

**FLORIDA BUILDING COMMISSION  
DOUBLE TREE BY HILTON  
DOWNTOWN TALLAHASSEE  
101 SOUTH ADAMS STREET  
TALLAHASSEE, FLORIDA 32301  
Plenary Session  
October 10, 2017  
8:30 AM**

***Revised*  
MINUTES**

**COMMISSIONERS PRESENT:**

Dick Browdy, Chairman  
James Batts  
Steve Bassett  
Donald Brown  
Bob Boyer  
Kelley Smith Burk  
Oscar Calleja  
Jay Carlson  
David Compton  
Nan Dean  
Kevin Flanagan  
Charles Frank  
Don Whitehead

Shane Gerwig  
David Gilson  
Richard Goff  
Jeff Gross  
Robert Hamberger  
Brian Langille  
Bradley W. Schiffer  
Frederick Schilling  
James Schock  
Drew Smith  
Jeff Stone  
Brian Swope  
Diana Worrall

**COMMISSIONERS NOT PRESENT:**

Hamid Bahadori

**OTHERS PRESENT:**

Thomas Campbell  
Mo Madani  
Chris Burgwald

Justin Vogel  
Jim Hammers

**MEETING FACILITATION:**

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

**Welcome:**

**Time: 8:30 am**

Chairman Browdy welcomed Commissioners, staff, and members of the public to Tallahassee and the October 10, 2017 plenary session of the Florida Building Commission. He stated the primary focus of the October meeting is to consider regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, and recommendations from our various committees and workgroups.

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

Chairman Browdy stated that there are also buff colored "*Public Comment Forms*" on the speakers' table that can be used to provide written comments. He said all written comments will be included in the Facilitator's Summary Report and asked that they please give their completed "*Public Comment Forms*" to Jeff Blair.

Chairman Browdy advised that some of the licensing boards located within the Department of Business and Professional Regulation have adopted rules regarding continuing education credits for attending Florida Building Commission meetings and/or Technical Advisory Committee meetings and stated if your board participates you may sign-in on the kiosk laptop provided in the meeting room.

**Roll Call:**

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

**Agenda Review and Approval:**

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

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

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

**Approval of the August 8, 2017 Facilitator's Summary Report and Meeting Minutes:**

Chairman Browdy requested a motion for approval of the August 8, 2017 Facilitator's Summary Report and Meeting Minutes.

Commissioner Schilling entered a motion to approve the August 8, 2017 Facilitator's Summary Report and Meeting Minutes as presented. The motion was seconded by Commissioner Schiffer. The motion passed unanimously with a vote of 26 to 0 in favor.

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

**Commission Appointment:**

Chairman Browdy stated that Don Whitehead has been appointed to the Commission for a term beginning August 18, 2017, and ending November 21, 2019. He said that Don is from Monticello, the safe and efficient facilities design manager for the Florida Department of Education, and is the Commission's new Public Education representative. Chairman Browdy welcomed Don to the Commission.

**Commission Re-Appointments:**

Chairman Browdy announced that Nan Dean has been reappointed to the Commission for a term beginning August 18, 2017 and ending April 5, 2021. He said that Nan is from Fort Myers, president of Dean Steel Buildings, Inc. and is the Commission's Manufactured Buildings representative.

**Commission Re-Appointments (cont.):**

Chairman Browdy announced that David Compton has been reappointed for a term beginning August 18, 2017, and ending January 13, 2021. He said that David is from Lutz and president of Bracken Engineering, Inc., and is the Commission's Structural Engineer representative.

Chairman Browdy announced that Jay Carlson has been reappointed to the Commission for a term beginning August 18, 2017 and ending February 11, 2021. He said that Jay is from Port Charlotte and president of Carlson and Soforth Construction, and is the Commission's General Contractor representative.

Chairman Browdy announced that Charles Frank has been reappointed to the Commission for a term beginning August 18, 2017, and ending March 11, 2021. He said that Charles is from Navarre, and is a training and research consultant for the Florida Department of Financial Services, and is the Commission's State Insurance Representative.

Chairman Browdy announced that David Gilson has been reappointed to the Commission for a term beginning August 18, 2017, and ending January 6, 2021. He said that David is from New Port Richey and is a building inspector for the City of Tarpon Springs, and is one of the Commission's Code Official representatives.

**TAC/POC Appointments:**

Chairman Browdy advised that he is appointing Commissioner Whitehead to the Special Occupancy TAC to fill the position vacated by Darrell Phillips. He thanked Don for agreeing to serve.

**Residential Construction Cost Impact Workgroup:**

Chairman Browdy advised that at the request of stakeholders he is appointing a Residential Construction Cost Impact Workgroup. He stated that appointments will be forthcoming and that he will announce them at the December meeting.

**Lightning Protection Workgroup:**

Chairman Browdy stated as a result of concerns regarding lightning protection made apparent during the 2017 Code Update process he is convening a Lightning Protection Workgroup to evaluate the issue. He said the Workgroup will meet on February 12, 2018 and if needed on April 9, 2018. Chairman Browdy advised that these dates are the day before scheduled Commission meetings. He stated that the following individuals are appointed to the Workgroup:

**Lightning Protection Workgroup (cont.):**

John C. Barber, Joe Belcher, Eric Boettcher, Jay Carlson, Ken Castonovo, Mike Dillon, Kevin Flanagan, Shane Gerwig, Jeffery Gross, Bryan Holland, Mark Morgan, David Rice, Jeffrey Sargent, Brad Schiffer, and Joseph Territo.

**Governor's Emergency Order Teleconference Call Briefing on Suspension of Statutes, Rules and Orders, made necessary by Hurricane Irma:**

Chairman Browdy advised that he was requested by the Governor to participate on a teleconference call on September 18, 2017 where Governor Scott provided an overview regarding his emergency order authorizing a state agency to suspend the provisions of any regulatory statute if strict compliance with that statute would in any way prevent, hinder or delay necessary action in coping with the emergency created by Hurricane Irma. He said as a result DBPR Secretary Jonathan Zachem ordered suspension of: 1.) The requirement for registered and certified Florida contractors to subcontract certain roofing work; 2.) Allowing local jurisdictions to issue specialty licenses without additional local ordinances for repair and installation of certain roofing work; and, 3.) Suspending DBPR fees for relocating or reopening businesses regulated by DBPR closed from damage caused by Hurricane Irma.

**Commission Milestones:**

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

**Executive Director Announcements and Discussions:**

**Implementation of Legislative Assignments:**

Mr. Campbell advised that the electronic registry required by 17-139, Laws of Florida, (HB 727) is under construction. He stated that the registry will hopefully be live on the BCIS by November 1, 2017. Mr. Campbell said that the implementation for 17-029, Laws of Florida, (HB 741) is complete. He advised that the surcharge rate has been reduced to 1% on the BCIS and all jurisdictions have been notified of the surcharge reduction. Mr. Campbell said that the implementation of 17-149, Laws of Florida, (HB 1021) is still ongoing with the Commission having completed its final rule workshop on rule 61G20-2.002 yesterday.

**Executive Director Announcements and Discussions (cont.):**

**Upcoming Commission Meeting Dates and Sites:**

Mr. Campbell provided the following list of future dates and sites for the Commission Meetings:

December 12, 2017-Mariott Hutchison Island

February 12-13, 2018-Embassy Suites, Baymeadows Jacksonville (February 12 Lightning Task Force)

April 9-10, 2018-Mariott Lake Mary outside Orlando (April 9 Lightning Task Force, if necessary)

June 12, 2018-Embassy Suites Altamonte Springs outside Orlando (TAC meetings will be conducted before and after the Commission meeting at this site).

**Communication with the Media:**

Mr. Campbell indicated that he has been receiving calls from the press regarding the effectiveness of the Florida Building Code in the wake of Hurricane Irma. Tom noted that DBPR's policy is for staff to refer calls from the media to DBPR's Office of Communications for the handling of all press inquiries. DBPR is requesting that Commissioners also refer press inquiries to DBPR's Office of Communications.

**Accessibility Waivers:**

Chairman Browdy advised that the Commission will now consider this month's requests for accessibility waivers. Justin Vogel will serve as legal counsel and present the Accessibility Advisory Council's recommendations.

**727 4th Street Eric Kamhi #267 - 727 4th Street, Miami Beach 33139-** The Council recommended to grant based on historic nature of the building.

Mr. Vogel presented the waiver.

Commissioner Worrall entered a motion to accept the recommendation of the Council to grant based on the historic nature of the building. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Accessibility Waivers (cont.):**

**Flamingo Real Estate & Management #268 - 900 Cleveland Avenue, Wildwood 34785** - The Council recommended to grant based on economic hardship.

Mr. and Mrs. Shoemaker were present at the meeting and provided an outline of their request.

Mr. Vogel presented the waiver.

Commissioner Worrall entered a motion to accept the recommendation of the Council to grant based on economic hardship. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Florida Food Products, LLC. #269 - 2231 County Road 44, Eustis 32726** - The Council recommended to grant based technical infeasibility.

Mr. Vogel presented the waiver.

Commissioner Worrall entered a motion to accept the recommendation of the Council to grant based on technical infeasibility. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Keiser University #263 - 2331 Northwood University Drive, West Palm Beach 33409** - Two Council members recommended denial of this request. One Council member recommended to grant based on the fact it would be unnecessary and unreasonable to require vertical accessibility to the press box since it would be eligible for the federal exception.

Mr. Vogel presented the waiver.

Andrea Keiser, Esq, Dunay, Miskel, and Backman, LLP, provided the Commission with extensive detail of the project for the press box as well as the history of the school.

Commissioner Worrall asked if the school receives federal funding and grants.

Ms. Keiser stated only through tuition and they are eligible for some grants.

Commissioner Hamberger asked for capacity of the stadium.

Ms. Keiser advised it is a 500 seat bleacher.

Commissioner Worrall stated she does not think the Commission can act on this as the school has program access under Title II and asked Mr. Vogel to speak on this.

**Accessibility Waivers (cont.):**

Mr. Vogel stated he is not familiar with what Federal obligations the school may have, however, the Commission can waive Florida requirements for accessibility.

Commissioner Worrall advised of the guidelines and she is against this waiver.

Commissioner Worrall entered a motion to deny the waiver. Commissioner Schiffer seconded the motion.

Commissioner Schock advised of the historical voting on these press boxes and he is voting against this motion.

Commissioner Flanagan asked if this is only the press box and if the bleachers were fully accessible.

Ms. Keiser stated yes.

Commissioner Brown asked about the past approval of the same and stated he is against the motion.

The motion failed with a vote of 2 in favor and 24 against.

Commissioner Schock entered a motion to accept the recommendation of the Council to grant as it would be unnecessary and unreasonable to require vertical accessibility to the press box since it would be eligible for the federal exception. Commissioner Gerwig seconded the motion. The motion passed with a vote of 25 in favor and 1 against.

The language of this motion was listed as Option #2 on staff analysis which was accepted by Commission Schock and Commissioner Gerwig.

**63 E. Pine Street - 2nd Floor Project #271 - 63 E. Pine Street, Orlando 32801** – The Council recommended to grant based on historic nature of the building.

Mr. Vogel presented the waiver.

Commissioner Worrall entered a motion to accept the recommendation of the Council to grant based on the historic nature of the building and economic hardship. Commissioner Boyer seconded the motion. The motion passed with a vote of 25 to 0 with one Commissioner out of the room at the time of the vote.

**Accessibility Waivers (cont.):**

Commissioner Bassett: suggested that elevator call buttons should be required to be located so they reduce the travel distance required to reach the button.

Commissioner Gross addressed the statement with the Federal ADA guidelines on the elevator buttons.

Commissioner Worrall: indicated that the cost estimates provided by waiver applicants for elevators seem high and vary widely.

Commissioner Gross: indicated that cost estimates sometimes include and sometimes don't include the additional costs required to accommodate the elevator such as the shaft structure which could account for the variability in costs.

**Product and Entity Approval:**

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

Commissioner Stone entered a motion to approve the 28 product approval entities as posted. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

Commissioner Stone entered a motion to approve the 30 products for the 2014 code on the consent agenda list. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

Commissioner Stone entered a motion to approve the 227 products for the 2017 code on the consent agenda list. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

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

**Product Approval Applications with Comments under 2014 Code Evaluation:**

**22366** – Commissioner Stone entered a motion for conditional approval of 22366. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Product Approval Applications with Comments under 2017 Code Evaluation:**

**22880** - Commissioner Stone entered a motion for conditional approval of 22880. The motion passed unanimously with a vote of 26 to 0 in favor.

**22881** - Commissioner Stone entered a motion for conditional approval of 22881. The motion passed unanimously with a vote of 26 to 0 in favor.

**13407 R6** – Commissioner Stone entered a motion for conditional approval of 13407 R-6. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**13789 R1**- Commissioner Stone entered a motion for conditional approval of 13789 R1. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**15779 R3** - Commissioner Stone entered a motion for approval of 15779 R3. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**17401 R4** – Commissioner Stone entered a motion for conditional approval of 17401 R4. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Product Approval Applications with Comments under 2017 Code Evaluation (cont.):**

**19613 R1**- Commissioner Stone entered a motion for conditional approval of 19613 R1. Commissioner Compton seconded the motion. The motion passed with a vote of 26 to 0.

**DBPR Applications:** No Action is Needed on the October 2017 DBPR Applications.

**Applications For Accreditor And Course Approval:**

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

Commissioner Dean entered a motion to approve advanced accredited course 843.0, 842.0, 835.0 and 847.0. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 25 to 0 in favor with Commissioner Schiffer abstaining.

Commissioner Dean entered a motion to approve the administratively approved updated course 689.1. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Applications For Accreditor And Course Approval (cont.):**

Commissioner Dean entered a motion to approve the administratively approved self-affirmed courses 821.0 and 725.0 with no changes. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

Commissioner Dean entered a motion to approve the administratively approved self-affirmed courses 661.1, 658.1, 659.0 and 660.1 with one change. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Legal Report:**

**FACBC Certification status update:**

Chairman Browdy noted that the Florida Accessibility Code for Building Construction (FACBC) was ready for certification concurrent with the effective date of the new ADA Standards for Accessible Design (SAD, 2010), and as reported numerous times since submittal in September of 2010 the Commission waits for a decision by the Department of Justice (DOJ). The Commission requested that Justin periodically communicate with the DOJ regarding the status of the Commission's application for certification of the FACBC, and to provide updates to the Commission.

Mr. Vogel stated that he was not able to speak with the DOJ regarding the Commission's pending application for certification of the Florida Accessibility Code for Building Construction (FACBC). Justin indicated that he left several messages and it appears that the DOJ is no longer returning his calls.

**Petitions for Declaratory Statements:**

**DS 2017-051 by Rhiannon Morris of Midway Services, Inc.:**

Mr. Vogel read the petition with response. He advised this was reviewed by the Mechanical TAC and they recommend the Commission approve the TAC's recommendation by unanimous vote to accept the staff analysis Option #1 Yes, as per Section 602.2.1 of the 5<sup>th</sup> Edition (2014) Florida Building Code, Mechanical, in order for the product in question to be installed in plenum-rated spaces, it must be noncombustible or it must be listed and labeled as having a flame spread index of not more than 25 and a smoke-developed index of not more than 50 when tested in accordance with ASTM E 84 or UL 723.

Commissioner Calleja entered a motion to approve the Mechanical TAC recommendation. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Petitions for Declaratory Statements (cont.)::**

**DS 2017-058 by Diane Magnus of Cronin Construction Corporation:**

Mr. Vogel advised that the applicant has withdrawn her declaratory statement request.

Commissioner Schilling entered a motion to issue an order dismissing the Petition based on the applicant's withdrawal of the Petition. Commissioner Swope seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**DS 2017-060 by Andrew Rodriguez of Architectural Design Collaborative:**

Mr. Vogel read the petition with response. He advised this was reviewed by the Plumbing TAC and they recommend staff recommendation unanimously.

Commissioner Schilling entered a motion to approve the Plumbing TAC recommendation. Commissioner Boyer seconded the motion. The motion passed with a vote of 19 in favor and 5 against.

**7th Edition (2020) Florida Building Code Update Development:**

Chairman Browdy advised as required by Section 553.73 (7)(a), F.S. the Commission shall adopt an updated Florida Building Code every 3 years through review of the most current updates of the International Building Code, the International Fuel Gas Code, International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code. He stated in order to comply with this statutory requirement it is now time for the Commission to initiate the 2020 Code Update Process by selecting the 2018 International Codes and 2017 NEC as the codes to review for the development of the 7<sup>th</sup> Edition (2020) Florida Building Code.

Arlene Stewart, AZS Consulting advised that "Energy Code" was not listed in the language and will need to be added.

Chairman Browdy asked for a motion to select the 2018 International Codes and 2017 NEC as the codes to review for the development of the 7<sup>th</sup> Edition (2020) Florida Building Code and add "Energy Code".

Commissioner Schiffer entered a motion to select the 2018 International Codes and 2017 NEC as the codes to review for the development of the 7<sup>th</sup> Edition (2020) Florida Building Code adding "Energy Code". Commissioner Hamberger seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Committee Reports:**

**Education Program Oversight Committee;**

Commissioner Dean provided a brief summary of the Education POC September 26, 2017 teleconference meeting.

Commissioner Dean entered a motion to accept the report from the September 26, 2017 teleconference meeting. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Energy Technical Advisory Committee**

Commissioner Smith provided a brief summary of the Energy TAC teleconference meeting held September 22, 2017.

Commissioner Smith entered a motion to accept the report from the September 22, 2017 teleconference meeting. Commissioner Calleja seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Mechanical Technical Advisory Committee**

Commissioner Bassett provided a brief summary of the Mechanical TAC September 27, 2017 teleconference meeting. .

Commissioner Bassett entered a motion to accept the report from the September 27, 2017 teleconference meeting. Commissioner Calleja seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Plumbing Technical Advisory Committee**

Commissioner Schilling provided a brief summary of the Plumbing TAC September 28, 2017 teleconference meeting.

Commissioner Schilling entered a motion to accept the report from the September 28, 2017 teleconference meeting. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Committee Reports (cont.):**

**Product Approval Program Oversight Committee**

Commissioner Stone provided a brief summary of the Product Approval POC meeting held September 28, 2017 teleconference meeting.

Commissioner Stone entered a motion to approve the report of the Product Approval POC meeting held September 28, 2017 via teleconference. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 26 to 0 in favor.

**Public Comments:**

**Commissioner Comments:**

Linda Patrick requested that the Florida Building Code be referred to by the Edition instead of the year in order to avoid confusion.

**The meeting was adjourned at 9:52 a.m.**