



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

*"Dedicated to making Florida a better place to call home"*

RICK SCOTT  
Governor

BILLY BUZZETT  
Secretary

## MEETING OF THE FLORIDA BUILDING COMMISSION

### PLENARY SESSION MINUTES April 5, 2011

**APPROVED JUNE 7, 2011**

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 9:00 a.m., Tuesday, April 5, 2011, at the Embassy Suites, Tampa, Florida.

#### **COMMISSIONERS PRESENT:**

Raul L. Rodriguez, AIA, Chairman  
Richard S. Browdy, Vice-Chairman  
Jeffrey Gross  
Angel "Kiko" Franco  
Jeff Stone  
James E. Goodloe  
James R. Schock  
Herminio F. Gonzalez  
Robert G. Boyer  
Drew M. Smith  
Christopher P. Schulte  
Mark C. Turner  
Randall J. Vann  
Scott Mollan  
Jonathon D. Hamrick  
Kenneth L. Gregory  
Joseph "Ed" Carson

Raphael R. Palacios  
Nicholas W. Nicholson  
Dale T. Greiner  
John J. Scherer  
John "Tim" Tolbert

#### **COMMISSIONERS ABSENT:**

Hamid R. Bahadori  
Donald A. Dawkins

#### **OTHERS PRESENT:**

Rick Dixon, FBC Executive Director  
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 the April 2011 plenary session of the Florida Building Commission. The Chair explained that the primary focus of April's meeting was to consider recommendations from the Commission's various committees, to decide on product approvals, declaratory statements and accessibility waivers, and to discuss relevant legislative issues from the 2011 Legislative Session.

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), and as always, the Commission will provide an opportunity for public comment on each of the Commission's substantive discussion topics. He then stated if anyone wanted 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 further stated 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.

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

## **REVIEW AND APPROVE FEBRUARY 1, 2011 COMMISSION MEETING MINUTES AND FACILITATOR'S REPORT, MARCH 7, MARCH 14, MARCH 21, AND MARCH 28, 2011 TELECONFERENCE MEETING FACILITATOR'S REPORTS**

Chairman Rodriguez called for approval of the minutes and Facilitator's Report from the February 1, 2011 Commission meeting and the Facilitator's Reports from the March 7, March 14, March 21, and March 28 Teleconference Meetings.

Commissioner Nicholson moved approval of the minutes and Facilitator's Report from the February 1, 2011 Commission meeting and the Facilitator's Reports from the March 7, March 14, March 21, and March 28 Teleconference Meetings. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

## **CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS**

### *Appointments to Committees and Workgroups*

Chairman Rodriguez stated Dave Olmstead had rotated off of the Hurricane Research Advisory Committee. He thanked him for his valuable input and stated he would be missed.

Chairman Rodriguez stated at the request of the Department of Financial Services (DFS) the Commission is convening a workgroup to develop recommendations on enhancements to the "Uniform Mitigation Verification Inspection Form". He explained the form was used to inspect and report on a home's hurricane loss mitigation features used for the purpose of applying for insurance premium credits and/or reductions. He further stated insurance companies provide insurance premium discounts based on a home's construction features providing hurricane protection (wind and water infiltration protection characteristics). He stated the DFS requested technical input from representative stakeholders and the recommendations will serve as input for amending the rule.

Chairman Rodriguez appointed the following to the *Uniform Mitigation Reporting Form Workgroup*:

Commissioner Chris Schulte - Roofing Contractor  
Commissioner Bob Boyer - Building Official  
Commissioner Tim Tolbert - Building Official  
Commissioner Dick Browdy - Residential Contractor  
Commissioner Jim Schock - Building Official  
Commissioner Ed Carson - General Contractor  
Cindy Walden - Office of Insurance Regulators (OIR)  
Michael Milnes - Office of Insurance Regulators (OIR)  
Larry Twisdale w/alternate Frank Lavelle - Applied Research Associates (ARA)  
Jack Glenn - Florida Home Builders Association (FHBA)

Chairman Rodriguez next addressed Legislative Session Update Teleconference Calls. He reminded members the Commission had been conducting teleconference meetings every Monday since the 2011 Legislative Session started. He stated the following teleconference meeting dates remain for this year's legislative session updates: April 11, 18, 25 and May 2, 2011. He further stated the calls had been noticed in the FAW as place-holders and staff would let the Commission know whether each meeting date would be convened.

Chairman Rodriguez then addressed the Septic System Sizing Project issue.

Jeff Blair provided the Commission with an update on the Septic System Sizing project and answered Member's questions. The update on the project is included as

“Attachment 5” of this Report. (*Included as Attachment 4—Septic System Sizing Project Update*)

*Jack Glenn, Florida Homebuilder’s Association*

Mr. Glenn stated Mr. Richmond might not have been aware there was an amendment on an environmental bill filed Thursday afternoon in the House which actually has a better definition of inspection and it passed.

Mr. Blair asked Mr. Glenn if he had the number of the amendment.

Mr. Glenn responded stating he did not have the number with him, but stated he would get it to Mr. Richmond.

Commissioner Greiner asked if the *Septic System Sizing Project Update* was available anywhere in writing.

Mr. Blair responded stating he would include the full document in his report. He then stated he would include the definitions and the overview in the report, as well.

Chairman Rodriguez then addressed the Florida Building Code Assessment Project. He stated one of the Commission’s responsibilities established by law was the continual study of the Florida Building Code and other laws relating to building construction. He then stated traditionally the Commission identifies issues of concern each year and makes recommendations to the Legislature and Governor where relevant. He continued by stating the Commission had not conducted an in-depth comprehensive review of the Florida Building Code System since its inception. He further stated the laws creating the Commission and giving it direction to building the system were passed in 1998. He stated the 2000 Legislature ratified the first edition of the Florida Building Code and that first Code took effect in March of 2002. He then stated the Product Approval system also took effect in 2002 and both it and the Code have undergone significant changes since that time.

Chairman Rodriguez continued by stating it had been roughly ten years down the road and it was time for reflection and evaluation to determine if the state code system is achieving the intended goals and whether the system needs updating to remain responsive and relevant to these times. He further stated in the fall of 2010 the Commission was in the middle of the 2010 Code development proceedings and decided to conduct an in-depth assessment of the Building Code System beginning the spring of 2011 and concluding December 2011 with a status report and recommendations for the 2012 Legislature to consider. He stated it was important every major stakeholder group be involved in the effort as they were in the Building Code Study Commission Project in 1997 which resulted in the current system. He then stated the Commission would hold meetings over the next eight months to identify the strengths and weaknesses of the Florida Building Code System and to identify the opportunities for innovation and adaptation that will make the System better. He continued by stating the initiative was

very important for the Commission. He further stated too often special interests go unilaterally to the Legislature with their ideas and initiatives. He stated the traditions and role of the Commission was to provide the forum where all groups can come together to develop consensus on recommended changes to the Code and the System that supports it. He invited all groups to participate in this Commission project and encouraged all Commissioners to set aside time in the coming months to get actively involved as well. He stated the first Workshop would follow the April Plenary Session (April 5, 2011).

### **REVIEW AND UPDATE OF COMMISSION WORKPLAN**

Chairman Rodriguez stated Mr. Dixon had indicated there were no substantive changes in the workplan. He then stated the Commissioners could review the updated workplan found in the Facilitator's Report. (See *Updated Commission Work plan April 5, 2011*).

### **CONSIDER ACCESSIBILITY WAIVER APPLICATIONS**

Chairman Rodriguez directed the Commission to Jack Humburg for consideration of the Accessibility Waiver Applications.

Mr. Humburg 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:**

2. Miami Art Museum
3. Pestana Hotel and Resorts
4. Eden Roc Hotel

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

### **Recommendation for Approval with Conditions:**

5. Stardust

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the council unanimously recommended approval with the condition a statement is received from the local building department attesting that it would be technically infeasible to increase the shaft size.

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

Commissioner Gonzalez asked for clarification regarding whether the recommendations were made with no quorum.

Chairman Rodriguez offered clarification stating there was no quorum but the recommendations were based on a consensus of the members present.

Mr. Richmond stated in anticipation of the possibility that the Accessibility Council may not always have a quorum at its meetings; it has the authorization to proceed with consensus recommendations for the Commission to consider.

7. Florida Atlantic University Athletic Stadium – Seating

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval with the condition the applicant submits a breakdown of the location and number of wheelchair and companion seating.

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

9. Florida Institute of Technology Aquatic Center

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval with the condition applicant to confirm the number and location of wheelchair and companion seats (conforms to requirements).

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

**Recommended for Dismissal**

1. Nail Bar

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended dismissal no waiver was required as a result of the owner constructing a ramp between the levels.

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

6. Caritas Alegre Adult Day Care

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended dismissal without prejudice since the code allows an alternative entrance in an existing building when it is technically infeasible to modify the main one. He stated the council further recommended that signage be installed to direct persons to the location of the accessible entrance.

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

8. Florida Atlantic University Athletic Stadium – Parking

Mr. Humburg explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended dismissal as the Commission has no jurisdiction to waive Federal requirements.

Commissioner Nicholson moved approval of the Council's recommendation. Commissioner Carson 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 27 entities were recommended for approval by the POC:

CER 1592 Miami-Dade BCCO - CER

CER 3718 CSA International

CER 6750 Architectural Testing, Inc.

TST 1558 Architectural Testing, Inc.

TST 1667 PSI/Pittsburgh Testing Laboratory

TST 1795 Architectural Testing, Inc. - Minnesota

TST 2561 Southwest Research Institute-Fire Technology Department

TST 2609 Architectural Testing, Inc. – California

TST 3892 Hurricane Test Laboratory, LLC – Georgia

TST 4120 Architectural Testing, Inc. – Wisconsin

TST 4281 Construction Research Laboratory

TST 4311 Architectural Testing, Inc. – Florida

TST 7110 Architectural Testing, Inc. - Springdale, PA

TST 8139 Structural Building Components Research Institute

TST 8697 Architectural Testing, Inc. – Massachusetts

TST 9199 Madinah Code & Testing Consultants

QUA 1591 Miami-Dade BCCO

QUA 1844 Architectural Testing, Inc.

QUA 2563 Southwest Research Institute - Department of Fire Technology

QUA 6252 Progressive Engineering Inc.

QUA 7628 Quality Auditing - Institute Ltd.

QUA 9110 PRI Construction Materials Technologies, LLC

VAL 1501 Miami-Dade BCCO – VAL

VAL 1616 Intertek - ETL/Warnock Hersey

VAL 1665 PSI/Pittsburgh Testing Laboratory

VAL 3133 FM Approvals - Testing Lab

VAL4121 PFS Corporation

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 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:**

8218-R2 Hurricane Armor, LLC

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide proof of ongoing QA audits and revise application to indicate on limits of use "Not to be used within Wind Zone 4 or essential facilities".

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

13884-R1 Ingersoll-Rand

Mr. Blair stated the product was recommended for deferral with the conditions the applicant revise Installation Instructions and anchor calculations to reflect 4 anchors per jamb.

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.

14243 Vitro America, LLC

Mr. Blair stated the product was recommended for deferral with the condition the applicant provides certification of exterior glazing gasket (part # 1) in accordance with requirements in 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.

14285 Andersen Corporation

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide compliance in accordance with Sect 2612 of fiberglass structural elements.

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.

14320 Andersen Corporation

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provide compliance in accordance with Sect 2612 of fiberglass structural elements.

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.

14370 Loewen Windows

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.

14439 Building Performance America's USA, Inc.

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.

14417 Wasco Products, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant revise Design Pressure on 14417.6 to agree with tested values.

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.

**Denials:**

CER 9016 Quality Control Consultants, LLC

Commissioner Carson stated the entity was recommended for denial as there was no accreditation for Certification Agency. Partial credit issued for user error.

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

#### VAL 9017 Quality Control Consultants, LLC

Commissioner Carson stated the entity was recommended for denial as there was no accreditation for Certification Agency, therefore cannot be Validation Entity. Partial credit issued for user error.

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

### **CONSIDER APPLICATIONS FOR ACCREDITOR AND COURSE APPROVAL**

#### Accreditor Approvals

Commissioner Browdy stated there were no accreditor approvals.

#### Course Approvals:

Commissioner Browdy stated there were four courses being submitted for consideration by the Florida Building Commission that have been reviewed by the Education POC:

*2007 Florida Energy Code in a Nutshell-Advanced, BCIS Course Number #461.0*

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

*2010 FBC Significant Changes Module 3, BCIS Course Number #459.0*

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

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

*2010 FBC Significant Changes Module 2, BCIS Course Number #458.0*

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

*Consent Agenda, Approval, Self Affirms*

*Advanced Code Module Course For Electricians, BCIS Course Number 349.1*  
*Advanced Code Module Course For Electricians – Online, BCIS Course Number 350.1*

Commissioner Nicholson moved approval of the POC recommendation. Commissioner Carson 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:**

**Binding Interpretations:**

None

**Declaratory Statements:**

**Second Hearings:**

**DCA10-DEC-209 by Michael Murray of Storm Watch, 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.

**DCA10-DEC-216 by Geoff McLeod of MESA Modular Systems, 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 Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

**DCA10-DEC-217 by Dwight Wilkes – Consultant for AAMA**

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.

**DCA10-DEC-219 by David Karins, P.E. of Karin's Engineering Group, 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.

**DCA10-DEC-220 by John H. Kampmann, Jr. P.E. or MEA Engineers, Inc.  
DCA10-DEC-221 by John H. Kampmann, Jr. P.E. or MEA Engineers, Inc.  
DCA10-DEC-222 by John H. Kampmann, Jr. P.E. or MEA Engineers, Inc.  
DCA10-DEC-224 by John H. Kampmann, Jr. P.E. or MEA Engineers, Inc.  
DCA10-DEC-225 by John H. Kampmann, Jr. P.E. or MEA Engineers, Inc.**

Mr. Richmond explained the issues presented in the petitions for declaratory statements 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.

**DCA10-DEC-247 by Timothy Graboski Roofing, 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.

**DCA10-DEC-248 by Kraig Marckett of Living Space Sunrooms, LLC.**

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.

**First Hearings:**

**DCA10-DEC-285 by Larry Schneider, AIA (deferred)**

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.

*Larry Schneider, AIA*

Mr. Schneider stated he wanted to explain to the Commission the reason no additional information had been presented to the Commission. He stated at the last Commission meeting the Commission approved, voted on and submitted in the Legislative package exactly what the petitioner had wanted done. He continued by stating the following text was submitted by the Commission for SB 396: "*Consistent with the Federal implementation of the 2010 Americans with Disabilities Act Standards for Accessibility Design, buildings and facilities in this state may be designed conforming to the 2010 standards and must also comply with the Florida Specific requirements provided in Part 2, Chapter 553, Florida Statutes,*" until Florida Accessibility Code has been updated. He stated until the end of session there was no way to know if the provision made it into the law or not. He then stated if the bill went to law they would be happy to withdraw the petition prior to the next meeting.

Mr. Richmond stated there were essentially two comments which conflicted with one another: "Please issue us a declaratory statement finding it as equal because the provision was put into the bill but cannot be withdrawn because it is just a bill and has to be passed and adopted by the Legislature." He then stated the fact was that there was a vote to change the law because the current law does not authorize the Commission to state one accessibility standard is equivalent to the other. He further stated there was no authority to approve a declaratory statement nor would the Commission have authority when the law passes. He continued by stating the Commission has the authority to review particular facts and circumstances of the petition and rule on whether

or not it needed to move forward. He continued by stating some specific facts and circumstances provided in the petition would have to be reviewed, which was the reason a deferral was requested. He then stated nothing had changed with the petition to allow revisiting the Commission's deferral.

Mr. Schneider stated the applicant's position was by the Commission slipping the provision into the bill the need for specifics had been taken care of.

Mr. Richmond stated there was no need for a declaratory statement if the applicant's request had already been addressed.

Mr. Schneider stated that was correct, but there was no guarantee the bill would pass.

Mr. Richmond stated a deferral to the June meeting would allow the Commission the opportunity to see if the bill passes. He then stated if it had passed, there would be an opportunity to consider the particular issues as discussed at the previous meeting.

Mr. Schneider stated the applicant was trying to move forward with the project and for the design team to know what to do in the interim.

Chairman Rodriguez stated the only thing the Commission could do at present was move the request forward but even afterward the Commission would have no authority to decide on the declaratory statement.

Commissioner Nicholson moved approval of deferring the declaratory statement to June when the results of the legislative recommendations are known. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### **DCA10-DEC-286 by Larry Schneider, AIA (deferred)**

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 deferring the declaratory statement to June when the results of the legislative recommendations are known. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

#### **DCA10-DEC-030 by Michael Goolsby of Miami-Dade County Building and Neighborhood Compliance Department**

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 to dismiss the petition. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair asked Mr. Gascon for clarification his request was for dismissal.

*Jamie Gascon, Miami-Dade Building Department*

Mr. Gascon stated he believed dismissal was appropriate.

Commissioner Nicholson moved approval of dismissal. Commissioner Carson entered a second to the motion.

Mr. Gascon offered clarification the main issue relative to the declaratory statement had to do with restriping parking lots and the maintenance of the lines such as keeping lines clear and making the parking more attractive. He stated the issue was whether painting over an existing stripe when resurfacing an area would invoke other requirements, which were not part of the intended work when just trying to maintain and update the parking lots.

Mr. Dixon stated there was a section of the building code which requires that if an alteration impacts the accessibility of an area it has to comply with the Code. He then stated the Department of Justice had told staff that when a parking lot is restriped the accessible spaces have to be configured as required by ADAAG. He continued by that stating when the ADAAG is triggered Florida-specific dimensions will also be triggered. He further stated the requirements for the parking space itself come from federal law, not state law, and in effect it was something that could not be interpreted. He stated the only part the Commission could interpret is the part specific to Florida which would be the width of the space and really nothing else.

Mr. Schneider stated DCA, since day one, has used the system by DOJ which stated when restriping a parking lot it needed to be in compliance with Accessibility. He then stated there were also two paragraphs from Florida statutes which state when doing repairs or alterations they have to be done in compliance with the Florida Accessibility Code. He continued by stating if it had to be done the Florida statutes specifically state when it was done it had to meet the Florida specific requirements. He further stated when doing a parking lot it had to be made accessible and the Florida statutes state when doing the parking it had to make an accessible parking spot. He stated that had been his understanding since day one and DCA had been making determinations.

Vote to approve the motion was unanimous. Motion carried.



## **CONSIDER OTHER LEGAL ISSUES**

Mr. Richmond stated there were some Legislative items to visit briefly. He then stated there had not been much activity during the last week. He continued by stating the House handled a bill earlier in the afternoon in the Rules and Regulations Subcommittee of the House. He stated the members of the Commission may have recalled the bill was stripped down to only the provisions relating to the Green Building. He further stated the most directly applicable provision to the Commission was the addition of an alternate qualifier for the green building industry representative on the Commission. He stated it would not affect the current sitting member but it would allow greater options in the future. He then stated as recent as 20 minutes prior to this meeting no amendments filed on the bill. He then stated there was no plan to amend it at the current committee and the bill would be moved along to the next committee. He further stated that what they could be waiting for is the provision related to the exemption of the Building Code from legislative ratification which was first being considered in much larger administrative rules package bill in the House.

Mr. Richmond then stated he would continue to track those issues for the next four weeks which he thought would be chaotic and hectic. He continued by stating the Agency reorganization plan came out the House and was passed at least in concept at a workshop last week. He stated the Bill, like its Senate counterpart at present, calls for the Commission to be located in the Department of Business and Professional Regulation. He continued by stating the House and Senate were still a long way apart on the details including the name of the new agency that was created. He then stated one of the things the two houses agree on was the placement of the Commission and its functions. He further stated the House was good enough to specifically spell out that the Commission's budget which was sent over. He then stated he would continue to monitor the situation to ensure interests are protected.

## **CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:**

Chairman Rodriguez requested the committee frame any action needed by the Commission in the form of a proposed motion should their committee's recommendations require action.

### **Accessibility TAC**

Mr. Blair presented the report of the Accessibility Code Workgroup.  
(See *Accessibility TAC Teleconference Meeting Minutes December 6, 2010.*)

Commissioner Gross stated he wanted to ask the Commission to ask staff to notify committee members about meetings with something more like a RSVP and to allow the members a week to call back and respond if they would be attending the meeting.

Chairman Rodriguez asked Commissioner Gross if he was making a motion to that effect.

Commissioner Gross moved approval for the Commission to approach staff regarding noticing prior to meetings in hopes of getting a better response in attendance. Commissioner Carson entered a second to the motion.

Commissioner Scherer recommended the dates should go on a calendar as opposed to the emails. He then stated if the meeting was in the calendar and the day before the meeting the time was changed you often do not know that until it is too late. He had said that situation had happened to him three times.

Commissioner Nicholson asked if any Commission member could attend committee meetings as an alternate.

Chairman Rodriguez responded stating yes.

Mr. Dixon stated the commissioners did not have alternates.

Chairman Rodriguez explained Commissioner Nicholson was referring to being an alternate to sit in on TAC meetings.

Commissioner Vann asked if someone was listed as an alternate and a member of the TAC knew he was not going to be at the meeting could that member call the alternate directly to find out if they were available.

Mr. Richmond stated the issue came up a few years ago when there were no alternates. He stated one of the qualifiers for an alternate was the person needed to communicate with staff ahead of time.

Vote to approve the motion was unanimous. Motion carried.

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**

Commissioner Browdy presented the report of the Education POC. (See *Education POC Teleconference Meeting Minutes March 30, 2011.*)

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.

### **Electrical TAC**

Commissioner Turner presented the report of the Electrical TAC. (See *Electrical TAC Meeting Minutes April 4, 2011.*)

Chairman Rodriguez stated before the report was accepted Mr. Blair would read a motion framed relative to the TAC's deliberations for the Commission to vote on.

Mr. Blair stated the recommended motion to the Commission was for approval to authorize the Chairman of the Commission to work with DCA staff to draft a letter to Citizens Property Insurance Corporation regarding aluminum branch wiring remediation options, using the Electrical TAC's recommendation as the basis for the Commission's recommendations.

Commissioner Nicholson moved approval of the motion as stated. Commissioner Carson entered a second to the motion.

Commissioner Greiner stated the relevant code language would deem that the word "must" comply should be "shall". He stated he offered that as an amendment to the motion.

Mr. Blair stated he believed the way this would work it would not be providing code language but recommendations. He explained Citizen's Insurance asked the Commission to provide a technical recommendation regarding their policy relative to which mediation techniques or options were acceptable. He then stated the Electrical TAC's view was it should be all of those approved by the NEC. He continued by stating the letter should basically state these were recommendations of the Commission and that Citizen's Insurance would accept the various options.

Chairman Rodriguez asked Mr. Blair if he could clearly explain the issue to the Commission. He stated on one side there was the insurance industry asking that certain criteria be used. He then stated on the other side there was the NEC. He stated what Mr. Blair was trying frame the motion in a way that it would be appropriate to be used for interagency communication.

Mr. Blair stated it was fair to say there was nothing the Commission could do to force the insurance company to do anything. He then stated Citizen's Insurance has asked the Commission for its views and expertise on the issue to evaluate how they write their insurance policies.

Chairman Rodriguez asked what the TACs recommendation was.

Mr. Blair responded stating the TAC's recommendation was basically a code recommendation suggesting all NEC methods should be approved. He stated that recommendation would be the basis of the request to the agency, as an entity independent of the Commission and others, to make their recommendation regarding their policies which are impacting people in terms of cost of remediation. He further

stated their policy was stricter, only recognizing those methods approved or recommended by the Consumer Products Safety Commission and not additional methods or options available according to the NEC. He continued by stating the TAC reviewed the options and felt the ones in the NEC was the right way to go and the letter would reflect that recommendation back to Citizens in a respectful manner. He stated the letter would read

*“The Commission respectfully recommends you would allow the use of a number on your insurance policies for remediation of aluminum branch wiring allowing all of the option that are provided for in the latest edition of the NFPA.”*

Commissioner Gregory stated he had two questions: 1) Does **denial** of insurance coverage result from change in ownership of the property or in the renewal of existing policies? 2) Does the insurance carriers have any data to support there was no fire loss directly caused to these houses?

Commissioner Turner responded stating the TAC did not get into any of the underwriting requirements. He stated they did respond to fire safety reports which they dug up just to find out what the argument was. He then stated as of March 16, 2011, there were three remediation methods which Citizen’s Insurance would not accept. He continued by stating the TAC did not have any information regarding statistics.

Commissioner Gonzalez asked if in the future when there is a new Florida Building Code would the Commission use the NEC used in setting up these remediation options or would it use the then current one.

Mr. Richmond responded stating the Commission will be interacting with a private corporation that was not subject to the same restrictions. He then stated designating a specific edition would not be necessary. He continued by stating the TAC felt the NEC adequately provided for all valid life safety concerns and it should be a document recognized by this private company as an acceptable means for remediation. He further stated the Commission did not need to get into the legal technicalities of code editions and things of that nature because this will be used by this private corporation for their insurance business and would not be subject to the same regulations as the code.

Chairman Rodriguez asked if the motion was to be amended.

Mr. Blair responded stating he did not know how it could be amended.

Chairman Rodriguez asked Mr. Blair to restate the motion.

Mr. Blair restated the motion was *to authorize the Commission Chair to work with DCA staff to draft a letter to Citizens Property Insurance Corporation regarding aluminum branch wiring remediation options, using the Electrical TAC’s recommendation as the basis for the Commission’s recommendations.*

Vote to approve the motion was unanimous. Motion carried.

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

### **Hurricane Research Advisory Committee**

Mr. Blair presented the report of the Hurricane Research Advisory Committee. (See *Hurricane Research Advisory Committee Meeting Minutes, April 4, 2011*).

Commissioner Carson moved approval to authorize DCA to continue funding UF's existing roofing and soffit system research projects based on spending authority approved by the 2011 Florida Legislature for Fiscal Year 2011/2012, and to leverage additional funding sources to the extent possible (e.g., FEMA/DHS, NOAA/Sea Grant and RCMP/DEM). Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

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

### **Product Approval POC**

Commissioner Carson presented the report of the Product Approval POC. (See *Product Approval/Manufactured Buildings POC Meeting Minutes March 28, 2011*.)

Commissioner Carson moved approval to initiate revocation for FL#: 5753-R2 as a result the product having a non-compliant expired certificate, and for the applicant failing to upload the previously requested new certificate, including documentation demonstrating compliance with testing standard TAS 202. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

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

### **Roofing TAC**

Commissioner Schulte presented the report of the Roofing TAC. (See *Roofing TAC Meeting Minutes April 4, 2011*.)

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

Mr. ??? asked if public comment was heard before the Commission adopted.

Mr. Richmond offered clarification stating the only action being taken was the acceptance of the report. He then stated the action item in the discussion will be considered substantively by the TAC at the June Commission meeting in the course of the Code Development and Adoption process. He further stated at present the issue was not a discussion item before the Commission.

### **NEXT STEPS IN 2010 FBC DEVELOPMENT**

Chairman Rodriguez stated at the February 2011 Commission meeting the Commission voted unanimously to approve the Glitch amendment review and adoption process. He then stated staff posted and the Commission received electronically the procedures for TAC chairs working with staff to provide the Commission with recommendations regarding whether proposed Glitch amendments meet the adopted criteria and qualify as Glitch amendments, and the Commission's review and adoption process for considering and deciding on TAC chair/staff recommendations regarding Glitch amendments during the rule adoption hearing.

Mr. Blair reviewed the Glitch amendment Review Process. (See *Glitch Amendment Review Process*).

Commissioner Stone stated he thought the process sounded like a good process. He then stated he had only one problem referencing the area under the heading "Amendments Pulled For Individual Consideration", "*Each side (proponent/opponent) will be allowed one counterpoint opportunity collectively.*" He stated he did not the use of the word "*collectively*" there and would like to see the language revised.

Mr. Blair stated he could change the language to "*an opportunity for brief counter-point will be provided.*"

Commissioner Stone stated the change was good.

Commissioner Nicholson moved approval of the Glitch Amendment Review Process. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Madani presented an update of the 321 glitch amendments received. (See *Number of Modifications Submitted as Glitch Amendments.*)

### **COMMISSION MEMBER COMMENTS AND ISSUES**

Commissioner Schock asked if the "Financial Disclosure Form" would be sent to the Commissioners or if the commissioners should request the forms.

Mr. Richmond responded stating in the past the forms were sent to the commissioners. He stated he did not believe those particular forms were due until August. He further stated he normally received his forms around May or June. He continued by stating the hard deadline was around July, but fees were not imposed until around August

Commissioner Gregory thanked Chairman Rodriguez for his letter in support of his serving on the IBC's swimming pool code development committee. He stated an I-Code swimming pool code was forthcoming and will have to be evaluated for use in Florida. He then stated there was a Department of Health requirement to retrofit existing pools and spas that are not in currently in compliance with anti-entrapment requirements. He also stated the cost for retrofitting pools for the DOH gravity drain system was between \$10,000 and \$20,000. He further stated homeowners associations and mobile home parks were complaining this was a severe financial hardship. He stated, for the record, the state of Florida had never had a case of entrapment in one of its commercial pools. He continued by stating pool retrofits were going to be addressed during the legislative session and additional time was going to be allowed for compliance.

Commissioner Stone stated he had been using conference call software for many years with great success. He then stated he believed it was beneficial to the Commission and the facilitation of the calls with a cost reduction. He continued by stating for those participating in the conference calls he would like to request their phones not be put on speaker and then walk around because the other participants then can hear every background noise including the flushing of a toilet.

Commissioner Carson stated he seconded Commissioner Stone's comments. He then stated that was probably a new low for the conference calls. He further stated he would like to thank Mike McCombs for his persistence in this aluminum branch wiring/insurance issue. He stated he basically took on the insurance industry single-handedly and brought this issue out so it could be discussed.

Commissioner Turner stated he would also like to thank Mr. McCombs for his hard work on that issue, Mr. Dixon, for his patience and assistance, Mr. Blair for conducting the meeting on how to chair a TAC effectively, which was very helpful to him and to Mr. Madani and Joe Bigelow for their patience and assistance in teaching him how the code change process works.

Chairman Rodriguez thanked Commissioner Turner for his comments. He then stated it was not said often enough how valuable the staff is to the Commission.

## **GENERAL PUBLIC COMMENT**

*Jack Glenn, Florida Homebuilders Association*

Mr. Glenn stated he did not know Mr. Madani was going to give a presentation relative to the number of glitch amendments submitted. He then presented a Power Point presentation relative to those glitch amendments. He stated his concern that there was a high percentage of proposed Glitch Amendments in proportion to the number of approved Code Amendments, and suggested that if more time was allocated for TACs to review proposed amendments the number of Glitches would be reduced. He expressed support and appreciation for the concurrent Glitch Amendment and Code Adoption processes. He thanked Mr. Dixon, Mr. Madani and DCA staff for their responsiveness and assistance to stakeholder's requests.

Chairman Rodriguez thanked Mr. Glenn for his comments.

*David Brown, concerned citizen*

Mr. Brown first stated: many of the Codes contain "documents by reference." He then stated he believed a Building Code should stand on its own two feet and "documents by reference" should not be allowed, especially those that must be purchased because they are not freely available on-line – like those of the ASSE and AWWA. He continued by stating it seemed really wrong that the public had to spend money just to find out what they're being forced to comply with. He then stated: he firmly believes that the Building Code should not include devices that violate state and federal laws, as in Section 608, are RP (Reduced-Pressure Zone) and Double-check backflow valves which provide direct access into the public drinking water supply. He stated needless to say, the Bio-Terrorism Act, the Patriot Act, the U.S. Code and the Florida Safe Drinking Water Act frown on such devices. He then stated for example 18 U.S.C. 175 prohibits devices that are "delivery systems for bio-toxins", which these valves are. He summarized by stating these types of Code compliant backflow valves should be banned from the Florida Building Code.

Chairman Rodriguez stated as he understood it Mr. Brown's three issues were the reference codes, the dollar amount for citizens for citizens to be able to acquire the code and the back flow valves.

Mr. Brown stated relative to the back flow valves there would wind up being a conflict with the meter readings

Chairman Rodriguez stated staff would address the issues with Mr. Brown. He then stated the easiest one was the codes by reference. He then stated the dollar concern was a valid issue. He further stated staff would seek counsel on the third issue and get back in touch with Mr. Brown.

Mr. Blair stated a staff member would speak to him immediately following the close of the meeting and give him some ideas on what the next steps might be for all three of the issues. He then stated the second issue is the issue of conflict with federal



law and the building code allowing that. He continued by stating staff would talk to him about that and provide some guidance as well.

**ADJOURN**

10:55 a.m. adjourned.