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**Plenary Session**

**JUNE 7, 2022**

**8:30 A.M.**

## **Minutes**

### **COMMISSIONERS PRESENT:**

Michael Bourré, Vice-Chairman  
Donald Brown  
David Compton  
Charles Fischer  
Jeff Gross  
Rodney Hershberger

David John  
Paul Jones  
Brad Schiffer  
Brian Swope  
Tim Tolbert

### **COMMISSIONERS NOT PRESENT:**

James Schock, Chairman  
David Gilson

Brian Langille  
Grey Marker

### **STAFF PRESENT:**

Mo Madani  
Justin Vogel  
Thomas Campbell  
Jeff Blair

Jim Hammers  
Sabrina Evans  
Melissa Campos

### **MEETING FACILITATION:**

The meeting was facilitated by Jeff Blair from Facilitated Solutions, LLC. Consultation, Process Design & Facilitation. Information at: [facilitatedsolutions.org](https://facilitatedsolutions.org)

**Time: 8:30 a.m.**

Vice-Chairman Bourré welcomed Commissioners, staff, and members of the public to the June 7, 2022 virtual plenary session of the Florida Building Commission.

Vice-Chairman Bourré stated the primary focus of the June meeting, in addition to considering regular procedural issues, updates, briefings, and reports, is to conduct a Rulemaking Workshop for Rule 61G20-1.001, to amend the 7th Edition 2020 FBC to conform to the requirements of HB 423, SB 1140 and SB 4-D, to update the Energy Minimum Efficiency Standards for certain products subject to federal regulations, to approve the Commission's Annual Report, and to decide on research projects for FY2022-2023 funding.

Vice-Chairman Bourré stated that, as always, we will provide an opportunity for public comment on each of the Commission's substantive discussion topics. He advised that if anyone wanted to comment on a specific substantive Commission agenda item, that they please wait until the facilitator invites members of the public to speak at the appropriate times throughout the meeting. Vice-Chairman Bourré stated that public input is welcome, but should be offered before there is a formal motion on the floor.

Vice-Chairman Bourré advised that Jeff Blair will conduct roll call.

**Roll Call:**

Mr. Blair performed roll call for the Florida Building Commission. A quorum was determined with 11 members present at roll call.

**Agenda Approval:**

Commissioner Schiffer entered a motion to approve the agenda for today's meeting as posted. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 11 to 0.

**Approval of Previous Meeting Minutes for April 12, 2022:**

Commissioner Brown entered a motion to approve the minutes from April 12, 2022 as posted. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 11 to 0.

**Chairman's Discussion Issues and Recommendations:**

**TAC's Appointments:**

## **Florida Building Commission**

Commissioner Bourré stated that Brian Swope was reappointed to the Florida Building Commission. Brian is Vice-President of Tampa Roofing and is the Roofing or Sheet Metal Contractor representative on the Commission.

Commissioner Bourré stated that Mr. Tim Tolbert was appointed to the Florida Building Commission. Tim is the Building Official and Director of Building Services for Escambia County, and is filling the vacant Municipal County or District Code Official position. Tim was once a Commissioner and was welcomed back to the Florida Building Commission.

### **Milestones:**

Vice-Chairman Bourré reminded the participants that the updated Commission Milestones document is linked to the agenda for today's meeting and also on the BCIS.

### **Executive Director Announcements and Discussions:**

#### **A. Draft Annual Report for FY 2022-2023**

Mr. Campbell briefly informed the Commission about the draft annual report for FY 2022-2023.

### **Motion:**

Commissioner Brown entered a motion to adopt the Commission's FY 2021-2022 annual report to the 2023 Legislature, including the Commission action taking during the June 7, 2022 meeting, and to charge the Chair with reviewing and approving the final report prior to submittal to the Legislature and Governor. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 11-0.

#### **B. Financial Disclosure Forms**

Mr. Campbell explained that Commissioners are required to annually file a Form 1- Statement of Financial Interests with the Commission on Ethics by July 1. Mr. Campbell advised the Commissioners to complete and send the form according to the instructions provided on the form.

Mr. Campbell reminded everyone that the Commission's next meeting will be August 9, 2022 via webinar.

Mr. Campbell provided the Commission information on the upcoming meeting dates:

- August 9, 2022- Webinar-Teleconference Virtual Meeting
- October 11, 2022- On-site, Holiday Inn, Gainesville, Florida
- December 13-14, 2022- On-site, The Shore Resort & Spa in Daytona, Florida

Commissioner Hershberger entered the meeting, making the quorum 12.

### **Florida Building Code, 8th Edition, (2023) Update-Work plan Status**

Mr. Madani provided brief details on the status of the updated work plan for the Florida Building Code.

#### **Motion:**

Commissioner Schiffer entered a motion to approve the updated work plan and schedule for development of the 8th Edition 2023, Florida Building Code. Commissioner Hershberger seconded the motion. The motion was passed unanimously with a vote of 12 to 0.

#### **A) TAC Code Preliminary Recommendation Process**

Mr. Blair briefly reviewed the TAC code amendment review and recommendation process for development of the 8<sup>th</sup> Edition 2023, Florida Building Code.

#### **Motion:**

Commissioner Schiffer entered a motion to adopt the TACs' Preliminary Recommendations to the Commission - TAC Code Amendment Review and Recommendation Process for development of the 8<sup>th</sup> Edition (2023), Florida Building Code. Commissioner Compton seconded the motion. The motion was passed unanimously with a vote of 12-0.

#### **B) TAC Comment Review Final Recommendation**

Mr. Blair briefly reviewed the TAC second comment period review and final recommendation process for the Commission.

#### **Motion:**

Commissioner John entered a motion to adopt TACs' Final Recommendation to the Commission - TAC Review Process for Public Comments on TACs' Preliminary Code Amendment Recommendations Process for development of the 8<sup>th</sup> Edition, Florida Building Code. Commissioner Brown seconded the motion. The motion was passed unanimously with a vote of 12-0.

#### **C. FBC Code Approval Process**

Mr. Blair reviewed the Florida Building Commission code modification approval process for the Commission.

**Motion:**

Commissioner Schiffer entered a motion to adopt the Commission Code Amendments Review and Approval Process for development of the 8th Edition, Florida Building Code. Commissioner Brown seconded the motion. The motion was passed unanimously with a vote of 12-0.

**Rule Workshop for Rule 61G20-1.001**

Vice-Chairman Bourré explained that for this agenda item the Commission would conduct a Rule Workshop on Rule 61G20-1.001.

**A) Proposed code language for consistency with HB 423 and SB 1140**

Mr. Madani briefly provided details of the proposed Code language.

**Public Comment:**

John Farinelli provided a comment regarding the Code language.

**Motion:**

Commissioner John entered a motion to adopt the approved code language pursuant to Section 553.73(8), F.S., to update the Florida Building Code, 7<sup>th</sup> Edition (2020), to include the requirements of HB 423 and SB 1140 as proposed by DBPR staff, to proceed with rulemaking for Rule 61G20-1.001--- Florida Building Code adopted, and to delegate authority to Thomas Campbell to sign rulemaking documents on behalf of the Commission. Commissioner Batts seconded the motion.

The staff and Commission went into discussion regarding the proposed code language.

The motion was passed unanimously with a vote of 12-0.

**B) Update the Energy Minimum Efficiency Standards for Certain products for consistency with the Federal Minimum Energy Efficiency standards as established by U.S. Code of Federal Regulation, 10 CFR Part 430 subpart C, and Section 430.32.**

Mr. Madani briefly provided details on the update to the Energy Minimum Efficiency Standards for certain products for consistency with the Federal Minimum Energy Efficiency standards as established by U.S. Code of Federal Regulation, 10 CFR Part 430 subpart C, and Section 430.32.

**Public Comment:**

Joe Belcher, FHBA provided a statement that the Energy TAC had some concern regarding the Energy Minimum Efficiency Standards and is asking the Commissioners to contact DOE for clarification.

**Discussion:**

Mr. Vogel provided legal analysis of the Federal Minimum Energy Efficiency Standards as established by U.S. Code of Federal Regulation.

Mr. Madani informed the Commission he reached out to several individuals to get clarification on the issues being raised. He stated he contacted several manufactures and they are aware of the upcoming change, and he stated he will provide further details once he speaks to someone from the Department of Energy.

The staff and Commission went into discussion.

Vice-Chairman Bourré thanked the staff for working to get clarification and asked Mr. Madani to provide a list of the manufacturers he mentioned to Mr. Belcher and anyone in the public who wanted the list.

**Motion:**

Commissioner John entered a motion to adopt the approved code language pursuant to Section 553.73(8), F.S., to update the Florida Building Code, 7th Edition (2020), to include the U.S. Department of Energy's new HVAC efficiency requirements as proposed and revised by DBPR staff, and to proceed with rulemaking for Rule 61G20-1.001 — Florida Building Code Adopted, and to delegate authority to Thomas Campbell to sign rulemaking documents on behalf of the Commission. Commissioner Brown seconded the motion. The motion was passed unanimously with a vote of 12-0.

Commissioner Brown stepped away from the meeting, making the quorum 11.

**C) Proposed code language for Consistency with SB-4D**

Mr. Campbell informed the Commission that SB 4-D contains two specific tasks for the Florida Building Commission, with the first task being due in December 2022 and the second task due in December 2023.

Mr. Madani briefly provided details on the proposed code language to incorporate these changes into the Florida Building Code.

**Public Comment:**

Mike Silvers, FRSA asked whether this proposed item could go back to the proper TACs for more discussion.

Chris Dawson, FRSA and Associated Builders & Contractors of Florida asked that this proposed item go back to the proper TACs for more discussion.

**Motion:**

Commissioner Swope entered a motion to table the action on implementing the Code provisions of SB 4-D pending the relevant TACs meeting and providing recommendations to the Commission regarding DBPR staff's proposed code language pursuant to Section 553.73(8), F.S., to update the Florida Building Code, 7th Edition (2020), to include the requirements of SB 4-D providing for an exception to the 25% rule for roofs and to include condominium inspection requirements. Commissioner Tolbert seconded the motion. The motion passed with a vote of 10-1.

**Evaluation and Prioritization of research projects recommendation for Commission FY 2022-2023 Funding (HRAC's recommendation order and supporting documentation)**

Vice-Chairman Bourré briefly provided details on the HRAC's process for evaluating and prioritizing the research projects.

Mr. Blair briefly provided details on the Commission's process for evaluating and prioritizing the research projects.

**• Priority #1: Scored 9.2 out of 10**

Assessment of inspection reporting and building conditions in South Florida- Phase II- Jennifer Bridge- (UF \$90,000).

**• Priority #2: Scored 8.2 out of 10.**

Establishing inspection periods and preliminary recommendations for preventive measures for mid-rise buildings near Coastal and Inland South Florida Environments- Atorod Azizinamni (\$125,000)

**• Priority #3: Scored 7.2 out of 10.**

Assessing the need to modernize water penetration resistance test procedures- Forrest Masters (UF \$90,000-\$120,000)

**• Priority #4: Scored 5.8 out of 10.**

Assessment of durability requirements for concrete structural in Florida- Chris Ferraro (UF \$100,000).

• **Priority #5: Scored 4.5 out of 10.**

An Investigation of the factors leading to ridge vent failure and possible mitigation solutions- Cigdem Akan- (UNK- \$77,616).

• **Priority #6: Scored 3.2 out of 10.**

Wind-Induced loads on ground-mounted and ground ballasted systems- Ioannis Zisis (FIU \$118,000).

**Motion:**

Commissioner Swope entered a motion to approve funding the research projects for fiscal year 2022 - 2023 based on the HRAC's recommended priority order, and to charge DBPR staff with contracting, administering and overseeing the research, and negotiating scoping and funding levels as appropriate. Commissioner John seconded the motion. The motion passed unanimously with a vote of 11-0.

Commissioner Brown returned to the meeting, making the quorum 12.

**Accessibility Waiver Applications:**

1. **Bruton's Cigar Shop-Waiver 559-204 N. Collins St., Plant City 33139- Issue:** vertical accessibility to the roof top deck.

Mr. Vogel presented the waiver and advised that the Council recommended granting the request for vertical accessibility on the grounds of the historic nature of the property.

**Commission Questions:**

Commissioner Schiffer asked a question.

Mr. Vogel provided an answer to Commissioner Schiffer's question.

Commissioner Schiffer asked that the building official examine the stairway for Code compliance.

Mr. Vogel stated he can add the condition to the waiver.

**Motion:**

Commissioner Schiffer entered a motion to conditionally approve the waiver for vertical accessibility to the roof deck based on the historic nature of the property, with approval being conditioned on the applicant getting the local building official to examine the stairway for code compliance. Commissioner Batts seconded the motion. The motion was passed unanimously with a vote of 12-0.



### **Consideration of Application for Product and Entity Approval**

Commissioner Hershberger stated that the POC recommends approval of the consent agenda of 147 products.

#### **Motion:**

Commissioner Hershberger entered a motion for approval of the consent agenda of 147 products recommended for approval. Commissioner Compton seconded the motion. The motion was passed unanimously with a vote of 12-0.

Commissioner Hershberger stated that the POC recommends approval of the consent agenda of 14 entities.

#### **Motion:**

Commissioner Hershberger entered a motion for approval of the consent agenda of 14 entities recommended for approval. Commissioner Compton seconded the motion. The motion was passed unanimously with a vote of 12-0.

#### **Motion:**

Commissioner Hershberger entered a motion to approve the consent agenda of products with comments. Commissioner Compton seconded the motion. The motion was passed unanimously with a vote of 12-0.

#### **Motion:**

Commissioner Hershberger entered a motion to approve the consent agenda of products with comments recommended for conditional approval to the 2020 Code based on the conditions recommended by DBPR staff. Commissioner Brown seconded the motion. The motion was passed unanimously with a vote of 12-0.

### **Applications with comment by DBPR:**

There was no Commission action required regarding the June 2022 DBPR Applications.

### **Application for Accreditor and Advanced Course Approval:**

Commissioner Bourré stated the Education POC did not receive for consideration any accreditor applications or administratively approved courses.

**Motion:**

Commissioner Bourré entered a motion to approve advanced accredited course number 1098.0. Commissioner John seconded the motion. The motion passed unanimously with a vote of 12 to 0.

Commissioner Bourré entered a motion to conditionally approve advanced accredited courses numbers 1104.0 and 925.1. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 12 to 0.

**Legal:**

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

Mr. Vogel updated the Commission on outstanding legal matters relevant to the Commission.

**Declaratory Statements:**

Vice-Chairman Bourré advised that Justin Vogel will serve as legal counsel and review the petitions.

**DS 2022-014 by Brenton Franklin of Axis Management Inc.**

Mr. Vogel provided a brief description of the petition for declaratory statement.

**Commissioner's Question:**

Commissioner Brown asked a question regarding DS 2022-014.

Mr. Vogel provided an answer to Commissioner Brown's question.

**Petitioner:**

Mr. William Gibbs of Jacksonville, Florida stated he was the attorney for the petitioner. He provided the commissioners with the petitioner's questions and concerns.

**Petitioner's Question:**

- (a) Is the local Building Code Enforcement Agency limited to auditing a maximum of four individual permit inspections (on a per permit basis) performed by the same private provider per month?

Or

- (b) Does the local Building Code Enforcement Agency have the right to audit all of the private provider's permit inspections for all of the permits issued for a building project in the jurisdiction up to four times per month?

**Answer:**

Because Petitioner seeks a statement which would determine the conduct of persons other than itself, and because the question is one of general applicability and not tied to any specific set of circumstances involving the Petitioner's own potential conduct, the Commission declines to answer.

Mr. Vogel stated that he spoke with Mr. Gibbs regarding his questions and provided him with guidance.

**Motion:**

Commissioner John entered a motion to decline the Petition, on the basis that the Petitioner seeks a statement which would determine the conduct of persons other than itself, and because the question is one of general applicability and not tied to any specific set of circumstances involving the Petitioner's own potential conduct. Commissioner Brown seconded the motion. The motion was passed unanimously with a vote of 12-0.

**Binding Interpretation #239**

Mr. Madani provided the Commission with a report on binding interpretation #239

**Committee Reports and Recommendations**

**Education Program Oversight Committee:**

Commissioner Bourré provided a brief summary of the Education POC's May 26, 2022 meeting.

Commissioner Bourré entered a motion to accept the report from the May 26, 2022 meeting.

Commissioner Jones seconded the motion. The motion passed unanimously with a vote of 12-0.

**Energy Technical Advisory Committee:**

Mr. Madani provided a brief summary of the Energy TAC's June 1, 2022 meeting.

Commissioner John entered a motion to accept the report from the June 1, 2022 meeting.

Commissioner Compton seconded the motion. The motion was passed unanimously with a vote of 12-0.

**Hurricane Research Advisory Committee:**

Mr. Blair provided a brief summary of the Hurricane Research Advisory Committee's April 14, 2022 and June 1, 2022 meetings.

Commissioner Compton entered a motion to accept the report from the April 14, 2022 and June 1, 2022 meetings. Commissioner Hershberger seconded the motion. The motion was passed unanimously with a vote of 12-0.

**Product Approval Program Oversight Committee:**

Commissioner Hershberger provided a brief summary of the Hurricane Research Advisory Committee's May 26, 2022 meeting.

Commissioner Compton entered a motion to accept the report from the May 26, 2022 meeting. Commissioner Hershberger seconded the motion. The motion was passed unanimously with a vote of 12-0.

**Commissioner Comment:**

None

**Public Comment:**

None

**Adjourn Commission Plenary Session:**

Vice-Chairman Bourré stated the next meeting will be August 9, 2021 via webinar. He said there being no further business before the Commission at this time he would adjourn the Commission meeting. The meeting adjourned at 10:58 a.m.