

**FLORIDA BUILDING COMMISSION CONCURRENT
WITH THE
PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE**

**Plenary Session
The Holiday Inn University Center Hotel
1250 W. University Center Avenue
Gainesville, Florida 32601**

[HTTPS://GLOBAL.GOTOMEETING.COM/JOIN/533378925](https://global.gotomeeting.com/join/533378925)

**October 11, 2022
8:30 A.M.**

Minutes

COMMISSIONERS PRESENT:

James Schock, Chairman
Michael Bourré
Donald Brown
David Compton
Jeff Gross

David John
Grey Marker
Brad Schiffer
Brian Swope
Tim Tolbert

COMMISSIONERS NOT PRESENT:

James Batts
Charles Fischer

Rodney Hershberger
Brian Langille

STAFF PRESENT:

Mo Madani
Justin Vogel
Thomas Campbell
Norman Bellamy

Jim Hammers
Sabrina Evans
Marlita Peters
Alex Ronda

MEETING FACILITATION:

The meeting was facilitated by Jeff Blair from Facilitated Solutions, LLC. Consultation, Process Design & Facilitation. Information at: facilitatedsolutions.org

Time: 8:30 a.m.

Chairman Schock welcomed Commissioners, staff, and members of the public to Gainesville and the 11 October 2022 plenary session of the Florida Building Commission.

Chairman Schock took the opportunity on behalf of the Florida Building Commission to offer our sympathy and our support to all those impacted by Hurricane Ian. The Florida Building Commission has continuously assessed building systems and component failures identified after major storms since its inception in 1998, and in response has funded research to strengthen the Code's effectiveness against wind and water intrusion based on these assessments. Each year the Commission's Hurricane Research Advisory Committee evaluates research proposals related to enhancing the wind and water intrusion provisions of the Code and provides the Commission with their recommended research project priorities for funding. We remain committed to this effort. In a few minutes we will receive an update regarding UF's preliminary building damage assessment from Hurricane Ian.

Chairman Schock stated the primary focus of the October meeting, in addition to considering regular procedural issues, updates, briefing and reports, is to review the Existing Building Inspection Workgroup's recommendations and to adopt the Florida Building Commission's Recommendations on Milestone Structural Inspection Requirements for ensuring that the milestone inspection requirements in SB-4D are sufficient to determine the structural integrity of a building.

Chairman Schock stated that, as always, we will provide an opportunity for public comment on each of the Commission's substantive discussion topics. If you want to comment on a specific substantive Commission agenda item, please wait until the facilitator invites members of the public to speak at the appropriate times throughout the meeting. Public comment will be limited to 3 minutes per person. Public input is welcome, but should be offered before the Commission begins discussion or there is a formal motion on the floor.

Roll Call:

Mr. Blair performed roll call for the Florida Building Commission. A quorum was determined with 10 members present at roll call.

Agenda Approval:

Commissioner Bourré entered a motion to approve the agenda for today's meeting as posted. Commissioner John seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Approval of Previous Meeting Minutes and Facilitator Report for June 7, 2022 and September 16, 2022:

Commissioner Gross entered a motion to approve the minutes from June 7, 2022 and September 16, 2022 as posted. Commissioner Bourré seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Chairman's Discussion Issues and Recommendations:

Chairman Schock announced that Commissioner Paul Jones resigned from the Commission effective September 8, 2022, due to work commitments. Mr. Jones served on the Commission beginning September 12, 2020 and served as the Plumbing TAC's Chair. He thanked Mr. Jones for his service on behalf of the citizens of Florida.

Chairman Shock announced that Commissioner David Gilson resigned from the Commission effective September 14, 2022, due to work commitments. Mr. Gilson served on the Commission from March 27, 2014 September 2022 and served as the Code Administration TAC's Chair. He thanked Mr. Gilson for his service on behalf of the citizens of Florida.

TAC Appointments:

Chairman Schock stated he appointed Commissioner Brown as Chair for the Code Administration TAC replacing Mr. Gilson. He thanked Commissioner Brown for agreeing to serve and Mr. Gilson for his services.

Updated Commission Milestones:

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

Executive Director Announcements and Discussions:

Mr. Campbell reminded everyone that the Commission's next meeting will be an on-site meeting on December 13-14, 2022 and stated he needs everyone to book two nights based on the anticipated length of the meeting.

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

- December 13-14, 2022- On-site, The Shores Resort & Spa in Daytona Beach Shores, Florida (Code mod approval)
- February 7, 2023-Virtual Meeting
- March 14, 2023- On-site, TBD
- April 11, 2023- Virtual Meeting
- June 20, 2023- On-site TBD
- August 15, 2023- Virtual Meeting

- October 17, 2023- On-site TBD
- December 12, 2023- Virtual Meeting

Florida Building Code, 8th Edition, (2023) Update-Work Plan Status

Mr. Madani provided brief details on the status of the update to the Florida Building Code.

Motion:

Commissioner Brown entered a motion to approve the updated Florida Building Code Workplan. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Preliminary Update Regarding the Survey of Buildings Damaged by Hurricane Ian by Dr. David Prevatt:

Dr. Prevatt briefly presented a slideshow presentation of the damage from Hurricane Ian.

Commissioners, staff, and the public asked questions of Dr. Prevatt.

Existing Building Inspection Workgroup's Recommendations for SB 4-D Assignment #1:

Mr. Blair briefly provided an overview of the process used by the Existing Building Inspection Workgroup to develop its recommendations.

Mr. Campbell briefly provided an overview of the Commission's report for SB 4-D Assignment #1.

Commission:

Commissioner Bourré asked Mr. Campbell some questions.

Mr. Campbell provided answers to Commissioner Bourré's questions.

Commissioner Compton asked Mr. Campbell a question.

Mr. Campbell provided an answer to Commissioner Compton's question.

Commissioner Schock provided an additional answer to Commissioner Bourré's question.

Commissioner Tolbert provided a comment.

Commissioner John asked Mr. Campbell a question.

Mr. Campbell provided an answer to Commissioner John's question.

Public Comment:

Rick Logan, AIA Florida, provided a comment and stated AIA Florida supports the qualification section on page 7 item IV.5.

Motion:

Commissioner Gross moved to adopt the Florida Building Commission's Recommendations on Milestone Structural Inspection Requirements, incorporating the Existing Building Inspection Workgroup's Recommendations, in fulfillment of SB 4-D Assignment #1, and to authorize DBPR to make editorial revisions as needed and to submit the Commission's recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2022. Commissioner Compton second the motion. The motion passed unanimously with a vote of 10 to 0.

Accessibility Waiver Applications:

- 1) **Days Inn, Ocala North – Waiver 574 – 3811 NW Blitchton Rd, Ocala 34484 – Issue:** Vertical accessibility to the second floor.

Mr. Vogel presented Waiver 574 and advised that the Council recommended granting the request for a waiver of vertical accessibility on the grounds of technical infeasibility.

Commissioner Compton stepped away from the meeting, making the quorum 9 members present.

Motion:

Commissioner Schiffer entered a motion to grant the waiver for vertical accessibility on the grounds of technical infeasibility. Commissioner Gross seconded the motion. The motion passed with a vote of 8 to 1.

Commissioner Compton returned to the meeting, making the quorum 10 members present.

- 2) **Gonzalez Office Building – Waiver 586 – 3375 Capital Circle NE #B, Tallahassee 32303 – Issue:** Vertical accessibility to the second and third floor.

Mr. Vogel presented Waiver 586 and advised that the Council recommended granting the request for a waiver of vertical accessibility on the grounds of economic hardship.

Motion:

Commissioner Schiffer entered a motion to grant the waiver of vertical accessibility on the grounds of economic hardship. Commissioner Gross seconded the motion.

Commission:

Commissioner Marker asked the staff a question.

Mr. Madani and Mr. Vogel provided an answer to Commissioner Marker's question.

Motion Continued:

The motion passed with a vote of 9 to 1.

- 3) 411-419 Michigan Ave – Waiver 590 – 411 Michigan Avenue, Miami Beach 33139 – Issue:** Vertical accessibility to the first floor.

Mr. Vogel presented Waiver 590 and advised that the Council recommended granting the request for a waiver of vertical accessibility on the grounds of historical significance and technical infeasibility.

Motion:

Commissioner Schiffer entered a motion to grant the waiver of vertical accessibility on the grounds of historical significance and technical infeasibility. Commissioner Gross seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Product Approval POC:

Mr. Blair informed the Commission that the Product Approval POC's meeting was cancelled due to Hurricane Ian and will now be held concurrently with the FBC meeting.

Mr. Blair provided the process of the concurrent meeting and stated the names of the 3 Product Approval POC members present.

Applications for Entity Approval:

Product Approval POC:

Mr. Blair advised there were 10 entities on the consent agenda for approval.

Motion:

Commissioner Compton entered a motion for approval of the consent agenda of 10 product approval entities. Commissioner Tolbert seconded the motion. The motion passed unanimously with a vote of 3 to 0.

Commission:

Chairman Shock stated that the Product Approval POC recommended approval of the consent agenda.

Motion:

Commissioner Compton entered a motion for approval of the Product Approval POC's recommended 10 product approval entities. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Product Approval POC:

Mr. Blair advised there were 147 product approval applications on the consent agenda for approval.

Motion:

Commissioner Compton entered a motion for approval of the consent agenda of 147 product approval applications. Commissioner Tolbert seconded the motion. The motion passed unanimously with a vote of 3 to 0.

Commission:

Chairman Schock stated the Product Approval POC recommended approval of 147 product approval applications.

Motion:

Commissioner Bourré entered a motion for approval of the Product Approval POC's 147 product approval applications. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Product Approval Applications with comment:

Product Approval POC:

Mr. Blair advised that application FL 41627 was recommended for approval.

Motion:

Commissioner Compton entered a motion for approval on application FL 41627. Commissioner Tolbert seconded the motion. The motion passed unanimously with a vote of 3-0.

Commission:

Chairman Schock stated that the Product Approval POC recommended approval of application FL 41627.

Motion:

Commissioner Compton entered a motion for approval of application FL 41627. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10-0.

Products Recommended for Conditional Approval

Product Approval POC:

Mr. Blair advised that application FL 41655 is recommended for conditional approval to allow the applicant to add two notes to the sheet 2-14 drawing, to state: GL2 is applicable to installations above 30' elevation or with approved hurricane impact shutters for all evaluations LMI - Level E (80ft per sec).

Motion:

Commissioner Compton entered a motion for conditional approval of application FL 41655. Commissioner Swope seconded the motion. The motion passed unanimously with a vote of 3-0.

Commission:

Chairman Schock stated that the Product Approval POC recommended conditional approval of application FL 41655 to allow the applicant to add two notes to the sheet 2-14 drawing, to state: GL2 is applicable to installations above 30' elevation or with approved hurricane impact shutters for all evaluations LMI - Level E (80ft per sec).

Motion:

Commissioner Compton entered a motion for conditional approval of application FL 41655. Commissioner Bourré seconded the motion. The motion passed unanimously with a vote of 10-0.

Application for Accreditor and Advanced Course Approval:

Commissioner Bourré stated the Education POC did not receive for consideration any accreditor applications. The Education POC reviewed 5 advanced accredited courses and recommend approval of courses 1105.0, 1109.0, and 1110.0.

Motion:

Commissioner Bourré entered a motion to approve advanced accredited courses 1105.0, 1109.0 and 1110.0. Commissioner John seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Conditional Approval:

Commissioner Bourré stated the Education POC recommend conditional approval of course 1111.0 and stated the course needs to come into compliance with the requirements of Rule 61G20-6.002, as detailed in the “Administrator’s Course Review Summary” before it can be approved.

Motion:

Commissioner Bourré entered a motion to conditionally approve advanced accredited course 1111.0. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Commissioner Bourré stated the Education POC recommend denial of course 1108.0 as it does not comply with the requirements of Rule 61G20-6.002.

Motion:

Commissioner Bourré entered a motion to deny course 1108.0. Commissioner John seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Legal:

Chairman Schock 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:

Chairman Schock advised that Justin Vogel will serve as legal counsel and review the petitions.

DS 2022-037 by Leo Amos

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

Petitioner's Questions:

1. Under Florida Statutes 486.604 (1) F.S. does this give FBC the power to delete the need for plans on re roofs when the State Statute requires a plan?
2. Does FBC have the ability to delete review of plans, when the State Statutes states under 486.604 (1) F.S. that it's the responsibility of the Building Official is to review plans before any permit is issued?
3. 3. Does FBC 107.1 give the power to the building official to delete both the need for plans and the review of plans for re-roof for residential property?
4. 4. Does FBC 107.1 give the power to a building official to use generic material names for materials used for re roofs?
5. Does FBC 107.1 give the power to the building official to allow the use of any building materials in a re-roof that aren't listed on his approval of so called material plans without knowing what the builder will use?
6. Can the building official approve of a flashing material that has no manufacture or installation instructions and still meet FBC?
7. Can my home be approved and Certified as meeting FBC and it fails to keep water out and fails to meet wind storm inspection can it still meet FBC and Certification?

Answer:

Petitioner's questions revolve around the powers and responsibilities of local building officials, in particular as the Petitioner feels they may have been applicable to the already-completed work that occurred on his roof.

Pursuant to Rule 28-105.001, F.A.C., "[a] declaratory statement is not the appropriate means for determining the conduct of another person." Furthermore, Petitioner's inquiry is not prospective in nature, and the courts have stated that "a petition for a declaratory statement which seeks approval or disapproval of conduct which has already occurred is properly denied." *Novick v. Dep't of Health*, 816 So. 2d 1237, 1240 (Fla. 5th DCA 2002) (citing *Chiles v. Dep't of State, Div. of Elections*, 711 So. 2d 151 (Fla. 1st DCA 1998)).

Because Petitioner seeks a statement which would determine the conduct of persons other than himself, and because this Petition involves conduct which has already occurred, the Commission declines to answer.

Motion:

Commissioner Brown entered a motion to approve the Code Administration TAC's recommendation for denial on the petition. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Committee Reports and Recommendations

Commissioner Marker, Schiffer, and Gross stepped away from the meeting, making the quorum 7 members present.

Code Administration Technical Advisory Committee:

Commissioner Brown provided a brief summary of the Code Administration TAC's September 27, 2022 and October 6, 2022 meetings.

Commissioner Brown entered a motion to accept the report from the September 27, 2022 and October 6, 2022 meetings. Commissioner Schiffer seconded the motion. The motion was passed unanimously with a vote of 7 to 0.

Commissioner Gross returned to meeting, making the quorum 8 members present.

Education Program Oversight Committee:

Commissioner Bourré provided a brief summary of the Education POC's October 4, 2022 meeting.

Commissioner Bourré entered a motion to accept the report from the October 4, 2022 meeting. Commissioner Schiffer seconded the motion. The motion was passed unanimously with a vote of 8 to 0.

Commissioner Marker and Schiffer returned to the meeting, making the quorum 10 members present.

Electrical Technical Advisory Committee:

Mr. Madani provided a brief summary of the Electrical TAC's October 6, 2022 meeting.

Commissioner Compton entered a motion to accept the report from the October 6, 2022 meeting. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Energy Technical Advisory Committee:

Mr. Madani provided a brief summary of the Energy TAC's September 16, 2022 and October 10, 2022 meetings.

Commissioner Compton entered a motion to accept the report from the September 16, 2022 and October 10, 2022 meetings. Commissioner John seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Existing Building Inspection Workgroup:

Mr. Blair provided a brief summary of the Existing Building Inspection Workgroup's August 9, 2022, September 13, 2022, and October 4, 2022 meetings.

Commissioner Compton entered a motion to accept the report from the August 9, 2022, September 13, 2022, and October 4, 2022 meetings. Commissioner Marker seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Fire Technical Advisory Committee:

Commissioner Schiffer provided a brief summary of the Fire TAC's October 10, 2022 meeting.

Commissioner Schiffer entered a motion to accept the report from the October 10, 2022 meeting. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Mechanical Technical Advisory Committee:

Commissioner John provided a brief summary of the Mechanical TAC's October 6, 2022 meeting.

Commissioner John entered a motion to accept the report from the October 6, 2022 meeting. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Plumbing Technical Advisory Committee:

Mr. Madani provided a brief summary of the Plumbing TAC's October 6, 2022 meeting.

Commissioner Compton entered a motion to accept the report from the October 6, 2022 meeting. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Residential Construction Cost Impact Workgroup:

Mr. Blair provided a brief summary of the Residential Construction Cost Impact Workgroup's August 17, 2022 meeting.

Commissioner Compton entered a motion to accept the report from the August 17, 2022 meeting. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Special Occupancy Technical Advisory Committee:

Mr. Madani provided a brief summary of the Special Occupancy TAC's October 7, 2022 meeting.

Commissioner Compton entered a motion to accept the report from the October 7, 2022 meeting. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 10 to 0.

Commissioner Comment:

None.

Public Comment:

None.

Staff:

Mr. Campbell stated that if anyone wanted a copy of the UF's report, he can provide it via email.

Adjourn Commission Plenary Session:

Commissioner Schock stated the next meeting will be December 13-14, 2022 on-site, at The Shores Resort & Spa in Daytona Beach. He said there being no further business before the Commission at this time he would adjourn the Commission meeting. The meeting adjourned at 10:03 a.m.