoke a code change to it, it would need to be done during the code change cycle beginning on March 1, 2010.

Commissioner Nicholson asked if he could initiate the process during the meeting as a commissioner.

Chairman Rodriguez stated it had to be initiated after March 1st. He then asked what Commissioner Nicholson needed to do to initiate such a code change.

Mr. Madani responded stating he would need to review the code, determine the specific change and submit it through the system. He then stated he would be happy to assist Commissioner Nicholson.

DCA-DEC-259 by Robert S. Fine, Counsel for Malibu Lodging Investments, LLC

Mr. Richmond stated the petition had been deferred from the previous meeting. He then stated by the next Commission meeting it would probably be withdrawn or turned into an appellate issue

First Hearings:

DCA09-DEC-322 by Jon Jungers, of CDC Enterprises, Inc.

Mr. Richmond stated the petition had been withdrawn by applicant.

DCA09-DEC-351 by Joseph Belcher, Code Consultant

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Joseph Belcher, JDB Code Services, representing the Aluminum Association of Florida

Mr. Belcher first thanked the Commission for deferring the declaratory statement from the last meeting so that he could be present. He stated the issue became pretty charged during the conference call of the Electrical TAC. He then stated what the declaratory statement requested was that an uninhabitable sun room not be required to provide electrical outlets if the owner did not want to provide electrical outlets. He continued by stating in a previous declaratory statement (235) it was determined heat has to be provided in the house but there was a question if it had to be provided in a sunroom. He further stated a conclusion was reached if it

was not habitable heat did not have to be provided. He then stated the primary objection he heard was if there was a glass sunroom but no electrical outlets the homeowner would run extension cords into the room. He continued by stating the use of electrical cords prompted a safety concern. He stated he had talked to contractors who do the type of work in question and found the average cost of a sunroom was approximately \$18,000.00 and the cost of adding outlets would be an additional \$1,700.00-2,500.00 depending who was quoting. He then stated if a homeowner was spending \$18,000.00 and he wanted to put televisions out in his room he would run the electric to the room. He continued by stating at some point it must be considered the people of the country have some intelligence and were not always trying to slide things behind the door. He stated there were a lot of homes who have absentee owners during the summer. He then stated there was a couple who wanted to put a sunroom on their home in Florida get more use of the outdoors but be protected from the elements without air conditioning, flat screen televisions or carpet. He further stated if the homeowner wanted to do that they should be allowed to. He stated the Electrical TAC recommended the Commission not allow people to do that. He then stated AHMA 2100 in the Florida Building Code was adopted but once it was adopted there were still problems with having versus not having ability. He continued by stating nest the five categories from AHMA 2100 directly into the Building Code. He explained the first three categories of the five were uninhabitable. He stated the last two categories were habitable and AHAM 2100 states if there are conditions and habitability outlets should be placed. He then stated the Electrical TAC stated if it was glassed in an outlets had be provided. He further stated the Code cannot be written or interpreted on everything someone might do. He stated if there was a strict interpretation of what the Electrical TAC stated there would have to be outlets in screen enclosures because the first two categories of the sunrooms actually cover screen enclosures. He then stated there was a BOAF interpretation which supported Admin TAC's position that AHMA 2100 was the more specific standard.

Mr. Blair asked Mr. Belcher if he supported the Admin TAC's recommendation regarding the AHMA prevailing.

Mr. Belcher responded stating he was in support of the Admin TAC's recommendation.

Jack Glenn, Florida Homebuilder's Association

Mr. Glenn stated he was concerned regarding the cost associated with the change in as much as category 1 and 2 sunrooms were actually screen enclosures or screen rooms. He then stated \$1,700.00-2,500.00 cost on an \$18,000.00 sunroom does not pose a serious concern. He further stated if screen rooms were being discussed the cost would go up exponentially because it involved outdoor

receptacles and wiring which has a substantially larger cost associated with that and he did not think there was justification for it.

Dwight Wilkes, KeyTech? Consulting

Mr. Wilkes stated his support for Mr. Belcher and the Admin TAC's position. He then stated he was a member of the Electrical TAC, on the losing side.

John O'Connor, BOAF, President

Mr. O'Connor stated BOAF stood by its interpretation.

Commissioner Carson moved approval of the Code Administration TAC's recommendation. Commissioner Franco entered a second to the motion. Vote to approve the motion resulted in 19 in favor, 1 opposed (Turner). Motion carried.

DCA09-DEC-375 by Tim Johnson of SnappBatt

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Nicholson moved approval of the committee recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-410 by Frank Bennardo, P.E., of Engineering Express

Mr. Richmond stated the petition had been dismissed.

DCA09-DEC-419 by Kenneth Gregory of Holland Pools

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Gregory stated Bob Deitrich is a good friend and ally from Osceola County. He then stated they were not in disagreement but working together to find some answers on the issue. He continued by stating the swimming pools in question were semiprivate swimming pools. He stated the pools were built in residential communities and used by the homeowners of the association. He then stated it meets the criteria of the statute for a commercial pool, but its sole purpose was to service the occupants of the community. He continued by stating there should be no mistake the bathhouse on the plans was required by the state

Department of Health because bathrooms have to be within 200 feet of the pool. He stated in the community it was impractical to get every house within 200 feet of the pool. He then stated there was no other reason for the building to be there except to provide a structure for the bathroom. He continued by stating the facilities were rarely used i.e. there was not a continuous line of renting the place out to have weddings and large parties. He stated the decking seemed to be the problem. He then stated there was a 15 foot walkway around the pool. He continued by stating it may seem like a lot but with a 7 foot lounge chair place 2 feet away from the fence then there would only be 6 feet from the chair to the water's edge. He noted the minimum walkway was 4 feet. He requested the Commission consider the bathroom and the panic hardware as two separate issues. He stated in Chapter 10, Section 1004.1.1 there was a chart when upon review showed every item described in the chart was an indoor facility such as skating and basketball. He then stated swimming pools were built inside of buildings too and in those cases it would make sense that panic exits or panic hardware was required to allow people to get out. He stated once out of the building it did not provide a return way to the pool area. He further stated their answer was a swinging gate allowing egress and ingress. He continued by stating when he first became a Commission member he pointed out there was a problem between 64E and the Florida Building Code. He stated the issue was a glaring example of where the two meet. He then stated 424.1.3.1.9 indicates all commercial pools shall be surrounded by a minimum 48inch high fence and have self closable and self locking gates of 48 inch minimum height with a latch near the top.

Commissioner Gregory continued by stating 64E indicates the latch should be at least 54 inches but it also goes on to say if a combination lock or a card reader it can be installed at 34 inches. He further stated he had been before the Commission many times to protect children 5 and under from getting access to the swimming pools. He stated requiring the latch be at 54 inches has been an effective barrier to that. He then stated by requiring panic hardware it means external hardware would be at 34 inches and with a combination lock or a card reader, either of which a child could get through. He further stated it was important to understand if it goes forward a lot of municipalities agree with his position and do not require the panic hardware on the types of pools referred to in the declaratory statement. He continued by stating if there was a very large hotel where large assemblies were routine he could understand why fire egresses were necessary into the pool area but he did not think this case fit at present. He stated he went to the four major manufacturers of the hardware and none of those manufacturers would give a warranty for outside installation. He then stated the dead cost of doing this for one gate was \$2,600.00 and in this case \$5,200.00 to install mechanisms that he believed degrades safety not increases it. He further stated the last time he checked drowning was the number one killer of children under 5 in the state of Florida which was why there was a national and state barrier code. He stated he knew of no instance in the state of Florida or anywhere in the country where a panic situation or

fires erupted around a swimming pool. He then stated he had been building pools for 36 years and not one has caught on fire. He further stated he did know if a child has access to a swimming pool they could drown. He concluded by stating before casting a vote and get too caught up in the minutia of the exact wording of the code be aware in his opinion a vote to declare the panic hardware the safety of the pool would be degraded not be improving anything and the cost of the would be increased tremendously.

Commissioner Gregory then stated regarding the case with the bathrooms he asked the Commissioners to keep in mind the only reason the bathroom was there in the first place was to meet the 200 foot rule. He stated there was a small room attached but not a room that could be used for 150 people. He then stated, unlike a hotel, the only people who would use the bathroom would be people using the pool. He further stated in his experience bathrooms such as these would mostly sit idle and add to the cost of the facility. He stated according to the chart in 64E the pool, being less than 2,500 square feet and having a bathing load of only 33, requires one unisex bathroom and the pool has a bathroom for both men and women. He concluded by stating he was not sure it was prudent to require the contractor to require additional facilities by using the occupancy required in Chapter 10 which he did not believe applied to outdoor swimming pools. He asked the Commission to think closely before it voted and support the code does not require the use of panic hardware and lowering the latch below 54 inches poses a safety problem.

Commissioner Goodloe stated the declaratory statement required a considerable amount of debate during the TAC session and each question was considered separately.

Mr. Blair asked Commissioner Goodloe if he proposed the questions be voted on separately.

Commissioner Goodloe responded stating yes.

Mr. Richmond asked Commissioner Gregory if he intended on recusing himself since he was the petitioner.

Commissioner Gregory responded stating absolutely.

Commissioner Greiner stated he agreed with Commissioner Goodloe and the TAC did look at the questions separately. He then stated if there was a conflict between 64E and the code it needed to be dealt with during the code change process. He further stated the declaratory statement dealt with the elements of the Florida Building Code and the Commission has no authority over 64E. He continued by stating the questions were asked and the corresponding answers to those questions were heard and in a declaratory statement that was all that could be done.

He stated the Commission did not have the ability to have a lot of thought processes such as those in the code change process.

Mr. Richmond stated Question #1 simply applied to the panic and fire exit hardware on the required gates. He then stated the recommendation from Fire TAC and by a tie vote from the Special Occupancy TAC was “yes, in addition to meeting the requirements of 424.1.3.1.9 the project in question falls under assembly group A Occupancy and was subject to the requirements of Chapter 10 means of egress including tables 1004.1.1, 1008.2, and 1008.1.9 as applicable”.

Commissioner Greiner stated, to get a good visual picture, an opening device was required at 54 inches, the question was if an emergency egress capability was required from inside the fence, which could be installed on the inside of the fence on a lower level and covered therefore it could not be reached from over the top or from the side. He then stated it was feasible although he was not necessarily sure it was the right thing to do.

Commissioner Greiner moved approval of the committee’s recommendation for Question #1. Commissioner Hamrick entered a second to the motion. Vote to approve the motion resulted in 15 in favor, 5 opposed (Goodloe, Carson, Franco, Smith, and Mollan). Motion carried.

Mr. Richmond stated Question 2 asked if the Florida Building Code 1004.1.1 applied to an outdoor swimming pool for the purpose of deeming occupancy load per table 1004.1.1 then using the section to require additional sanitary facilities required for the load in addition to the facilities required by the Department of Health rule in 424.1.6. He then stated the recommended answer was “no, plumbing fixture count for the pool and open deck area was subject to the requirements of 403.8 of the plumbing volume.

Commissioner Greiner moved approval of the committee’s recommendation for Question #2. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond stated Question #3 was whether code requirement for sanitary facilities for the clubhouse /cabana needed to be added to the ones required for the pool. He then stated the answer was “no, the project in question consists of two separate facilities which can be treated independently or together with regard to required fixtures.

Commissioner Greiner stated the important issue was the question and does the Florida Building Code require these facilities to the clubhouse and cabana to be added to one or the other. He then stated the code does not require that.

Commissioner Greiner moved approval of the committee's recommendation for Question #3. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA09-DEC-420 by Kenneth Gregory of Holland Pools

Mr. Richmond stated the petition had been withdrawn.

DCA09-DEC-411 Manny Sanchez of Fenestration Testing Laboratory, Inc.

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Chuck Anderson, President AHMA

Mr. Anderson stated he believed the staff the recommendations were in line for the most part. He then stated he requested some language be added to the second one. He continued by stating he agreed with the first one stated the standard said to test three specimens and three specimens were not tested. He believed the answer to be correct. He further stated in the staff recommendation that was presented at the POC under the background and situation it stated the reviewing engineer who was doing the evaluation was requesting a test report bearing the PE seal and he stated it was not up to the laboratory to decide if what was tested was ample for a product approval. He stated he believed the test labs were ill equipped to make that call. He then stated the test lab has a standard when a product was brought to the lab it was tested to the standard to determine if it passed or failed. He continued by stating doors were more complex i.e. there could be a latch that latches at a jam, a latch that latches to a fixed panel, there could be two panels that both move and they latch, there were pocket panels, panels that interlock, panels that bypass, single point locks, multipoint locks, etc.

Mr. Blair asked Mr. Anderson what he would like to see added to the language.

Mr. Anderson stated he believed the test labs were responsible for saying whether or not the product passes the test. He then stated he did not believe the test labs were certifying the products for product approval as they do not have the means or guidance in the standards which tells them which of the combination of panels needed to be tested in order to qualify the product line.

Mr. Blair asked for clarification Mr. Anderson if he was satisfied with the answer but would like to see some other language added to the second answer.

Mr. Anderson stated he believed the test lab, once off the hook, did not wish to be making the decision the product met the requirements for product approval.

Mr. Madani stated, as Mr. Anderson said, the test lab's responsibility was to test the product according to the standard. He then stated when the code revised the standard if it says test three specimens it was the responsibility of the lab to comply with the revision of the standard.

Mr. Anderson stated the line of questioning appeared to be to decide if it was the test lab's responsibility to determine if it was ample for product approval. He then stated he believed it was different. He continued by stating he believed certification entities set up rules for certification. He further stated if tested to the standards it qualified whole product line. He stated, for instance, in his company's certification program there were ways to tell how the doors should be tested and how many combinations of these tests should be done to qualify all of them.

Mr. Blair asked if he were able to draft the answer to question #2 what it would say.

Mr. Anderson responded by stating he would add a sentence stating "it is not the jurisdiction of the test lab to determine whether the assemblies meet the requirements for product approval."

Mr. Dixon asked if Mr. Anderson was the petitioner.

Mr. Anderson responded stating he was not the petitioner.

Mr. Dixon stated, given the other parties who may be affected by the answer, further clarification of what the question was might be necessary. He further stated Mr. Anderson was asking something different than what was interpreted. He asked if it would be appropriate to defer the petition back for more information from the petitioner to clarify.

Mr. Madani stated it was his understanding the questions were limited to the standards and the revisions of the code to the standard. He then stated the petition could be sent back requesting more information from the petitioner for clarification.

Commissioner Carson stated he believed it would be a prudent decision.

Commissioner Nicholson moved approval of the committee recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA10-DEC-001 by George Merlin of George Merlin Associations, Inc.

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Greiner moved approval of the committee recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:

Accessibility Code Work Group

Mr. Blair presented the report of the Accessibility Code Workgroup from October 12, 2009 and December 7, 2009. (See *Florida Building Commission Accessibility Advisory Council Meeting Minutes February 1, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Education POC

Michael Clark presented the report of the Education POC. (See *Education POC Conference Call Meeting Minutes January 29, 2010.*)

Commissioner Greiner moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Hamrick moved approval to conduct a rule development workshop on Rule 9B-70.002, Education, (regarding self affirmation by providers, for advanced courses requiring minor technical changes, instead of the currently required full accreditation process) at the April 2010 Commission meeting. Vote to approve the motion was unanimous. Motion carried.

Energy Code Workgroup

Mr. Blair presented the report of the Energy Code Workgroup. (See *Florida Energy Code Workgroup Report, December 9, 2009.*)

Commissioner Carson moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Fire TAC

Commissioner Goodloe presented the report of the Fire TAC. (See *Fire TAC Meeting Minutes January 26, 2010.*)

Commissioner Goodloe moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Flood Resistant Standards Workgroup

Mr. Blair presented the report of the Flood Standards Workgroup. (See *Flood Standards Workgroup Meeting Minutes January 12, 2010.*)

1st Commission Action:

Mr. Blair stated the committee recommended the Commission revise policy #3 as follows: Allow local jurisdictions to adopt higher standards for flood resistance provision to address local concerns within the Code (based on local flood studies), to ensure local's ability to be eligible for the NFIP's Community Rating System.

Commissioner Greiner moved approval of the committee's recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

2nd Commission Action:

Mr. Blair stated the committee recommended the Commission seek statutory authority allowing local jurisdictions to issue variances/waivers via the locally adopted companion flood plain ordinance regarding flood provisions adopted in accordance with the provisions of 44CFR 60.

Commissioner Greiner moved approval of the committee's recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

3rd Commission Action:

Mr. Blair stated the committee recommended the Commission support the DEM's initiative to coordinate with affected agencies regarding addressing/handling inconsistencies between the CCL and V Zone requirements.

Commissioner Greiner moved approval of the committee's recommendation. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Greiner moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Special Occupancy TAC

Commissioner Hamrick presented the report of the Special Occupancy TAC with the Structural TAC (See *Special Occupancy TAC with the Structural TAC Teleconference Meeting Minutes January 26, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Hamrick presented the report of the Special Occupancy TAC with the Fire TAC. (See *Special Occupancy TAC with the Fire TAC Teleconference Meeting Minutes January 26, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Structural TAC

Commissioner Schock presented the report of the Structural TAC with the Special Occupancy TAC. (See *Structural TAC with the Special Occupancy TAC Meeting Minutes January 26, 2010.*)

Commissioner Carson moved approval to accept the report. Commissioner Hamrick entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Swimming Pool Efficiency Subcommittee to the Energy Code Workgroup

Mr. Blair presented the report of the Swimming Pool Efficiency Subcommittee to the Energy Code Workgroup report. (See Swimming Pool Efficiency Subcommittee to the Energy Code Workgroup Meeting Minutes

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion.

Commissioner Gregory stated, for the record, it was APSP15 for pools and APSP14 for portable spas.

Vote to approve the motion was unanimous. Motion carried.

Product Approval/Prototype Buildings/Manufactured Buildings POC

Commissioner Carson presented the report of the Product Approval/Prototype Buildings/Manufactured Buildings POC. (See *Product Approval/Prototype Buildings/Manufactured Buildings POC Meeting Minutes February 1, 2010.*)

1st Commission Action:

Commissioner Carson stated the POC recommended the rule 9B-72 be opened for noticing and proceeding with the adoption process to incorporate two evaluation entities, NTA, Inc. and Architectural Texting, Inc., into the rule.

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

2nd Commission Action:

Commissioner Carson stated the POC discussed the 10 day turnaround proposal for approval of products demonstrating certification marks or listings allowing the products to get into the market faster. He then stated a motion was made and seconded for the approval of the staff's recommendation for current legislation with the exception of products having certification marks or listing from an approved certification agency and validated by an approved certification agency be deemed approved. He noted the specific language of the bill was attached to the report and was almost a full page which incorporates some of the language from SB 648 with an additional exception which was what staff had proposed. He stated there was considerable debate and a decision was not reached therefore it was before the Commission for resolution.

Chairman Rodriguez requested a motion to approve the report first since Mr. Richmond would be leading the legislation portion.

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez directed the Commission to Mr. Richmond for guidance in what the Commission needed in a formal motion.

Mr. Richmond stated he needed some clear cut directions of what the Commission's position was on the issue and also the import of it as it pertains to the entire bill. He continued by stating he anticipated the sponsor would probably insist on having something along the lines in the bill, some expedited method of product approval. He then stated the Commission faced an uphill battle in terms of getting any major changes done in part because it went in with an **absent?** objection from the Commission the previous year. He further stated it creates difficulty in going back out there for over a year and the Commission did not object it going through the process during the current year which creates the difficulty of going back and then it just gets rolled forward and then things are found wrong with the bill. He stated by stating from a practical standpoint it would be a difficult position to pursue. He then stated if the Commission objected to the bill he needed to know the level of objection. He continued by stating the bill that contained the issue would likely be the same bill that contains all of the Commission's concerns from its reports as well as those from the previous year. He stated he needed to know if the bill went forward with the issue included would the Commission oppose the bill.

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated he was representing some of the stakeholders who could not attend. He then stated Kari Hebrank asked him to relay her concerns with the staff recommendation to the Commission. He continued by stating the language in bill from the previous year was contained in the current bill and it was agreed to by both the Commission and the stakeholders. He stated he had a problem putting an amendment in at the bill's current status because it had not been vetted through the stakeholders except for the brief comments made at the POC meeting. He then stated there was a two page document given to the Product Approval group outlining some of the concerns. He continued by stating the stakeholders' concern was they thought there was an agreement last then the bill got hung up in the process on the last day. He stated there was no objection to the language being carried forward along with the previous and current years' recommendations for legislation from the Commission. He then stated to attempt to amend something else that does not have consensus as far as the stakeholders were concerned could be detrimental to the bill.

Mr. Blair asked Mr. Glenn if the stakeholders he represented would prefer to see the legislation as drafted without any changes.

Mr. Glenn responded stating yes, as drafted and agreed to both last year and prior to the POC meeting, the Commission.

Jamie Gascon, Miami-Dade County

Mr. Gascon stated he was at meeting to voice the previous opinion of Miami-Dade on the issue although they were unsuccessful at convincing the decisions originally made on the issue that the current law does require local product approval if the product was to be marketed immediately the avenue of local product approval was still available. He then stated the issue of any modifications made to the legislation moving forward could ultimately just consider those revisions to code i.e. products that have existing approval that were being updated to subsequent versions of the Code to limit certification for only those conditions was a possible option.

Steve Strawn, Jeld-Wen

Mr. Strawn stated he was in support of Mr. Glenn's comments. He then stated as a stakeholder Mr. Glenn hit right on the mark and the issue should not be messed around with. He further stated some of the testimony given by Mr. Berman indicated it would work better for him allowing more time to for him to complete a thorough review. He continued by stating it was not a pass-through, nothing was guaranteed a pass-through without any of the oversight the program currently provides. He stated, per Mr. Berman's estimate, it allows him 5 extra days if an application were submitted at the very last minute he would have to rush through the process. He then stated the process, as recommended, would actually allow him more time to adequately review the application's completeness.

Commissioner Nicholson stated he attended the POC meeting and listened to both sides of the discussion. He then stated he did not understand why this had to be pushed through when, from his understanding of the process, if the legislation was approved the Commission could be making a product approved by the state of Florida that could be on the market and in place that was not adequately tied down or nailed or whatever other requirements because the drawings or directions were incomplete. He further stated there was essentially something wrong with 20% of the applications yet they would be installed in the field and he did not fully understand why the Commission would not want to do something like that.

Mr. Strawn responded to Commissioner Nicholson's comments stating the idea that 20% of the product approval applications were allowed to sneak through via the certification method was a little bit false. He then stated from his

understanding all of the applications received were given a thorough review and 50% or more may require some work. He continued by stating it was the administrator's job to contact the applicants and make sure the necessary corrections could be made. He further stated the bottom line was the Commission should expect 100% of the products which come before the Commission would be ready to go into the field.

Commissioner Nicholson stated he was given the figures he mentioned by staff and assumed them to be accurate.

Commissioner Tolbert asked Mr. Richmond when discussing that amending the original language could be a problem does the exception given by staff pose the same problem.

Mr. Richmond responded stating staff's recommendation would be an amendment to what was in the bill currently. He stated he believed there would be some level of flexibility along the framework provided but it would not be much.

Mr. Madani stated when he gave the statistic of the level of review and the level of comments specific to the exception he had stated because the products were validated by a certification entity the level of comments were minimal i.e. up to 80% go without any comments. He further stated the statistic had nothing to do with the 10 day turnaround.

Mr. Blair asked for clarification the 80% Mr. Madani had referred to those applied to the certification method and also used the verification as provided through the exception, not the methodology, which was a very specific and narrowly focused component of that.

Mr. Madani responded stating Mr. Blair was correct.

Commissioner Carson stated there were so many other types of compliance methods the applicants who do those feel like they were getting an unfair advantage by the legislation moving forward. He then stated his biggest concern with the 10 day turnaround was the applicant would be given 10 working days and it would move forward as approved. He further stated the whole process was 45 days and the most time that could be saved would be 30 days, if an application was submitted on the very first day possible. He asked if approved the risk was after it was approved when the POC reviewed it at the next Commission meeting and a problem was found how does the Commission go back and undo issues that could arise from the product being used somewhere. He stated, as Mr. Gascon had mentioned, there was the local approval, which was always available.

Chairman Rodriguez asked Commissioner Carson for his recommendation.

Commissioner Carson stated he would recommend leaving it alone.

Mr. Blair asked for clarification of the motion as it sounded as though the Commission would be against the legislation.

Commissioner Carson stated he realized it would create some problems but felt there should be no changes made.

Commissioner Carson moved approval to leave the product approval system as it was, making no changes to the process in any way, including the 10 day turnaround. Commissioner Nicholson entered a second to the motion.

Mr. Blair asked Mr. Richmond for his comments.

Mr. Richmond stated if the Commission chose to oppose the legislation over an item it originally agreed to last year in a bill that contains all of the other Commission recommendations it was the Commission's choice.

Chairman Rodriguez asked if the Commission would be able to oppose the entire bill i.e. no way to separate them issues.

Mr. Richmond stated he did not believe so. He further stated voting to leave the product approval system alone was not a doable option. He then stated there was some flexibility with the concept and he could certainly explore the flexibility, but leaving the product approval system as it is was not going to be an option. He further stated the industry had had identified the change as something it wanted and a benefit to it was seen and the Commission questioning the benefit was not going to get anywhere.

Mr. Madani stated he was neutral on the issue but wanted to remind the Commission with the method of compliance the certification method was kind of unique with regard to other methods. He then stated what the certification entity provides was a one piece of paper which has in it, specific information which no one knows about except for the other certification entity. He further stated the level of review was different than any other method of compliance for product approval due to the level of information required for this method of compliance. He stated that was why there was an opportunity for different treatment.

Chairman Rodriguez stated although he knew Mr. Madani tried to stay neutral he asked him to clarify his comment. He asked if he was in favor of the change.

Mr. Madani stated if his recommendation were reviewed he went farther in stating the application could be approved automatically without public review.

Chairman Rodriguez asked if Mr. Madani objected to the current language of the bill.

Mr. Madani stated he did not. He further stated there was an opportunity for different treatment.

Commissioner Schulte stated he was one of the two members of the POC who voted in favor of the staff recommendation. He then stated the POC was given very little information to evaluate. He continued by stating the POC was informed 80% of the approvals which go through the process were okay. He stated of the 20% that were not okay he asked what kind of bad were they as he did not want bad products going into the market. He then stated the main problem with the 20% were installation instructions, etc. not the product itself. He further stated at the Product Approval there was a second pass of those in the 20%. He concluded by stating in light of the current legislation, not wanting the Commission's opportunities with its issues, the limited ability to evaluate the products and then having a second pass of the product he voted in favor of the staff's recommendation.

Chairman Rodriguez stated Mr. Richmond stated there was no way the Commission could vote in favor of Commissioner Carson's motion and support the legislation. He then stated the industry had focused on and was something the Commission agreed to last year and the language was carried over. He further stated Mr. Richmond had also indicated if he found some flexibility he did not think it would be enough and leave the law as it currently was which would oppose legislation.

Mr. Richmond stated one example of where there could be some flexibility would be doing what staff's recommendation was in strengthening up the ratification and addressing Commissioner Schulte's comments. He then stated it would almost be better to find the results of a lack of ratification within the legislation to make it expressed.

Chairman Rodriguez asked Mr. Glenn if he thought that could happen if there was a conflict.

Mr. Glenn stated he was asked to speak for that side of the industry because there was a conflict of meetings. He then stated he could only speak on his feelings from the top of his head. He continued by stating he believed at this point since it was something contained in the bill last year, agreed to by the Commission last year, brought forward to the bill the current year, and now the Commission wanted to make further amendments to the legislation the stakeholders would need to be approached as a whole to consider how the amendments impact.

Chairman Rodriguez stated Mr. Richmond thought there might be some there might be some flexibility with the bill sponsors.

Mr. Glenn stated he did not know if that could occur at this point in the process but perhaps before the next committee stop since it has five committees of reference in the Senate i.e. a long way to go. He reiterated his concern relative to make any major modifications.

Chairman Rodriguez asked Mr. Glenn if the Commission were to support the bill subject to that stipulation would he support it. He then stated the Commission would be updated through the telephone conferences and there would be one more Commission meeting in April prior to the end of the Legislative session.

Mr. Blair stated he believed the flexibility Mr. Richmond had referenced was addressing any concern regarding what oversight the Commission would have. He read *"...by the department shall be reviewed and ratified by the Commission's program oversight committee for except showing a good cause that a review by the full Commission would be necessary."*

Mr. Richmond stated that was actually not the existing language in the bill. He then stated he believed it was staff's recommendation.

Commissioner Palacios asked if that meant the Commission may have made a mistake last year.

Chairman Rodriguez stated he understood what Commissioner Palacios was saying. He then stated if the Commission made a mistake last year it should be corrected. He continued by stating what was missing was the buy-in from the industry because the stakeholders were not brought into the process for the current year. He further stated what he had tried to get from Mr. Glenn was an indication if he could foresee the same degree of flexibility Mr. Richmond had discussed. He stated either way if the Commission felt strongly about either one all Mr. Richmond had requested from the Commission was some direction. He continued by stating after the Commission meeting Mr. Richmond could report to the Legislature the Commission would support the bill except for the areas he felt there was some flexibility. He then stated the Commission had several more meetings.

Chairman Rodriguez responded stating that was not what the Commission had said.

Commissioner Palacios stated **that's what this says (inaudible)**

Chairman Rodriguez stated that was not true because first of all the POC was making a recommendation to the Commission. He then stated more often than not

the Commission approved the POC and TAC recommendations, but a problem had been identified with this issue. He further stated it was not being turned over to staff because the Commission had several telephone conference meetings scheduled where it can further discuss it and make a decision.

Mr. Blair stated he thought he had heard the suggestion it was very late in the process and Mr. Richmond needed an idea of where the Commission stood on the issue

Chairman Rodriguez asked Mr. Richmond if he needed a yes or no before the end of the meeting.

Mr. Richmond stated he needed to know if the Commission was going to work within the framework of the bill he needed a clear cut direction.

Commissioner Schock asked if it would be worthwhile to add some terminology such as "*established by rule*". He stated then the Commission could work a rule on the back end and correct any issues there.

Mr. Richmond responded stating something along those lines would help and he'd certainly try to get that in.

Commissioner Nicholson stated as he indicated earlier he agreed with Commissioner Carson he did not want to see products put into the field where maybe the product was okay but perhaps the installation instructions were wrong or something else was wrong. He stated if 20% of those products should not be approved then the Commission should not approve those and change the language so it was not approving those products.

Mr. Madani stated the products still have to go through the public review at the end.

Mr. Blair stated the POC would still have to review the products anyway.

Commissioner Nicholson stated he understood, but by the time the Commission reviewed it the product could already be in the field.

Commissioner Grippa stated in support of the chairman's thoughts and having a good handle on the Legislature he would just like to know where the current motion stood. He then stated he thought he understood it to be the Commission was opposing a portion of the bill it originally worked together with industry and co-filed with two sponsors. He continued by stating the difficult position the Commission was in. He further stated the counsel had to go before a committee and essentially argue against or nuance a piece of the Commission's own bill. He

stated as long as the POC and the Commission have a last look at the product approval process he was not sure why the plug should be pulled at this point. He then stated he did appreciate the concern because in reality the bill would die.

Chairman Rodriguez explained Mr. Richmond would like a yes or a no before the end of the Commission meeting. He stated if it was a no or a yes with a stipulation would not be well received. He then stated the question remains Commissioner Schock eluded to was if the Commission said "*yes as established by rule*" might be the way to do it.

Commissioner Grippa stated since it was difficult to get everyone together the flexibility needed to be given to one person the chairman or counsel.

Chairman Rodriguez stated the staff does not want the Commission to just pass it off onto them and certainly not onto Mr. Richmond. He then stated what Mr. Richmond needed from the Commission was a yes or a no so he can continue working. He further stated it was a principle question and also a political question in terms of the mechanisms used to accomplish it.

Mr. Blair stated he believed Commissioner Schock was suggesting the Commission could lend its support to the existing legislation but would like to have some assurances as it relates to the Commission's final oversight and that could be done through some clarification of the rule.

Commissioner Schock stated through a rulemaking process that way the entities all have the opportunity to be heard.

Mr. Blair asked Mr. Richmond if that would give him the flexibility he needed.

Mr. Richmond stated it was possible.

Commissioner Gonzalez stated his concern was the 10 days the staff has to approve the product and then the Commission would finalize the product at the next Commission meeting. He stated if there was no quorum it would delay the second pass even longer. He continued by stating another option that had been discussed was creating or mandating a list to know where the products have been installed in the event of a recall.

Commissioner Palacios stated he thought the whole thing was ridiculous. He then stated staff approves something at the Commission meeting it comes back to the Commission where there was 20-60-70 days the Commission could have and then do it all over again. He reiterated he thought the whole process was ridiculous.

Mr. Blair offered clarification the rulemaking was not about the 10 days, but about the Commission's final oversight and how to clarify under what conditions the Commission could determine if there needed to be additional review or some change of approval.

Commissioner Palacios stated it seemed like the Commission was trying to be politically correct but was neglecting the issue.

Chairman Rodriguez stated the Commission was not trying to be politically correct. He then stated the Commission was trying to build in the safeguards Commissioner Carson wanted without throwing out the bill.

Commissioner Schulte stated he did not want bad products out in the community and he was concerned about the controls. He then stated he had asked staff if the products in question could be flagged on the front end. He stated if the Commission could get the safeguards in the legislation it would be okay.

Commissioner Carson stated he did not want the Commission to think he was against everything. He then stated he just had a problem saying let's do this and work out the problems later. He further stated he would like to work out the details first.

Chairman Rodriguez asked Commissioner Carson if he understood present the Commission could not support the bill in toto.

Commissioner Carson stated he totally understood but he did not support the concept. He then stated he would be happy to try to work out some way to do it.

Chairman Rodriguez asked Commissioner Carson to clarify his motion was to not support the bill.

Mr. Blair stated for clarification Commissioner Carson's motion was to not support this provision of the bill.

Chairman Rodriguez added which results in not supporting the bill. He then stated unless the parties think it is important for the Commission to support it and they bend over backwards.

Commissioner Palacios stated he thought the provision should be taken out.

Chairman Rodriguez responded stating the Commission could do whatever it wanted, but the question would be how well it would be received.

Mr. Blair stated from what Mr. Richmond had heard the provision will be in the bill no matter what.

Mr. Richmond stated that was his understanding.

Mr. Glenn stated the 20% had been batted around several times and he wanted to clarify it was a guess. He then stated there had been no statistics or data to show the 20%.

Chairman Rodriguez stated he appreciated the clarification, but that was not the issue.

Mr. Strawn stated he supported staff but the reality was if 20% of the products coming through the POC and to the Commission and then out into the world without adequate oversight there were real problems.

Chairman Rodriguez stated the focus should not be on the dates.

Mr. Blair stated not to forget the 20% was actually products which needed additional review.

Chairman Rodriguez asked for clarification from Commissioner Carson what the portion of the bill was his motion did not support.

Commissioner Carson stated it was the whole discussion on the 10-day-turn-around on a certification method.

Mr. Blair stated the motion stated the Commission did not support the provision in SB648 as it relates to the 10 day turnaround and approval via the certification method and does support the rest of the bill with the exception of the single issues which were separated out at the last report such as the mechanical equipment mounted to the roof.

Vote to approve the motion resulted in 13 in favor, 8 opposed (Grippa, Hamrick, Tolbert, Greiner, Smith, Schulte, Schock, Mollan). Motion failed.

Commissioner Gonzalez asked if the Commission had to go to the Legislature to get what the amendment was doing to the bill. He asked if it could be done in-house. He asked why the language relative to the 10-day turnaround could not be brought to the Commission so it can be discussed with industry and come up with a solution.

Chairman Rodriguez responded stating the whole issue of bringing things to the Commission rather than the Legislature was understood, but this issue was already in legislation.

Commissioner Grippa moved approval to move forward with last year's agreed upon legislation and in addition have the Commission approve Commissioner Carson to work with the stakeholders to determine if a compromise could be met on the one provision in the bill relative to the 10 day turnaround.

Mr. Blair asked for clarification the motion states that the Commission supports the bill but would like to have some negotiations on the details of working it out.

Commissioner Grippa stated the negotiations would be with the stakeholders. He then stated there was another two months before it passes, session has not started, and it has 5 committee assignments. He further stated it had some stops along the way and if a compromise could be reached before then everyone would not have to gather for a meeting, which was not always easy especially with the Sunshine Law.

Chairman Rodriguez asked Commissioner Carson if he wanted to be put in that position.

Commissioner Carson responded stating he would rather have Mr. Richmond take that role.

Commissioner Grippa amended his motion to state whomever the chairman designates to work out the concerns for Commissioner Carson.

Chairman Rodriguez stated he would like to do so, but in talking with the person who was there every day, Mr. Richmond, he has stated there was no hope for it.

Commissioner Grippa stated his motion was to move forward with the bill as is which gets Mr. Richmond what he requested. He then stated the second part of the motion was for the stakeholders to have the opportunity to be involved in the process and discuss it. He further stated whether it was done through Mr. Richmond or another commissioner at least the concerns could be addressed.

Commissioner Schock stated he believed what Commissioner Grippa was trying to say was the point of rulemaking was to get everyone involved. He then stated if he was willing the Commission should support the bill as is with the addition of the rulemaking language discussed earlier.

Mr. Blair asked Commissioner Schock if he was offering a friendly amendment to Commissioner Grippa's motion indicating the Commission supports the legislation and would like to have some rule making as it relates to the Commission's final oversight of approval.

Commissioner Schock responded that was correct.

Commissioner Grippa accepted the friendly amendment.

Commissioner Schock entered a second to the motion.

Mr. Blair clarified the motion states the Commission supports the legislation and would like to have rulemaking to clarify the Commission's oversight and final approval.

Mr. Blair stated the motion was specific to the 10 day turnaround period. He then stated the Commission's actions stand on the rest of the bill which was support the bill except the air handler, which was decided at the last meeting. He further stated the Commission added an additional piece which stated the Commission supports the provision related to the 10 day turnaround approval for the certification method with the exception they would like to have rulemaking to clarify the Commission's final oversight authority as it relates to approval.

Commissioner Gregory asked Mr. Glenn if the 10 day process was something the stakeholders wished to have.

Mr. Glenn stated that was the reason for the draft of the language of the bill in the first place.

Vote to approve the motion resulted in 19 in favor, 2 opposed (Palacios, Nicholson). Motion carried.

COMMISSION EFFECTIVENESS ASSESSMENT SURVEY RESULTS

Mr. Blair conducted a review of the results of the Annual Commission Effectiveness Survey. (See *Florida Building Commission 2010 Annual Effectiveness Assessment Survey Results*.)

COMMISSION WORKPLAN PRIORITIZATION EXERCISE RESULTS

Mr. Blair conducted a review of the Commission Workplan Prioritization Exercise Results. (See *Commission Workplan Prioritization Exercise Results February 2, 2010*.)

COMMISSION MEMBER COMMENTS AND ISSUES

none

GENERAL PUBLIC COMMENT

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated there had been and continued to in the bill related to the swimming pool and restroom facilities. He then stated there seemed to be reluctance from the Department of Health to give up its construction related regulations out of their rules as most of the other departments have done such as i.e. Education, ACCA? and others. He emphasized the importance on the Commission of addressing it with the department in an effort to try to get the health department to stop writing rules that regulate construction. He then stated the Commission might want to consider addressing the issue in a future report to the Legislature. He further stated doing so had continued to create conflicts between the two documents. He stated he understood the health and safety requirement, but any construction regulation the concern should be left to the Commission.

John O' Connor, President, BOAF

Mr. O'Connor stated his comments were related to the product approval issue. He then offered clarification stating the rule was being opened and he wanted to make sure it was going to include the criteria for evaluation entities. He then stated it seemed it needed to be a part of the discussion with the rule opening. He further stated he wanted to make sure there would be time at the committee meeting to include the issue in the agenda.

Mr. Blair asked Mr. O'Connor if he wanted to see the rule opened to include the criteria for evaluation entities.

Mr. O'Connor responded stating yes he would like it included in the opened rule.

Mr. Dixon stated the Commission has a recommendation to the Legislature that will be subject to legislation this year that may impact that item. He then stated the Commission should not expend too much energy or effort until after the fate of the legislation was determined.

Mr. O'Connor asked if the issue could be on the agenda so it could be discussed at the next meeting because the Commission needed to develop a position relative to the issue.

Mr. Dixon stated he understood Mr. O'Connor's concern and the concerns expressed the ICC and others during previous rule deliberations. He then stated the Commission's report to the Legislature recommends eliminating the Commission's authority to establish criteria for evaluation entities and for the Legislature to recognize those type entities in law, as it first did. He further stated depending what the results are at Legislature the Commission may not have the authority to establish independent criteria anymore. He stated IAPMO would be in the law if it goes as the Commission recommended.

Mr. O'Connor stated he understood but in the meantime entities were still being approved on a reduced criteria list.

Mr. Madani offered clarification by stating no entities had been approved to date. He then stated the two entities that came before the committee still had to have rules opened and go through the rule making process which takes 90 days. He further stated by that time the position of legislation should be clear.

ADJOURN

12:02 p.m. adjourned.