

**DRAFT**



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

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**JEB BUSH**  
Governor

**COLLEEN CASTILLE**  
Secretary

**BOARD MEETING  
OF THE  
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION  
January 13, 2004**

***PENDING APPROVAL***

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:30 a.m. on Tuesday, January 13, 2004, at the Adams Mark Hotel, Orlando, Florida.

**COMMISSIONERS PRESENT:**

Nicholas "Nick" D'Andrea, Acting Chair  
Christopher P. Schulte  
Randall J. Vann  
Hamid J. Bahadori  
Michael C. McCombs  
Herminio Gonzalez  
George J. Wiggins  
Craig Parrino  
John Calpini  
Christ T. Sanidas  
Leonard N. Lipka  
Peter Tagliarini  
Richard Browdy  
Stephen Corn  
Dale Greiner  
Paul D. Kidwell  
Jeffrey Gross  
Joseph "Ed" Carson

Suzanne A. Marshall  
Stephen C. Bassett  
Diana B. Richardson  
Doug Murdock, Adjunct Member

**COMMISSIONERS ABSENT:**

Raul Rodriguez, Chairman  
Do Y. Kim

**OTHERS PRESENT:**

Rick Dixon, Executive Director  
Jim Richmond, Legal Advisor  
Richard Shine, Legal Advisor  
Jeff Blair, FCRC

## **WELCOME**

Acting Chair D'Andrea extended a welcome to the Commission and the audience to the first meeting of 2004. He stated Chairman Rodriguez was not able to attend the meeting due to a family illness. He then announced Ila Jones was not in attendance due to a death in the family and extended condolences and asked the Commission members to remember the Rodriguez's and Ms. Jones' families.

Chairman D'Andrea stated the Commission will review and finalize the Annual Report to the Florida Legislature in addition to committee reports and declaratory statements. He assured the Commission and the public there will be a rule development workshop to begin the formal rule adoption process required by Chapter 120 for implementation of the Commission's approved amendments to the Florida Building Code, as well as the integration of the international family of codes. Chairman D'Andrea stressed there would be no additional rule development workshops and asked that all in attendance be prepared with any comments.

Chairman D'Andrea then extended a welcome to new Commission member Peter Tagliarini who is filling the architect position for the Commission.

## **REVIEW AND APPROVAL OF AGENDA**

Mr. Blair conducted a brief review of the meeting agenda as presented in each Commissioner's Agenda Packet.

Commissioner Lipka moved approval of the agenda. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## **REVIEW AND APPROVAL OF NOVEMBER 18, 2003 MEETING MINUTES**

Chairman D'Andrea called for corrections or additions to the November 18, 2003 Florida Building Commission meeting minutes.

Commissioner Schulte noted the minutes reflected he was not present at the meeting and he in fact was present. Chairman D'Andrea stated the minutes would be modified.

Commissioner Bassett requested a correction for the spelling of his first name. Chairman D'Andrea stated the correction would be made in the minutes.

Commissioner Vann noted the minutes reflected he was present for the meeting and he was not. Chairman D'Andrea stated the correction would be made.

Commissioner Browdy moved approval of the November 18, 2003 Commission

meeting minutes as amended. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Mr. Dixon stated there were no changes to the workplan. He then noted the location for the June 6, 7, & 8, 2004 meeting has been set for the Marriott Baypoint Hotel in Panama City Beach.

Commissioner Lipka moved approval of the updated workplan. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Chairman D'Andrea expressed appreciation on behalf of the Florida Building Commission to Karl Thorne for his years of outstanding service to the Commission, to the citizens of Florida, and to the architectural profession which he was appointed to represent. He then presented Commissioner Thorne with a plaque of recognition for service on the Commission.

Commissioner Thorne extended his gratitude for having the opportunity to serve on the Commission and stated it was a great and pleasurable learning experience.

Chairman D'Andrea then announced Technical Advisory Committee appointments. He stated Peter Tagliarini has been appointed to the Accessibility TAC; Robert Fine has been appointed to the Accessibility TAC; Kurt Tcherneshoff has been appointed to the Accessibility TAC; Randy Vann has been appointed to the Code Administration TAC; Chris Schulte has been appointed to the Product Approval Prototype Building Manufactured Building POC; and Do Kim has been appointed to the PA/PB/MB POC.

Chairman D'Andrea stated the proposed building department voluntary accreditation standards will be included in the Annual Report to the Legislature and must be accepted by the Commission prior to submittal to the Legislature. He then called Ronnie Spooner, President of BOAF, to speak about the project and his recommendations.

#### **Ronnie Spooner, President, BOAF**

Mr. Spooner thanked the Commission for allowing BOAF to work on the project. He stated BOAF had met with ICCIAS, who was the successful winner of the RFP for project. He named members of the project's BOAF committee: Chair Harold Law, Building Official, Sanibel Island; John Barrios, City of Tampa; Bill Dunbaugh, Broward County Board of Rules and Appeals; Jim Shot, City of Jacksonville; Rob Nagin, Pinellas County; and Bob Holsclaw, Retired Building Official. He stated there were numerous

others who sit in on the discussions concerning the proper process for voluntary accreditation.

Mr. Spooner stated the product produced, which has been distributed to the Commission members, is a very good product and a very good start to an effective program. (See *State of Florida Standard for Voluntary Accreditation of Building Departments December 12, 2003 Attachment*.)

Commissioner Lipka moved approval for the recommendations for the voluntary accreditation standards to be included in the Commission's Annual Report to the Legislature. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **REVIEW AND FINALIZE THE ANNUAL REPORT TO THE 2004 LEGISLATURE**

Chairman D'Andrea stated each year the Commission reports to the Legislature the key policy decisions, legislative assignments, and requests for legislative action. He continued stating during the November 2003 Commission meeting a package of recommendations for submittal to the 2004 Florida Legislature had been reviewed and approved. (See *The Florida Building Commission Report to the 2004 Legislature – Draft Attachment*.)

Chairman D'Andrea entered an issue for clarification. He stated the issue requiring clarification is the Commission's support for the architect's licensing board obtaining authority for architects to use electronic seal and signature. He explained last year the Commission was asked and agreed to support that board's initiative. However, the Commission was not asked to support the initiative in 2004 so the issue was not added to the draft annual report reviewed at the last meeting. Chairman D'Andrea then stated there would be explicit understanding if any third party approaches the Commission regarding supporting the issue, the Commission is still willing to lend support for the issue.

Commissioner Lipka then moved approval for submitting the amended 2004 Florida Building Commission Report to the Legislature. Commissioner Calpini seconded the motion.

Commissioner Parrino asked if Mr. Richmond would be reviewing any legislative issues that may need to be included in the report. However, direction on any new issues could be given to staff for lobbying purposes.

Mr. Richmond responded stating it would be too late to include additional issues in the report and recommended no further amendments to the report.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

**RULE ADOPTION HEARING ON RULE 9B-72 PRODUCT APPROVAL,  
SECTIONS 9B-72.030, RULES 9B-72.100 AND 9B-72.180**

Mr. Richmond opened the rule adoption hearing. He reminded the Commission there was language being deleted from 9B-72.030 reflecting that all products are subject to local approval as a result of POC action and Commission direction in August and September of 2003.

**PUBLIC COMMENT**

**Jaime Gascon, Miami-Dade County Product Control Division**

Mr. Gascon stated he was present during the POC meeting when the issue was discussed. He noted the section being stricken in 9B-72.030 has been explained to be relating to giving authority to the Commission to issue binding opinions for product approval for product use in local jurisdictions. Mr. Gascon stated the issue warrants further discussions concerning the effects of the authorization.

Mr. Gascon continued stating 9B-72.100 and 9B-72.180 had been thoroughly discussed at the POC and there are no objections to those issues.

Mr. Richmond stated the POC discussed the issue along with numerous issues raised by Commissioner Browdy during the July POC meeting. He added the Commission is prohibited from issuing declaratory statements regarding products that are not covered by Rule 9B-72 and leaving the language in the rule would envelope the entire representation of products. He continued stating the section had been noticed twice for rule adoption workshop during the November meeting and again for rule adoption for the January 2004 meeting.

**Lorraine Ross, Syntech Consulting, Representing Florida Building Code Alliance**

Ms. Ross offered comment stating in 9B-72.100(1)(a) item 6, the International Code Council, has not been represented correctly. She stated the correct title for the organization is International Code Council Evaluation Services with their acronym being ICC-ES. She added an editorial change would be to delete the word international and IES and replacing it with the correct title.

**Roland Temple, Velux America and WDMA**

Mr. Temple noted additional editorial changes. He stated in 9B-72.180(1)(c) it states ANSI/AAMA/NWWDA 101/IS-2 NAFS 2 and the title of the document is simply 101 IS2 NAFS 02, striking the acronyms in front. He then referenced No. 3 Organizations, NWWDA should be Window and Door Manufacturer's Association, formerly known as the

National Wood Window and Door, with the correct acronym being WDMA. He then expressed appreciation to the Commission for allowing the change to be submitted.

Joe Hetzel, DASMA

Mr. Hetzel added editorial comments. He referenced 9B-72.180(1)(d), DASMA 108-02 should read ANSI/DASMA 108-02 which was designated on the original document. He then referenced No. 3, Organizations, stating DASMA should read Door & Access Systems Manufacturer's Association.

Kari Hebrank,

Ms. Hebrank referenced 9B-72.100(1)(a)(6) stating it needs to be underlined as additional language. She then expressed appreciation to the Commission for responding to the door industry and bringing these issues forward.

Dennis Braddy, FMA

Mr. Braddy urged support for the Commission to be authorized to issue declaratory statements concerning product approval. He stated there are many questions being raised during the POC meeting from both industry representatives and building officials from around the state seeking information on how to use the system.

Mr. Richmond then closed public comment as well as the rule adoption hearing subject to Commission discussion and action. He requested there be no delay in finalizing the rule as it addresses the needs of the citizens and the manufacturers in the state. He then commented the editorial changes suggested during public comment may not be considered editorial from the Joint Administrative Procedures Committee perspective. He then requested a motion requesting approval of the editorial changes imposing no further delay to the adoption of the rule.

Commissioner Browdy moved approval to proceed with rule adoption for Rule 9B-72. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gonzalez offered comment asking if the vote was to approve all three items in the rule adoption including 9B-72-030.

Chairman D'Andrea confirmed the vote was to approve all three items.

Commissioner Gonzalez then stated he had researched the minutes back to the August meeting when Commissioner Browdy suggested the rule should be amended. He continued stating there was no official vote by the Commission regarding the issue. Commissioner Gonzalez then stated he would not be able to accept 9B-72.030 without it being heard during the POC.

Mr. Richmond stated the rulemaking was basically one collective rulemaking which means it is subject to only one vote. He then suggested a reconsideration would be necessary to change the intent of the vote.

Commissioner Browdy moved to reconsider for the purposes of the representative from Miami-Dade to document his position on the rule. Commissioner Wiggins seconded the motion to reconsider. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy then moved the adoption of Rule 9B-72. Commissioner Carson seconded the motion. Vote resulted in 14 in favor; 3 opposed. Motion carried.

### **RULE ADOPTION HEARING ON BUILDING CODE EDUCATION PROGRAM RULE 9B-70**

Mr. Richmond opened Rule Adoption Hearing on Building Code Education Program Rule 9B-70. He stated the amendment to 9B-70 reflects the Commission's educational shift concerning compliance with the core requirement by current licensees together with the creation and implementation of a course accreditation system within 9B-70.

Chairman D'Andrea called for public comment. No one approached for comment.

Mr. Richmond then closed the public comment portion of the hearing and opened for Commission discussion and action.

Chairman D'Andrea then called for Commission comment.

Commissioner Browdy offered comment in favor of the rule. He explained the education process is an evolutionary process which began initially with the Commission assuming total responsibility for the Building Code Training Program. He stated over the last few years following meetings with stakeholders and licensing representatives it has been discovered the industry and the licensees and stakeholders had envisioned a different program than what was originally legislated. Commissioner Browdy continued stating the rule in its current form is a product of a legitimate consensus building effort over a period of years.

Commissioner Browdy then moved approval of Rule 9B-70 as it is now stated in the record. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **REVIEW PENDING BUILDING CODE LEGISLATION**

Mr. Richmond stated during a period of time immediately following the holidays there were two bills brought forward which directly impact the Commission and the Code.

He explained one bill which was filed by Senator Constantine is directly related to the quality of construction issues referenced in the *Orlando Sentinel* series of reports. He stated the bill directs the Commission to conduct research and develop a report to be returned to the Legislature by January 15, 2005, concerning the quality of workmanship issues as well as materials issues. He stated the bill specifically authorize the Commission to contract for the purposes of performing the research allowing a great deal of latitude for accomplishing the task.

Mr. Richmond then stated there was a second bill which specified the inclusion of Hospice facilities within the Code and made the appropriate changes to the facility licensing statutes in Chapter 400, F.S., which has been thoroughly discussed by the Commission. He explained the bill is a portion of an earlier bill which has been removed for specific purposes. Mr. Richmond then noted Commission Wiggins had identified to staff a concern with a mold workgroup within the House under the direction of Representative Berfield from the west coast. He stated the Commission's legislative director has made contact with Representative Berfield's office and they have a meeting scheduled for the end of January. Mr. Richmond then stated Commissioner Parrino had raised two issues contained in SB 494 which were discussed during the November meeting. He then directed the Commission to Commissioner Parrino for further discussion.

Commissioner Parrino stated following the November Commission meeting, he reviewed SB 494 and discovered two additional legislative issues which were not discussed by the Commission. He stated the first issue was a repeat from last year's bill that did not pass concerning staff reviewing proposed modifications to the Florida Building Code for completeness empowering staff to reject proposed modifications not including a fiscal impact statement. Commissioner Parrino reminded the Commission exception had been taken and it had been decided that staff not be empowered to reject those modifications but they would be submitted to the Commission for action. He then asked the Commission to take action this year with the same considerations as last year.

Mr. Dixon offered further comment stating there was discussion last year regarding alternatives which included the chairman of the respective TAC, together with staff, reviewing the proposed amendments. An amendment could be rejected based on the Chair's decision.

Mr. Richmond added the element involving the TAC chairs and discussions can be considered by the Commission but would not be required to be in the statutes. He stated staff is always free to consult with the chairmen of respective TACs on any issue and the Commission may direct staff to consult the TAC chairs in this regard.

Commissioner Parrino expressed concern with the statute stating staff shall reject those Code modifications leaving the Commission or the TAC chairs with no authority to override a staff member in making the decision whether to reject the amendment.



Commissioner Wiggins added once the statutory requirement is mandated and if the Commission is ever privatized, then staff members of a private entity who are not subject to Florida law would be making decisions on public policy issues.

Mr. Richmond then stated as the language is written a proposed amendment would move forward. The modification simply allows elimination of those that are obviously incomplete from the docket of the TACs and the Commission, saving staff work and saving Commissioners from having to review items which are statutorily prohibited from adopting.

Commissioner Browdy recalled Mr. Richmond's comments were the reason the Commission raised the issue initially. He reminded the Commission many Code amendments were being submitted in improper form or incomplete. He further stated if staff were being asked to review Code amendments for issues other than technical completeness there would be a significant problem.

Commissioner Lipka expressed concern regarding what issues would be easily identified as technically incomplete in terms of staff review. He stated the TACs were developed for review and recommendation of Code amendments.

Mr. Richmond stated Mr. Glenn had just informed him the language would be stricken from the bill at its next committee review. He explained the sponsor has already agreed to remove it based on concerns expressed by the Commission last year.

Ms. Hebrank offered clarification stating the technical amendment issues remain a part of the bill, and it is the privatization language is being eliminated.

Commissioner Parrino moved approval to oppose the language as part of the bill. Commissioner Lipka seconded the motion.

Commissioner Corn suggested authorizing staff, with TAC chair approval, to reject forms based total technical completeness, not just on whether the fiscal impact statement is included.

Commissioner Parrino stated his concern was merely based on the fiscal impact statement being provided. He added Commissioner Corn's concern is valid as many proposed amendment forms are incomplete but beyond the fiscal impact statement the completeness of a form may get complicated. He expressed support for his original motion.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Parrino then addressed a change in legislation addressing truss placement diagrams in terms of when they are required to be signed and sealed by a

Florida registered architect and engineer. He reminded the Commission he had previously suggested the Commission not take a position on the issue. He stated the truss placement issue reappears in Senate Bill 494 with language indicating truss placement diagram would be required to be sealed if the Florida Building Code required it to be sealed. Commissioner Parrino expressed concern stating the Code then becomes a mechanism for regulating architect or engineer professions. He then moved approval for the Commission to take an opposing position against the language in SB 94 with regard to truss placement seal requirements. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond expressed appreciation for Commissioner Parrino addressing the issues which were overlooked during the November meeting.

Commissioner Wiggins offered clarification stating the original Senate Bill 1328 concerns Senator Constantine's construction quality issues.

### **CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS**

Mr. Mellick first presented a resolution to the Florida Wheelchair Foundation, a not for profit organization. He stated the resolution declares matching funds for each \$75.00 donation to provide wheelchairs to children, teens, and adults. Mr. Mellick continued stating the foundation provides at least 10,000 wheelchairs each month as well as providing wheelchairs to 75 countries throughout the world.

Mr. Mellick then presented the accessibility waiver applications in the order they were addressed during the Council meeting.

#### **#1 World Jet, Inc.**

Mr. Mellick reminded the Commission the case had been initially denied then deferred. He explained the application had been reviewed by the building department which subsequently missed the vertical accessibility requirement then realized later during the process. He stated the Council unanimously recommended denying the waiver due to lack of evidence of hardship.

#### **James Brown, Representing S & H**

Mr. Brown stated his company falls within 553.509(3), Occupiable spaces in rooms that are not open to the public and house no more than five persons. He stated he has an affidavit supporting there would be only four persons occupying the area. He continued stating the plans could be revised to reflect only four or five offices plus a storage space if necessary to satisfy the requirements.

Commissioner Wiggins requested clarification concerning the second floor which shows nine offices and two restrooms.

Commissioner Greiner moved approval of the Council's recommendation to deny. He stated the plans could be resubmitted to reflect only four offices upstairs. Commissioner Lipka seconded the motion.

Commissioner Richardson asked if the waiver could be deferred rather than denied.

Commissioner Greiner withdrew his original motion. He then moved to defer the waiver. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett expressed concern regarding the continuing misunderstanding among the building departments in terms of the 3,000 square foot rule versus the Florida specific requirements. He stated the Accessibility Code remains slightly unclear regarding the issue. Commissioner Bassett suggested emphasizing through the training courses the problem and explain the correct interpretation.

Commissioner Gross offered comment stating there had been a thirty-minute discussion during the Accessibility TAC regarding the issue. He stated the consensus was if the plan delineated the five persons accompanied by an affidavit, then the requirement would be met.

Mr. Long stated the Council had been presented a plan for new construction and based their recommendation on what was presented. He explained had the plan been presented as an alteration there would be no question regarding the issue.

Commissioner Browdy suggested the TAC require the plans to be stamped to reflect no more than a five-person occupancy to comply with 553 of the statute.

Commissioner Bassett expressed concern regarding the disproportionate cost issue being raised at a later date by new occupants after a waiver has been granted based on the five-person occupancy.

## #2 PlayPen South

Mr. Mellick explained the case stating the applicant is requesting waiver from providing vertical accessibility to a performing stage in an adult nightclub. He stated the Council recommended deferral in order to obtain additional information from the applicant.

Commissioner Browdy moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## #3 Holiday Inn – Indigo Lakes

Mr. Mellick stated the applicant is requesting a waiver from providing vertical accessibility to the second floor of a 179-room motel undergoing \$750,000 in alterations. He explained the Council recommended granting the waiver based on the provisions of 553.512 relating to 20% disproportionality with the condition that the required accessible rooms be placed on the first floor and installed prior to issuance of the CO.

Commissioner Greiner moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### #4 SunSouth Place Renovations

Mr. Mellick explained the case had been recommended for approval during the November Commission meeting then issues were raised concerning Title 2. He stated the Commission deferred the case to address Title 2 issues during the subsequent meeting. Mr. Mellick continued stating the Council recommended approving the waiver based on extreme hardship.

Commissioner Richardson moved approval of the Council's recommendation. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### #5 Belen Jesuit Preparatory School

Mr. Mellick presented the waiver application explaining the applicant was requesting waiver from providing vertical accessibility from a 240 square feet coaches' box constructed above the existing bleachers. He stated the Council recommended granting the waiver based on unnecessary, unreasonable, and extreme financial hardship.

Commissioner Browdy moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### #6 City of Hialeah Fire Station #3

Mr. Mellick explained the applicant was requesting waiver from providing accessible toilet facilities in a portion of the firehouse specific to the housing of firefighters. He stated the Council recommended approving the waiver based on extreme unnecessary financial hardship.

Commissioner Richardson moved approval of the Council's recommendation. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### #7 City of Hialeah Fire Station #2

Mr. Mellick stated the project had been designed under the UFAS. He stated the Council recommended approval based on unnecessary and in favor of the UFAS design criteria.

Commissioner Richardson moved approval of the Council's recommendation. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### #8 Hollywood 18 Regal Cinemas

Mr. Mellick stated the case had been heard and recommended for approval by the Council. He stated during the construction phase it was necessary to modify the request. He stated the Council recommended approval of the waiver as submitted based on unnecessary hardship.

Commissioner Lipka moved approval of the Council's recommendation. Commissioner Gross seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### #9 Cobb 16 Theater

Mr. Mellick presented the waiver stating the applicant was requesting waiver from providing vertical accessibility to every row of seats in a new \$6 million 6-screen theatre. He stated the Council recommended approval based on extreme hardship and because the submitted application and plans provided the additional accessible seats be installed in theatres 7 and 10.

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

### #10 Berggren Building

Mr. Mellick stated the applicant is requesting a waiver from providing vertical accessibility to the second floor of an existing office building undergoing a \$79,058 alteration. He stated the Council recommended approving the waiver based on the provisions of 553.512 relating to 20% disproportionate cost subject to the applicant voluntarily providing an accessible station in a room on the first floor measuring approximately 12' X 20'.

Commissioner Greiner moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#11 City of Miami Fire Rescue Station #1

Mr. Mellick stated the applicant is requesting a waiver from providing vertical accessibility to the second floor of an existing two-story fire station undergoing \$2,255,000 in alterations. He stated the Council recommended approving the waiver based on structural and technical infeasibility.

Commissioner Richardson moved approval of the Council's recommendation. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#12 Flagler Holding Group Building

Mr. Mellick stated the applicant was requesting a waiver from providing vertical accessibility to the second floor of an existing two-story fire station being converted to an office building undergoing \$164,000 alteration. He stated following much discussion and many issues raised, the Council recommended deferring the case to provide the applicant time to provide additional cost estimates and to provide legal counsel time to further investigate the issues discussed.

*Robert Fine, Attorney, Representing Flagler Holding Group*

Mr. Fine stated the basis for the waiver request is undue financial hardship. He continued stating during the Council meeting concerns were raised regarding the calculations for disproportionate costs in terms of proper building elements. He further stated the Council additionally requested further verification that the costs and estimates submitted were accurate. Mr. Fine asserted his calculations were correct and a DCA staff member had confirmed the calculations as well. He stated the Commission's legal counsel was present to offer further confirmation regarding the disproportionate costs calculations.

Mr. Fine apologized to the Commission for submitting only one estimate with the waiver application. He stated due to some personal medical concerns along with application deadlines he was unable to obtain a second estimate. He further stated neither the statute nor the administrative rule requires two estimates, although it is a request featured on the application itself.

Mr. Fine offered a brief explanation of the subject building which is located in the historic Buena Vista district of Miami's design district. He stated the upstairs tenant would be the only subject of the application explaining there are only two stairways to the second floor. He continued stating issues regarding path of travel required for wheelchair

maneuvers which are not feasible in the subject building. He reviewed some of the costs involved in attempting to provide vertical accessibility to the second floor and stated the total cost of the project is not to exceed \$165,000.00. He explained if the appropriate building elements not serving as primary function areas are subtracted from the total, the total cost is reduced to \$143,000.00. Mr. Fine stated the cost of providing vertical accessibility to the second floor of the subject building would exceed the level of hardship required in the disproportionate cost exception. He then respectfully requested the Commission grant the waiver from providing vertical accessibility.

Mr. Richmond offered comment stating Mr. Fine's communication with the DCA staff member being relayed to the Commission for consideration is not appropriate with the staff member not being present. He suggested since the matter is in litigation, consulting with counsel prior to communicating with staff members regarding active cases. He recommended the case be deferred to allow communication with all staff involved.

Mr. Shine offered clarification stating the Council made a recommendation to defer the application rather than deny the waiver. He stated when the costs are as close as they are in the subject case, a second estimate would strongly be recommended. Mr. Shine continued stating he had not had adequate opportunity to review the calculations and estimates presented and stated he disagreed with Mr. Fine's interpretation of the building elements to be included in the primary function areas in terms of the disproportionate cost analysis calculations.

Commissioner Wiggins requested clarification regarding the second stairway which is being added at the direction of the Fire Code. He stated the stairway did not appear to be in compliance with the Florida Building Code. He then moved approval of the Council's recommendation to defer the request. Commissioner Lipka seconded the motion.

Commissioner Richardson offered comment stating the definition of primary function according to the Code of Federal Regulations in the ADA Accessibility Guidelines is "a major activity for which the facility is intended..." She stated clearly the primary function area is not intended to include stairways or restrooms, etc. She expressed concern regarding subtracting areas to obtain disproportionality.

Commissioner Corn stated he would prefer three or four estimates although there is no requirement for more. He offered support for the petitioner and recommended approving the waiver.

Commissioner Browdy referenced the section for accessibility waivers on page 4 of the application which specifies two vendors or contractors then stated the Commission had adopted the application as part of the rule thus the requirement for two estimates would be part of the rule.

Mr. Shine concurred.

Chairman D'Andrea called for a vote on the motion to defer. Vote resulted in 16 in favor; 4 opposed. Motion carried.

#### #13 Mt. Sinai Missionary Baptist Church

Mr. Mellick stated the case requests waiver from providing the toilet and lavatory for heights specified for adults in a new classroom which will be utilized by children ages 5 to 8 years old. He stated the Council recommended granting the waiver based on the ADAG guidelines for children's facilities.

Commissioner Wiggins moved approval of the Council's recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### #14 Courthouse Center – Interior Alterations

Mr. Mellick stated the applicant requests waiver from providing vertical accessibility to the judges' benches in a judicial building undergoing \$1 million in alterations. He stated the Council concluded judge's benches fall under the automatic exemption of 553.509(3) which is not open to the public and does not house more than five occupants. Mr. Mellick stated the Council unanimously voted the waiver is not necessary based on the exemption of Florida Statutes, however recommended approval of the waiver since the request has been presented to the Council and Commission for review.

Commissioner Wiggins moved approval of the Council's recommendation. Commissioner Parrino seconded the motion.

Commissioner Richardson stated there are guidelines that are specific to judiciary facilities which are similar to the new recreation guidelines. She continued stating the courthouse center owners or responsible parties meet and exceed the guidelines set forth.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

#### #15 City of Miami Byron Carlyle Theater

Mr. Mellick presented the case stating the applicant requests waiver from having to provide vertical accessibility to all rows of seats in a facility undergoing \$1.7 million in alterations to convert the existing theatre to a performing arts center. He stated the Council recommended approving the waiver provided the mezzanine accessible seats meet the required turning spaces provided in Section 11-4.33.2 and Figure 46 of the Florida Building Code, based on extreme hardship.



Commissioner Browdy moved approval of the Council's recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman D'Andrea then read the resolution for the Wheelchair Foundation as prepared and presented by the Accessibility Advisory Council and the Florida Building Commission.

**LEGAL REPORTS AND CONSIDERATION OF PETITIONS FOR DECLARATORY STATEMENT:**

**Second Hearings-**

DCA03-DEC-266 by Robert C. Duncan

DCA03-DEC-277 by T. A. Krebs of T. A. Krebs Architect, Inc.

Mr. Richmond stated declaratory statement 277 and 266 had been recommended for dismissal. No Commission action required.

DCA03-DEC-296 by Michael Madden of Madden Manufacturing

Mr. Richmond stated the petitioner has obtained statewide product approval number 240 based upon evaluation of storm panels and their use in the state of Florida utilizing installation instructions. He continued stating the petitioner asks whether installers would be required to submit signed and sealed drawings of a product approved for statewide use by the Florida Building Commission for evaluation by a local jurisdiction when seeking a building permit. Mr. Richmond then stated the TAC recommendation was the local jurisdiction is only authorized to obtain proof of statewide approval for products that have obtained statewide approval and are being used in a manner that is consistent with the limitations of use identified by the statewide approval which does not require the petitioner to provide signed and sealed drawings of such products.

Commissioner Wiggins moved approval of the TAC recommendation. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA03-DEC-298 by Paul S. Roth of Roll-A-Way Protective Pool Fence

Mr. Richmond stated the petitioner asks whether statewide product approval is available to approve the product as a structural component of the building. He stated additionally the petition indicates an alternative product which would be part of the building envelope pursuant to Rule 9B-72. Mr. Richmond stated the POC had not considered whether the product should be considered a new and innovative product as

part of the building envelope. He continued stating the POC recommended the alternative product is not a similar product therefore does not fall under the “other” category, additionally the product is not an envelope product therefore not subject to statewide approval as a new or innovative product comprising a building’s envelope.

Commissioner Wiggins moved approval of the Council’s recommendation then asked if the word “catch all” is a legal term. Commissioner Corn seconded the motion.

Mr. Richmond responded stating legal terminology is not limited to identified words. He stated the term was used for description and has been used in decisional law as well. He then stated “catch all” categories has been used throughout the statutes.

Commissioner Parrino offered comment referencing item number 5 concerning the pool barrier not being listed in the subcategory of products. He stated the issue is that the pool barrier does not meet the definition of structural components. Commissioner Parrino then offered as a friendly amendment inclusion of the definition of structural component as part of item 5.

Commissioner Wiggins accepted the friendly amendment.

Chairman D’Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

### **First Hearings-**

#### DCA03-DEC-309 by Van Gladfelter, P.E. of Center for Innovative Structures

Mr. Shine stated the petitioner asked if when designing a building using the partially enclosed design option, are the interior partitions, ceilings, doors, etc., required to be designed for additional internal pressure. He continued stating the TAC recommendation was no, neither the Florida Building Code nor ASCE 7-98 require the interior partitions, ceilings, etc., to be designed for additional internal pressure.

Commissioner Parrino moved approval of the TAC recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### DCA03-DEC-322 by T. A. Krebs of Krebs Architect, Inc.

Mr. Shine explained the case had been deferred to the local appeal board. No Commission action required.

#### DCA03-DEC-331 by Randall Shackelford, P.E. of Simpson Strong Tie

Mr. Shine stated the petition was withdrawn by the applicant. No Commission

action necessary.

DCA03-DEC-330 by Martin Dragomirecky of Gabor Horvath and Ilona Horvath

Mr. Richmond first corrected the case number to read DCA03-BC-330 which had been corrected on the final version of the agenda. He stated the petition is an appeal from the determination of a local board specifically relating to an unsafe buildings finding in a partially completed structure in the city of Ponce Inlet. He continued stating the case presents intricate issues and is currently under legal review for determination on where to refer the case; i.e., whether to bring it back before the Commission in March or to send it to the Division of Administrative Hearings if necessary. Mr. Richmond stated legal counsel would be presenting a follow-up report and potential action for the Commission at the March meeting. He further stated there is no Commission action needed at this time concerning the case.

Commissioner Wiggins asked if there was a provision stating the Florida Building Commission could not make a determination regarding a local appeal of a demolition of an unsafe building.

Mr. Richmond responded stating there is a provision in Chapter 553 which states Commissioner Wiggins' comments coupled with the local board making a finding of immediate danger to the health, safety, and welfare of the general public. He explained in the subject case the local board found there was a danger but not an immediate danger.

**CONSIDERATION OF APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL**

Mr. Blair reminded the Commission of the product approval process in terms of the four compliance methods.

Commissioner Carson directed the Commission to the matrix which was prepared by staff for reference during the approval process. (See *Product Approval Applications Attachment*.)

***Certification Mark or Listing***

Mr. Blair first presented product approval items appearing in the *Certification Mark or Listing Code Compliance Method* as a consent agenda. He stated the applications were deferred from the November meeting, reviewed by the POC at this meeting, and recommended for approval. The application numbers were as follows: 542, 549, 600, 694, 742, 812, 850, 851, 852, 854, 974, and 982.

Commissioner Wiggins moved approval of the TAC recommendations. Commissioner Parrino seconded the motion. Vote to approve the motion was

unanimous. Motion carried.

Mr. Blair presented the second consent agenda appearing in the *Certification Mark or Listing Code Compliance Method* in the matrix. He stated the application numbers as follows: 561, 607, 635, 636, 638, 661, 684, 993, 995, 996, 1003, 1005, 1006, 1007, 1010, 1011, 1012, 1026, 1030, 1035, 1036, 1061, 1062, 1064, 1075, 1084, 1085, 1086, 1089, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1100, 1101, 1147, 1148, 1149, 1150, 1153, 1154, 1155, 1156, 1163, 1164, 1170, 1172, 1185, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1214, 1215, 1222, 1227, 1231, 1232, 1233, 1234, 1238, 1241, 1242, 1246, 1251, 1252, 1253, 1259, 1262, 1264, 1265, 1272, 1273, 1274, 1275, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1293, 1303, 1305, 1306, 1307, 1312, 1322, 1325, 1327, 1328, 1355, 1356, 1363, 1364, 1366, 1367, 1368, 1369, 1374, 1378, 1384, 1385, 1386, 1398, 1399, 1400, 1402, 1403, 1424, 1435, 1439, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1454, 1456, 1457, 1458, and 1462.

Commissioner Wiggins moved approval of the TAC's recommendation to approve the product applications. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair then presented *Certification Mark or Listing* individual applications for which the Commission will consider TAC action.

599      Conditional Approval      Applicant to indicate HVHZ only statement in limitations of use.

*Jaime Gascon, Miami-Dade County Building Code Compliance Office*

Mr. Gascon stated the application contains a statement of limitations of use. He continued stating the POC discussion indicated the limitations had to further define that the product was only limited for use in the high velocity hurricane zone. He reminded the Commission the item had been discussed in previous meetings and it was determined the limitations would not be included in the standard conditions of use. Mr. Gascon suggested there is an inconsistency in attempting to define the limitations of use in some applications and not in others. He urged the Commission if the limitations will be defined with one product, perhaps all products' limitations of use should be defined as well.

Commissioner Browdy asked why there would be a limitation for a high velocity hurricane zone when that would be an excessive requirement. He posed if the product meets the requirements of the high velocity hurricane zone, why would it not meet the requirements of all other jurisdictions with the same intent of use.

Commissioner Parrino explained the opposite is true in the subject case. He stated for this particular product, the high velocity hurricane zone is less restrictive than the rest of the state because the 33% increase in stresses in steel is allowed in the high velocity hurricane zone but not in the rest of the state.

Carrie Hebrank, Florida Building Materials Association

Ms. Hebrank expressed concern regarding the subject product being approved. She stated the product would only be allowed to be used in two of the 67 counties, however if a statewide approval number is issued, it may be assumed that the product can be used in all 67 counties.

Commissioner Parrino added the recommendation from the TAC was to approve the product for statewide use provided the manufacturer adds to the statement on limitations of use that the 33% increase in stresses should be backed out of the design values when used outside the high velocity hurricane zone.

Commissioner Wiggins moved approval of the TAC recommendation. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

1140    Deferred                      Defer to March meeting. Add compliance from UL or other than Miami-Dade.

Commissioner Browdy moved approval to defer the application. Commissioner Corn seconded the motion.

Commissioner Bassett requested additional information regarding the application.

Commissioner Carson responded stating it was noted Miami-Dade County had been used for the applicant's certification for one product on the application but not all items listed.

Commissioner Parrino added BCIS does not allow multiple certification agencies under one product application. He stated all certification agencies on the application need to be verified which is why the application was recommended for deferral.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

1201    Conditional Approval    Indicate the appropriate certification agency.

Commissioner Wiggins moved approval of the TAC recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous.

1397    Deferred                      Defer to March meeting. Add compliance from UL or other than Miami-Dade.

Commissioner Browdy moved approval to defer the application. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

1411 Denied NOA not yet effective.

Commissioner Parrino stated the POC action to deny will require a negative roll call for Commission action.

Commissioner Browdy moved approval of the POC action to deny. Commissioner Wiggins seconded the motion.

Commissioner Bassett asked if the NOA will be effective and if so, if the application should be deferred rather than denied.

Commissioner Parrino responded stating the application did not include a complete NOA. He stated when reports are submitted to the Commission which are not final, action to deny will set a precedence for future applications.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimously opposed. Motion failed.

***Evaluation Report from a Florida Registered Architect or Florida Professional Engineer***

Mr. Blair stated the POC recommended approval for the following items: 49, 828, 920, 1004, 1024, 1048, 1049, 1109, 1112, 1115, 1145, 1167, 1189, 1202, 1203, 1204, 1205, 1220, 1266, 1267, 1270, 1271, 1308, 1324, 1365, 1383, 1387, 1404, 1416, 1423, and 1430.

Commissioner Browdy moved approval of the POC recommendation to approve the applications. Commissioner Lipka seconded the motion. Vote to approve the motion resulted in 20 supporting the motion and 1 opposed (Gonzalez). Motion carried.

804 POC recommended to defer to March meeting, identification of product

Commissioner Parrino stated the application was thoroughly reviewed by the POC and deferral was recommended resulting from a public comment that the report did not clearly state the material which composed the product. He continued stating he has further reviewed the report and it does include the product material but does not include the test report. Commissioner Parrino then moved to conditionally approve the product application pending staff obtaining the test report from the manufacturer. Commissioner Gross seconded the motion. Vote to approve the motion resulted in 20 supporting the motion and 1 opposed (Gonzalez). Motion carried.

### ***Evaluation Report from a Product Evaluation Entity***

Mr. Blair presented the following items under a consent agenda: 241, 379, 471, 674, 889, 985, 998, 1000, 1022, 1037, 1042, 1046, 1051, 1068, 1080, 1139, 1146, 1173, 1175, 1177, 1182, 1212, 1218, 1221, 1225, 1226, 1228, 1229, 1230, 1247, 1250, 1255, 1258, 1318, 1339, 1344, 1345, 1347, 1358, 1371, 1379, 1405, 1406, 1410, 1429, 1431, 1432, 1453, and 1463.

Commissioner Lipka moved approval of the POC recommendation to approve the applications. Commissioner Carson seconded the motion.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion resulted in 19 supporting and 1 opposed (Gonzalez). Motion carried.

Commissioner Bassett expressed appreciation to staff for providing the product approval application matrix.

### ***Testing Report***

Mr. Blair presented as a consent agenda the following applications which were recommended for approval by the POC: 909, 976, 1001, 1107, 1116, 1296, 1321, and 1433.

Commissioner Lipka moved approval of the POC recommendation. Commissioner Gross seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson presented 9 recommendations for entity approvals:

#### **#1 APA Engineered Wood Association – Testing Laboratory**

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#### **#2 Architectural Testing Inc. – Testing Laboratory**

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#### **#3 Momentum Technologies, Inc. – Testing Laboratory**

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#### **#4 Southwest Research Institute – Testing Laboratory**

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#5 Stork Twin City Testing – Testing Laboratory

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#6 Terrapin Testing Inc. –Texas – Testing Laboratory

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#7 APA The Engineered Wood Association – Quality Assurance Entity

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#8 Southwest Research Institute – Quality Assurance Entity

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

#9 Western Technologies, Inc. – Quality Assurance Entity

Commissioner Greiner moved approval of the POC recommendation to approve. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous.

**COMMITTEE REPORTS AND RECOMMENDATIONS**

**Accessibility TAC**

Commissioner Richardson presented the report of the Accessibility Technical Advisory Committee. (See *Accessibility Technical Advisory Committee Meeting Minutes* Attachment.)

Commissioner Lipka moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

**Code Administration TAC**



Commissioner Wiggins presented the report of the Code Administration Technical Advisory Committee. (See *Code Administration Technical Advisory Committee Meeting Minutes* Attachment.)

Commissioner Wiggins moved approval to accept the report of the Alternate Plans Review and Inspections Work Group. (See *Proposed Alternative Plans Review and Inspections Work Group Plan* Attachment.) Commissioner Lipka seconded the motion.

Commissioner Browdy offered comment stating as the group is reconvened to determine the efficacy of the program, it would be important to enhance the group not just reconstituting it with the same members. He stated it appeared the contract owners of homes are an affected group but were not sufficiently represented by the previous work group.

Mr. Dixon interjected no Commission action is necessary regarding the private provider inspection report. He stated the TAC action regarding additional Chapter 17 requirements for special inspections was directed to staff to develop the draft for the Code which will be discussed during the March meeting during the rule development workshop.

Chairman D'Andrea called for a vote on the motion to accept the Alternate Plans Review and Inspections study plan. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins asked if the work plan required Commission action.

Mr. Dixon responded stating the work plan was a proposed implementation of previous Commission action. He stated the Commission had determined it should use its existing authorities to interpret law to help implementation in the near term and to identify any problems requiring statutory changes through a longer term process. He recommended Commission action in terms of implementing the work plan recommended by the committee.

Commissioner Wiggins moved approval to implement the recommendations proposed in the Alternate Plans Review and Inspections Work Plan. Commissioner Corn seconded the motion.

Commissioner Sanidas recommended the Commission review Senator Constantine's bill SB 1328 where he proposed plans review procedures and findings and intent.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion resulted in 18 in favor; 3 opposed. Motion carried

Commissioner Parrino moved approval of the Code Administration TAC report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Electrical TAC**

Commissioner McCombs presented the report from the meeting of the Electrical Technical Advisory Committee. (See *Electrical Technical Advisory Committee Meeting Minutes* Attachment.)

Commissioner Browdy moved approval of the report. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Energy TAC**

Commissioner Corn presented the report of the Energy Technical Advisory Committee. (See *Energy Technical Advisory Committee Meeting Minutes* Attachment.) He then explained the TAC recommended approval of a change in Section 415 Lighting Standards because the 1999 Code and the 2002 Code were different with federal law requiring the 1999 Code and ASHRAE using the 2002 Code chart. He then requested the Commission approval to change the section to the ASHRAE 2002 chart.

Mr. Richmond offered clarification stating ASHRAE has created a chart to address the issue with minor changes.

Commissioner McCombs moved approval to approve the change to Section 415. Commissioner Carson seconded the motion.

Commissioner Bassett offered a friendly amendment to reference Appendix G of the ASHRAE standard. The friendly amendment was accepted. Vote to approve the motion was unanimous. Motion carried.

Commissioner McCombs moved approval of the TAC report. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Fire TAC**

Commissioner D'Andrea presented the report of the Fire Technical Advisory Committee. (See *Fire Technical Advisory Committee Meeting Minutes* Attachment.)

Commissioner Calpini moved approval of the TAC report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## **Mechanical TAC**

Commissioner Bassett presented the report of the Mechanical Technical Advisory Committee. (See *Mechanical Technical Advisory Committee Meeting Minutes Attachment*.)

Commissioner Calpini moved approval to accept the TAC report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## **Structural TAC**

Commissioner Parrino presented the report of the Structural Technical Advisory Committee. (See *Structural Technical Advisory Committee Meeting Minutes Attachment*.) He expressed appreciation to staff for their assistance in providing charts to assist with the Structural TAC discussions.

Commissioner Parrino requested Commission initiate whatever plan necessary legislative to seek change to delegate authority to the Florida Building Commission to update ASCE 7 Wind Standard. He explained the issue is highly political and suggested if the Commission accepts the TAC recommendation it be placed in the Commission workplan for discussion later in the year.

Commissioner McCombs moved approval to accept the TAC recommendation to initiate the necessary legislative change to delegate to the Commission authority to update ASCE 7 standard. Commissioner Browdy seconded the motion.

Mr. Dixon asked if the intent was to try to get legislative change in the upcoming legislative session.

Commissioner Parrino responded stating it is his opinion it is too late to recommend it to the 2004 Legislature, however the Commission could include it on the workplan in 2004 for discussion and make the formal request to the 2005 Legislature.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval to accept the Structural TAC report. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## **Plumbing TAC**

Commissioner Greiner presented the report of the Plumbing Technical Advisory Committee. (See *Plumbing Technical Advisory Committee Meeting Minutes Attachment*.)

Commissioner Vann moved approval to accept the report. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Product Approval/Prototype Building/Manufactured Building Programs Oversight Committee (POC)**

Commissioner Carson presented the report and recommendations of the PA/PB/MB POC. (See *Product Approval/Prototype Building/Manufactured Building Programs Oversight Committee Meeting Minutes Attachment*.) He requested Commission action to authorize staff to conduct a Product Approval Workshop dealing with the Building Code Information System enhancements and to identify issues for Rule 9B-72 clarification.

Commissioner Bassett moved approval of the POC recommendation to authorize staff to hold a Product Approval Workshop on the Building Code Information System. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy moved approval of the report. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Commissioner Bassett expressed concern regarding issuance of the Florida Energy Code and the Florida Accessibility Code as parts of the Mechanical Code and as part of the Plumbing Code respectively and requested the supplier provide these codes as 3 hole punched loose leaf documents so revisions may be added.

### **PUBLIC COMMENT**

Chairman D'Andrea called for public comment.

#### **Ken Gregory, Florida Swimming Pool Association**

Mr. Gregory offered comment and presented documentation regarding swimming pool entrapment. (See *Hard Data from CPSC files dated from January 1985 – March 2002* and *Guidelines for Entrapment Hazards: Making Pools and Spas Safer Attachments*.)

Mr. Gregory stated the swimming pool industry is under attack through judgments against manufacturers. He offered comment stating facts concerning swimming pool entrapment have been distorted. He referenced the *CPSC files* document stating from January 1985 to March 2002 there has been only 147 cases of recorded entrapment in swimming pools both private and public resulting in 36 deaths. Mr. Gregory then

referenced the *In Home Drowning Hazards Quick Facts* section of the document stating from 1996 to 1999 CPSC has reported 292 children under the age of 5 years have drowned in bathtubs. He noted the bathtub drownings data covers a three-year period of time while the swimming pool data covers a 17-year period. Mr. Gregory stated of 222 of the accidents there was no adult supervision. He further stated entrapments, drowning deaths could be reduced by adult supervision more than devices or any other mechanical intervention.

Mr. Gregory stated the association recognizes the potential dangers but has concluded more danger is represented by existing swimming pools and spas that are 8 to 10 years old with single suction drains. He continued stating the official position of the Florida Swimming Pool Association is that dual main drains separated by 3 feet is all that would be necessary in a swimming pool. Wading pools and spas require dual main drains as well as some secondary bathtubs. He stated the association had formed a statewide builders council comprised of builders throughout the state of Florida for which he serves as state chair to address safety issues.

*Roger Jeffery, Structural Engineer, Florida Institute of Structural Engineering Association and The Florida Institute of Consulting Engineers*

Mr. Jeffery expressed concern on behalf of the associations he represents regarding the report read by Commissioner Wiggins which removes special inspections portions of Section 1704 from the International Building Code. He stated the TAC's concern was with the requirements being applied to single-family homes and smaller buildings. He stated it is the associations' position that the provisions within Section 1704 allow for exemption of residential buildings, buildings three stories and less. Mr. Jeffrey further stated the requirements being removed are important for larger projects and should be left in the Code.

*Joe Belcher,*

Mr. Belcher offered clarification regarding an exception within the Florida Building Code from the inspections sections of ACI 530 where there is a building department performing regular inspections.

Mr. Belcher offered additional clarification regarding work being done by the Fire TAC regarding Table 503 of the International Building Code and retaining the allowable heights and areas of the current Florida Building Code. He stated a letter from the American Forest and Paper Association was sent to the Commission Chairman and copied to each Commissioner stating the TAC actions was an effort by the concrete and masonry industry. Mr. Belcher continued stating he represents Florida Concrete Products Association and confirmed the changes that were submitted to the Fire TAC were from the Alliance for Fire and Smoke Control and Containment. He noted there are concrete and masonry industry members in the association but are only a small portion of the association's total membership. Mr. Belcher confirmed the effort was not a concrete

industry driven proposal.

Larry Schneider, Chairman, Codes Task Force, AIA of Florida

Mr. Schneider offered comment concerning legislative issues for 2004 specifically the question whether AIA of Florida supports the issue of electronic sealing. He stated AIA of Florida does continue to support the requirements for electronic sealing and urged the Commission to retain that as part of the legislative report.

Lynette McDowal, Institute for Business and Home Safety

Ms. McDowal offered comment stating the Commission's report to the 2004 Legislature will not include language regarding ASCE 7. She stated state of Florida insurers are mandated to use the Building Code Effectiveness Grading Schedule (BCEGS) program with part of the ISO evaluation based on how new the code is. Ms. McDowal urged the Commission to address the issue during the current legislative session and amend the report to remove reference to a specific version of ASCE 7 from legislative language.

Jaime Gascon, Miami-Dade County Office of Code Compliance

Mr. Gascon expressed concern regarding the process the TACs are taking to retain the Florida specific code changes being submitted and discussed. He stated when the existing code was drafted the Standard building code was used. He continued stating the Standard Building Code is now being changed to IRC and IBC which totally changes certain items and requirements in the Code. He then asked what level of consistency will be used in retaining Florida specific requirements in the Code.

Mr. Gascon offered additional comment concerning the Commission's Report to the 2004 Legislature. He stated the report appears to have "rosy" issues in terms of product approval. Mr. Gascon continued stating the product approval system is falling short of public safety by placing efficiency first. He then expressed concern regarding the process by which the products are being approved by the Commission. Mr. Gascon stated there is a great effort in terms of providing tracking charts and additional information but the process is still lacking in information for making clear decisions. He suggested the online information must be uniformly displayed. He further stated there had been cases of misrepresentation of products that have been identified and the process should be refined to prevent future fraudulent product approval submittals.

Carrie Hebrank, Florida Building Materials Association

Ms. Hebrank expressed appreciation regarding Commission action to approve the product approval workshop recommended by the POC. She offered comment concerning upcoming amendments and changes to the Florida Building Code and expressed serious concern regarding issues that are being presented to the Fire TAC. Ms. Hebrank

encouraged the Commission to further review the issue of removing the ASCE provision from the statutes. She expressed concern stating if the new Florida Building Code becomes effective January 1, 2005, there will be different standards in the Code than in the statute with session not commencing until March creating a conflict and possibly a six-month delay between the Code and statute consistency.

Dave Olmstead, PGT Industries

Mr. Olmstead concurred with Ms. Hebrank regarding the ASCE 7 issue. He stated his company is a manufacturer doing business in and out of the state of Florida, consistency with the International Codes in design standards would be desired.

Commissioner Marshall requested cost implications to the residents of the state of Florida resulting from the ASCE 7 removal be evaluated.

Commissioner Bassett asked whether action should be taken on the ASCE-7 issue.

Mr. Richmond responded stating it is too late to add any legislative issues into the report at this point. He stated if other interest groups should want to pursue the issues there will be a Commission meeting March 1 at which any legislative proposals to be submitted by third parties could be reviewed and supported by the Commission.

Mr. Dixon concurred.

**REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR MARCH 2004  
COMMISSION MEETING**

Mr. Blair conducted a review of the March 2004 Commission meeting committee assignments and issues.

**SUMMARY REVIEW OF MEETING WORK PRODUCTS**

Chairman D'Andrea offered a summary of the Commission's actions stating the Commission had reviewed and updated the Commission workplan, had decided on Chair's discussion issues and recommendations, conducted a rule development workshop on equivalency of product evaluation standards and ICC recognition as an evaluation entity. He stated the Commission had additionally conducted a rule development workshop on the Building Code Education Program, finalized recommendations to the 2004 Legislature, decided on Accessibility Waiver Applications, considered reports from legal counsel, decided on requests for declaratory statements and applications for approval of products and entities, as well as deciding on Accessibility, Code Administration, Electrical, Energy, Fire, Mechanical, Plumbing, and Structural TAC reports and recommendations. Chairman D'Andrea further stated the Commission had decided on Product Approval Prototype Building Manufactured Building Program

Oversight Committee recommendations and report, reviewed assignments and issues for the March 2004 Commission meeting.

**ADJOURN**

No further business discussed, meeting adjourned at 12:10 p.m.



# FLORIDA BUILDING COMMISSION

ATTACHMENT TO THE JANUARY 13, 2004 MINUTES

## FACILITATOR'S REPORT OF THE JANUARY 13, 2004 COMMISSION PLENARY SESSION

Orlando, Florida

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# FLORIDA BUILDING COMMISSION

## ATTACHMENT TO THE JANUARY 13, 2003 MINUTES

### Overview of Commission's Key Decisions

#### **TUESDAY, JANUARY 13, 2003**

##### **Agenda Review and Approval**

The Commission voted unanimously, 18 - 0 in favor, to approve the agenda as amended. Following are the key agenda items approved for consideration:

- ◆ To Review and Update the Workplan
- ◆ To Consider/Decide on Chair's Discussion Issues/Recommendations
- ◆ To Conduct a Rule adoption hearing on equivalency of product evaluation standards and ICC recognition as an evaluation entity
- ◆ To Conduct a Rule Adoption Hearing on the Building Code Education Program
- ◆ To Finalize Annual Report to the Legislature
- ◆ To Review Pending Building Code Legislation
- ◆ To Consider/Decide on Accessibility Waiver Applications
- ◆ To Receive/Consider Reports from Legal Counsel
- ◆ To Consider/Decide on Requests for Declaratory Statements
- ◆ To Consider/Decide on Approval of Products and Product Approval Entities
- ◆ To Consider/Decide on Accessibility, Code Administration, Electrical, Energy, Fire, Mechanical, Plumbing, and Structural TAC Report/Recommendations
- ◆ To Consider/Decide on Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee (POC) Report/Recommendations
- ◆ To Review Assignments and Issues for Next Month

##### ***Amendment***

- ◆ The scheduled Product Approval workshop on the BCIS was cancelled.

##### **Review and Approval of November 18, 2003 Meeting Minutes**

The Commission voted unanimously, 18 - 0 in favor, to approve the minutes as amended for the November 18, 2003 Commission meeting.

##### ***Amendments***

- ◆ Commissioner Schulte was present and Commissioner Vann was absent.
- ◆ Commissioner Bassett's name was misspelled.

##### **Review and Approval of Commission's Updated Workplan**

###### ***Commission Actions:***

**Motion**—The Commission voted unanimously, 18 - 0 in favor, to approve the updated workplan as presented.

*(Attachment 3)*

### **Chair's Discussion Issues/Recommendations**

Due to a family emergency, Chairman Rodriguez appointed Commissioner D'Andrea to serve as chair in his absence.

### ***Recognition of Commissioner Thorne***

Commissioner D'Andrea presented outgoing Commissioner Thorne, with a plaque in recognition and appreciation of his years of service on the Florida Building Commission.

### ***TAC Appointments***

Chairman Rodriguez made the following TAC appointments:

- ◆ Peter Tagliarini to the Accessibility TAC
- ◆ Robert Fine to the Accessibility TAC
- ◆ Kirk Tcherneshoff to the Accessibility TAC
- ◆ Randy Vann to the Code Administration TAC
- ◆ Chris Schulte to the Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee
- ◆ Do Kim to the Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee

### **Building Department Voluntary Accreditation Standards**

Following presentation of the report by Ronnie Spooner, the Commission took the following action:

#### ***Commission Actions:***

**Motion**—The Commission voted unanimously, 18 - 0 in favor, to accept the report's recommendations on Building Department Voluntary Accreditation standards and to include them in the Commission's report to the 2004 Legislature.

### **Rule Adoption Hearing on Rule 9B-72 Product Approval, Sections 9B-72.030, Rules 9B-72.100 and 9B-72.180**

Following an opportunity for public comment, the Commission voted to proceed with rule adoption with editorial changes suggested through public comments.

#### ***Commission Actions:***

**Motion**—The Commission voted 14 - 3 in favor, to proceed with rule adoption for Rule 9B-72 Product Approval, Sections 9B-72.030, Rules 9B-72.100 and 9B-72.180 by filing the rule with the Department of State.

### **Rule Adoption Hearing on Building Code Education Program (Rule 9B-70)**

Following an opportunity for public comment, the Commission voted to proceed with rule adoption.

#### ***Commission Actions:***

**Motion**—The Commission voted unanimously, 19 - 0 in favor, to proceed with rule adoption for rule 9B-70 by filing the rule with the Department of State.

## **Review and Finalization of the Annual Report to the Legislature**

The Commission reviewed the draft Report to the 2004 Legislature and took the following action:

### **Commission Actions:**

**Motion**—The Commission voted unanimously, 17 - 0 in favor, to approve the draft report and submit the report to the 2004 Legislature.

**Motion**— The Commission voted unanimously, 17 - 0 in favor, if requested by a third party, to support the establishment of authority for architects to use electronic seal and signature.

**Motion**— The Commission voted unanimously, 19 - 0 in favor, to support allowing staff through consultation with the appropriate TAC or POC chairs, to reject proposed code amendments for incompleteness of fiscal impact statements. The Commission does not support staff rejecting code amendments with incomplete fiscal impact statements without first consulting with TAC and/or POC chairs.

**Motion**— The Commission voted unanimously, 19 - 0 in favor, to oppose legislation requiring truss placement drawings to be sealed if required by the Florida Building Code, on the basis that requirements for truss placement should be left to the professional practice areas.

## **Consideration of Accessibility Waiver Applications**

The Commission reviewed and decided on the Waiver applications submitted for their consideration.

## **Legal Staff Reports/Discussions/Recommendations and Approval**

Jim Richmond provided the Commission with an update on proposed Building Code related legislation.

## **PETITIONS FOR DECLARATORY STATEMENTS**

Following are the actions taken by the Commission on petitions for declaratory statements. Jim Richmond and Richard Shine served as legal counsel for the Commission.

## **SECOND HEARINGS**

### **DCA03-DEC-266 by Robert C. Duncan**

Petition was dismissed.

### **DCA03-DEC-277 by T. A. Krebs of T. A. Krebs Architect, Inc.**

Petition was dismissed.

### **DCA03-DEC-296 by Michael Madden of Madden Manufacturing**

**Motion**— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve their previous action on the petition.

**DCA03-DEC-298 by Paul S. Roth of Roll-A-Way Protective Pool Fence**

**Motion**— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve the POC’s amended recommendations.

**FIRST HEARINGS**

**DCA03-DEC-309 Van Gladfelter, P.E., Center for Innovative Structures**

**Motion**— The Commission voted unanimously, by a vote of 20 - 0 in favor, to approve the TAC’s recommendations on the petition as presented.

**DCA03-DEC-322 T. A. Krebs, T. A. Krebs Architect, Inc.**

The petition was deferred to the local appeal board.

**DCA03-DEC-331 Randall Shackelford, P.E., Simpson Strong-Tie Company, Inc.**

The petition was withdrawn by applicant.

**DCA03-BC-330 Dragomirecky versus the Town of Ponce Inlet, Appeal from determination of local Board of Rules and Appeals**

Legal provided an update of the case, no action was taken by the Commission.

**Consideration of Applications for Product and Entity Approval**

Commissioner Carson presented the committee’s recommendations for entities and Jeff Blair presented the committee’s recommendations for product approval.

**Action on Applications for Approval for Product Approval Entities**

**Motion**— The Commission voted unanimously, by a vote of 20 – 0 in favor, to approve APA, The Engineered Wood Association as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 20 – 0 in favor, to approve Architectural Testing, Inc. as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 20 – 0 in favor, to approve Momentum Technologies, Inc. as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 20 – 0 in favor, to approve Southwest Research Institute as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 19 – 0 in favor, to approve Stork-Twin City Testing as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 19 – 0 in favor, to approve Terrapin Testing, Inc. – Texas as a test laboratory.

**Motion**— The Commission voted unanimously, by a vote of 19 – 0 in favor, to approve APA, The Engineered Wood Association as a quality assurance entity.

**Motion**— The Commission voted unanimously, by a vote of 19 – 0 in favor, to approve Southwest Research Institute as a quality assurance entity.

**Motion**— The Commission voted by a vote of 18 – 1 in favor, to approve Western Technologies, Inc. as a quality assurance entity.

### **Action on Applications for State Product Approval**

The Commission agreed to consider product applications on consent agendas based on POC recommended actions. The Chair provided opportunity for public comment.

Commissioners were invited to pull any product application for individual consideration.

### **Consent Agenda to Approve**

**Motion**— The Commission voted by a vote of 19 – 0 in favor, to approve the following applications for state product approval:

Product application numbers : 542, 549, 600, 694, 742, 812, 850, 851, 852, 854, 974, and 982 deferred from the November 2003 meeting.

**Motion**— The Commission voted by a vote of 19 – 0 in favor, to approve the following applications for state product approval:

Product application numbers : 561, 607, 635, 636, 638, 661, 684, 993, 995, 996, 1003, 1005, 1006, 1007, 1010, 1011, 1012, 1026, 1030, 1035, 1036, 1061, 1062, 1064, 1075, 1084, 1085, 1086, 1089, 1091, 1092, 0193, 1094, 1095, 1096, 1097, 1100, 1101, 1147, 1148, 1149, 1150, 1153, 1154, 1155, 1156, 1163, 1164, 1170, 1172, 1185, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1214, 1215, 1222, 1227, 1231, 1232, 1233, 1234, 1238, 1241, 1242, 1246, 1251, 1252, 1253, 1259, 1262, 1264, 1265, 1272, 1273, 1274, 1275, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1293, 1303, 1305, 1306, 1307, 1312, 1322, 1325, 1327, 1328, 1355, 1356, 1363, 1364, 1366, 1367, 1368, 1369, 1374, 1378, 1384, 1385, 1386, 1398, 1399, 1400, 1402, 1403, 1424, 1435, 1439, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1454, 1456, 1457, 1458, and 1462 submitted as certification marks or listings.

**Motion**— The Commission voted by a vote of 20 – 1 in favor, to approve the following applications for state product approval:

Product application numbers: 49, 828, 920, 1004, 1024, 1048, 1049, 1109, 1112, 1115, 1145, 1167, 1189, 1202, 1203, 1204, 1205, 1220, 1266, 1267, 1270, 1271, 1308, 1324, 1365, 1383, 1387, 1404, 1416, 1423, and 1430 submitted as evaluation reports from a product Florida Registered Architects or Florida Professional Engineers.

**Motion**— The Commission voted by a vote of 19 – 1 in favor, to approve the following applications for state product approval:

Product application numbers: 241, 379, 471, 674, 889, 985, 998, 1000, 1022, 1037, 1042, 1046, 1051, 1068, 1080, 1139, 1146, 1173, 1175, 1177, 1182, 1212, 1218, 1221, 1225, 1226, 1228, 1229, 1230, 1247, 1250, 1255, 1258, 1318, 1339, 1344, 1345, 1347, 1358, 1371, 1379, 1405, 1406, 1410, 1429, 1431, 1432, 1453, and 1463 submitted as evaluation reports from a product evaluation entity.

**Motion**— The Commission voted by a vote of 20 – 0 in favor, to approve the following applications for state product approval:

Product application numbers: 909, 976, 1001, 1107, 1116, 1296, 1321, and 1433 submitted as test report.

### **Defer Action to Next Meeting**

**Motion**— The Commission voted by a vote of 21 – 0 in favor, to defer action on product application number 1140 until the March 2004 Commission meeting.

**Motion**— The Commission voted by a vote of 21 – 0 in favor, to defer action on product application number 1397 until the March 2004 Commission meeting.

### **Conditional Approval**

**Motion**— The Commission voted by a vote of 20 – 0 in favor, to issue a conditional approval for product number 599 pending indicating limitations of use.

**Motion**— The Commission voted by a vote of 20 – 0 in favor, to issue a conditional approval for product number 1201 pending indication of appropriate certification agency.

**Motion**— The Commission voted by a vote of 19 – 1 in favor, to issue a conditional approval for product number 804 pending staff verification of required test report.

### **Individual Product Application Consideration**

**Motion**— The Commission voted unanimously, by a vote of 0 – 21 in favor, to approve product application number 1411, product is not approved as a result of a negative vote to approve.

## **COMMITTEE REPORTS AND RECOMMENDATIONS**

The Commission agreed that unless a TAC/POC required specific Commission action, the balance of the reports would be submitted into the record and approved as a part of the next Commission meeting minutes approval process.

### **Accessibility TAC Committee Report and Recommendations**

Commissioner Richardson presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 20 - 0 in favor. (See Commission Minutes for Committee report)

### **Code Administration TAC**

Commissioner Wiggins presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 21 - 0 in favor. (See Commission Minutes for Committee report)

#### **Commission Actions:**

**Motion**— The Commission voted, by a vote of 18 – 3 in favor, to approve implementation of the Alternative Plans Review and Inspections Workgroup plan. (*Attachment 2*)

### **Electrical TAC**

Commissioner McCombs presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 20 - 0 in favor. (See Commission Minutes for Committee report)



### **Energy TAC**

Commissioner Corn presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

#### **Commission Actions:**

**Motion—** The Commission voted unanimously, 19 - 0 in favor, to take necessary actions to adopt by reference Appendix G of ASHRE Standards into the Florida Building Code.

### **Fire TAC**

Commissioner D'Andrea presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

### **Mechanical TAC**

Commissioner Bassett presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

### **Plumbing TAC**

Commissioner Greiner presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

### **Structural TAC**

Commissioner Parrino presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

**Motion—** The Commission voted unanimously, 19 - 0 in favor, to initiate the required legislative actions to delegate authority to the Florida Building Commission to update ASCE-7 wind standards in the Code. This task will be added to the Commission's workplan to develop recommendations for submittal to the 2005 Legislature.

### **Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee**

Commissioner Carson presented the committee's report and recommendations for Commission consideration. The Commission unanimously accepted the Committee's report by a vote of 19 - 0 in favor. (See Commission Minutes for Committee report)

**Motion—** The Commission voted unanimously, 19 - 0 in favor, to conduct a stakeholder workshop (non-rule development workshop) designed to clarify Rule 9B-72.

### **Public Comment**

Commissioner D'Andrea provided members of the public with an additional opportunity to address the Commission. Eight members of the public addressed the Commission.

## **Additional Commission Actions**

None

## **Committee Assignments/Meetings Required**

Accessibility Advisory Council and Waiver applications	Yes
Accessibility TAC	Yes
Code Administration TAC	Yes
Education TAC	Yes
Electrical TAC	No, unless Dec. statement
Energy TAC	No, unless Dec. statement
Fire TAC	Yes
Mechanical TAC	No, unless Dec. statement
Plumbing TAC	No, unless Dec. statement
Special Occupancy TAC	No, unless Dec. statement
Structural TAC	Yes
Product Approval/Prototype Buildings/Manufactured Buildings POC	Yes

## **Additional Meetings**

- ◆ Workshop to clarify Rule 9B-72
- ◆ Miniature golf working group

## **Staff Assignments**

- ◆ Schedule Budget Review Committee for the March 2004 Commission meeting.

## **Adjourn**

**Motion—** The Commission voted unanimously, by a vote of 19 – 0 in favor, to adjourn the plenary session.

**ATTACHMENT 1**

**MEETING EVALUATION RESULTS**

## ATTACHMENT 2

### Approved Alternative Plans Review and Inspections Work Group Plan

#### I. Overview

The Florida Building Commission is developing a plan to address issues related to the implementation, in October of 2002, of an alternative plans review and inspections system specified in Section 553.791 F.S. The Commission seeks the advice and input of affected industry stakeholders, similar in composition to the original task force, to shape a plan and any required statutory changes that addresses common and conflicting hopes and concerns and has the greatest degree of consensus among these interests as is possible. The Work Group will work with stakeholders to clarify the intent and requirements of the current law and to develop consensus recommendations for revisions to law governing the alternative plans review and inspections system.

The goal for the Work Group is to identify issues and productive problem solving. The Commission will review the resulting advisory recommendations. A successful result will depend on the creative, constructive input of all points of view in implementing consensus refinements to the current system.

#### II. Components of the Proposed Consensus Building Process

##### A. Appointment of the Work Group

The Consortium and Commission staff will consult with representatives of interests and organizations affected by the use of alternative plans review and inspections to seek individuals who will be willing to participate in a consensus building process. The Commission Chair will review member recommendations and appoint all members to the Work Group. The Consortium will send out pre-meeting surveys to each member of the Work Group to identify key issues and prepare for the organizational meeting.

##### B. Phase I Initial Work Group Meeting (1) February 18, 2004

The Consortium will facilitate an initial meeting on February 18, 2004 designed to agree on the proposed workplan and schedule, identify key issues related to the alternative plans review and inspections system, identify options for key issues and seek to build consensus on those options and proposals where consensus is possible for presentation to the Commission at the March 2004 meeting.

### **C. Commission Meeting to Review Preliminary Consensus Recommendations (March 2004)**

The Commission will review Work Group recommendations that have consensus options and submit Commission adopted recommendations to the 2004 Florida Legislature.

### **D. Phase II Work Group Meetings (3) Spring, 2004**

**The Consortium will facilitate an additional three meetings over the Spring of 2004 designed to resolve key issues not resolved at the February meeting and seek to build consensus on initial options and proposals to address those unresolved issues and prepare a workshop draft report of consensus recommendations and any remaining unresolved issues for presentation to the Commission.**

During this phase, the Work Group members will be encouraged to communicate with their groups' decision-makers and constituents between meetings. A website will be established to solicit public input on issues that can be shared with the Work Group. Stakeholder contacts and others will be invited to provide feedback to the Work Group at various points in the process. This, plus a series of workshops will allow more groups and people to be involved even if they can't attend Work Group meetings. Anyone may request copies of the materials developed during the process and their comments will be made available to all involved through a project specific web site or in written form. Work group meetings will be noticed and the public can observe and contribute at appropriate times during the meetings

### **E. Commission Meeting to Review Additional Recommendations Report, Late Spring 2004**

*Work Group Meeting (if needed) To Respond to Commission input and adopt a workshop draft for public review and comment.*

### **F. Facilitated Public Workshops Around the State**

**A series of (4) facilitated regional input workshops would be held around the State to solicit input on the workshop draft.**

### **G. Phase 3 Work Group Meetings (2) Summer 2004**

**The second phase would include review and seeking consensus both on revisions of the workshop draft in light of input and on the development of a final draft package of recommendations for consideration by the Commission.**

## H. Web Site

A web site will be created for the Alternative Plans Review and Inspections Work Group. In addition to background information, it will have reports from the Work Group meetings, public workshops and other activities. The purpose is to provide a way for those new to the process to get up to speed and to solicit input from a wide range of individuals and groups who may not be able to attend some or all of the meetings.

## I. Facilitators

Jeff Blair, Regional Director of the Florida Conflict Resolution Consortium, will coordinate a neutral facilitation team including other Consortium staff as needed, that will work closely with the Commission, staff, and the Work Group in planning and implementing the process.

## III. Review Schedule

*Proposed Dates    Proposed Activities*

February, 2004	Appointment of Work Group by FBC Chair
February 18, 04	Work Group Meeting #1 – Organizational, identification of issues, and phase I consensus recommendations.
March	Commission review and adoption of recommendations for submittal to the 2004 Legislature.
March	Work Group Meeting #2 – Seek consensus on unresolved issues.
April	Work Group Meeting #3 – Seek consensus on drafts Expert and stakeholder work on unresolved issues .
May	Work Group Meeting #4 – Seek consensus on workshop draft.
June	Commission review of workshop draft.
July	Possible Work Group Meeting #5 – Respond to any Commission changes.

Summer, 2004	Regional Input Workshops
September	Work Group meeting #6 to review and building consensus on draft package of recommendations.
October	Work Group meeting #7 to refine and adopt package of recommendations for submittal to the Commission.
October	Commission review and adoption of package of recommendations.
November	Recommendations implemented. Recommendations requiring statutory change included in Commission's Report to the 2005 Legislature.

#### **IV. Work Group Decision Making and Outcomes**

*(To be reviewed and adopted by the Work Group at its Organizational meeting).*

##### **A. Consensus Items (Recommendations)**

All Work Group recommendations will be made by consensus. Consensus is defined as follows: A consensus exists when at least 75% of the Work Group can publicly support or at least agree not to oppose a decision. Not all members have to support the decision with equal enthusiasm. It may be the first choice for some, while it is only just acceptable to others. Nevertheless, most members can support it because it advances at least some of their interests or issues, while not violating any interests or issues essential to them. The Work Group's report to the Commission will include all consensus recommendations on the draft package of recommendations for revising the alternative plans review and inspections system as well as options and analysis for unresolved issues.

##### **B. Clarification of Personal and Organizational Opinions**

The lists and rankings of issues and options by the Work Group members will be included in the reports prepared for each meeting. Any Work Group member may submit a letter articulating their opinions, which may be appended to the Work Group reports. All meeting reports are public records and will be maintained by the Commission.

## **V. Communications**

### **A. Work Group Discussion Guidelines**

Members recognize that others represent a variety of differing perspectives. To promote open discussion, members agree to abide by the following guidelines:

- ◆ Stacking – raise hands and the facilitator will establish an order of speakers. The stack may be temporarily interrupted to follow-up on specific ideas.
- ◆ Listen to all perspectives respectfully and with an open mind.
- ◆ Seek understanding before responding and explain the reasons behind your statements.
- ◆ Speak concisely to make the best use of limited time.
- ◆ If you agree with what has been said, please say so. Please do not repeat what has been said. (We have limited time.)
- ◆ If you disagree, please do so respectfully and openly, not in private.
- ◆ Seek agreement where possible and determine appropriate next steps when there is disagreement.
- ◆ Help the group develop and adhere to its agenda.

### **B. Communication with the Media.**

In order to preserve maximum flexibility for Work Group discussions, members are asked to minimize speculation about the outcome of on-going Work Group discussions with third parties and the media. In the event, members do communicate with the media, they agree to characterize only their own views and not those of any other members or the group.

## **VI. Open Process**

At a minimum, all Work Group activities will comply with provisions of Florida's Government in the Sunshine Act. Further, all discussions of the Work Group will be open to observation, comment, and where appropriate participation, by any member of the public. All records of Work Group discussions and materials used by the Work Group will be available upon request from the Commission.

### **ATTACHMENT 3**

## **COMMISSION'S UPDATED WORKPLAN**