

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

JEB BUSH
Governor

COLLEEN M. CASTILLE
Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
February 25, 2003**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 9:00a.m. on Tuesday, February 25, 2003, at the Tradewinds Grande Isle Hotel, St. Pete Beach, Florida.

COMMISSIONERS PRESENT:

Raul Rodriguez, Chairman
Dan Shaw
Hamid Bahadori
Michael McCombs
Craig Parrino
Herminio Gonzalez
George Wiggins
Leonard Lipka
Christ Sanidas
Peggy Patterson
John Calpini
Karl Thorne
Nick D'Andrea
Stephen Corn
Dale Greiner
Paul Kidwell
Do Y. Kim

Ed Carson
Steven Bassett

COMMISSIONERS ABSENT:

Richard Browdy
Suzanne Marshall
Bob Leonard
Doug Murdock, Adjunct Member

OTHERS PRESENT:

Rick Dixon, Executive Director
Ila Jones, DCA
Jim Richmond, Legal Advisor
Tim Dennis, Legal Advisor
Jeff Blair, FCRC

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WELCOME REVIEW AND APPROVAL OF AGENDA

Chairman Rodriguez welcomed Commissioners, staff, and members of the public to the meeting. He stated the meeting agenda would consist of hearing committee reports and declaratory statements, holding rule workshops on both the Manufactured Buildings Rule and Non-Binding Advisory Opinions. He then directed the Commission to Mr. Blair for a review of the meeting agenda.

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

Commissioner D'Andrea moved approval of the meeting agenda. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND APPROVAL OF DECEMBER 14, 2002 MEETING MINUTES

Chairman Rodriguez opened for discussion and approval of the January meeting minutes.

Commissioner Greiner noted on page 12 of the minutes, declaratory statement DCA02-DEC-352 had been requested to be tabled with the intent of referring it back to the TAC for additional information.

Commissioner Wiggins moved approval of the January 14, 2002 meeting minutes. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND UPDATE OF COMMISSION WORKPLAN

Mr. Dixon conducted a review of the Commission 2003 workplan as it appeared in each Commissioner's agenda packet.

Commissioner Wiggins inquired about the final effective date for the glitch amendments asking if the official date will be June 30.

Mr. Dixon responded June 30 is the target date stating currently everything is on target.

Commissioner Wiggins then asked how the amendments would be

published.

Mr. Madani responded the amendments would be color coded as they were in the past and should be available at the end of March.

Commissioner Bassett asked about the swimming pool challenge and how it would effect the workplan schedule.

Chairman Rodriguez responded details regarding the swimming pool challenge would be taken up during the legal report and it did not appear that the workplan would be effected.

Commissioner Greiner moved approval of the Commission's workplan. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez directed the Commission to Commissioner Patterson. She then made a presentation to Charlie Hickey who will be leaving DCA and recognized his great contribution to the Commission over the past several years.

Chairman Rodriguez announced the governor's recommendation for staff privatization had been received through a visit from Coleen Castille, Secretary of the Department of Community Affairs. He summarized Ms. Castille's comments stating two possible models of privatization are being considered. Chairman Rodriguez stated one model is to issue an RFP for services and receive bids and evaluate qualifications. He continued stating the second model is to contract a management company such as the Engineering Board has done, which has been successful in accomplishing their tasks. He further stated another variation of contracting is to lease state employees rather than hire them such as the Florida Housing Finance Corporation.

Chairman Rodriguez stated there was much discussion among the TAC and POC chairs and the consensus was Commission would rather be "left alone." He added the dollars for Commission staff come directly from building permits, not taxpayers. He stressed the Commission's neutrality is important when industry representatives come before the Commission for recommendations and considerations.

Commissioner Wiggins asked if the privatization issue would be

addressed legislatively through a statutory change.

Chairman Rodriguez responded it needs to be addressed statutorily due to the consolidation of the Department of State and the Department of Community Affairs.

Mr. Dixon added the Secretary indicated the option for the Commission to create a public/private corporation would require statutory change similar to the Engineer's Management Corporation and the Florida Housing Finance Corporation. He continued the contracting approach would not require statutory change however there is a budget item in the governor's recommended budget which would effect the appropriation of funds.

Commissioner Kim asked if changes would take effect after this fiscal year.

Chairman Rodriguez confirmed that any changes would take effect after the fiscal year.

Commissioner Patterson recommended a letter be sent to the Governor including Commissioner's signatures requesting the Commission remain independent. She noted the letter may be well received in lieu of the Commission's budget not being part of the state budget.

Commissioner Lipka offered support for Commissioner Patterson's recommendation stating it could be detrimental to both the Commission and the state's budget if the same staff members are not allowed to continue serving the Commission.

Chairman Rodriguez agreed to draft a letter to the governor on behalf of the Commission. He stated the letter would be emailed to all Commission members before being sent to the governor. Chairman Rodriguez then called for a motion authorizing him to draft the letter.

Commissioner Lipka moved approval to authorize Chairman Rodriguez to draft a letter to be sent to the governor. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins pointed out the Commission's goals are in line with the governor's goals in terms of reducing government and

maximizing effectiveness. He stated the construction industry is a large part of Florida's economy and requires an efficient, effective, smooth operating building regulatory body, then noted those issues should be part of the letter.

Commissioner Corn requested clarification regarding what the letter would be protecting.

Chairman Rodriguez responded the Commission would continue to be appointed by the governor. He stated the administrative support has been available through DCA which is merging with the Department of State. Chairman Rodriguez continued stating there is as well the idea of privatizing the Commission administrative staff rather than state employees.

Commissioner Corn added he would not be opposed to a staff working directly for the Commission. He stated the Commission would then have more control.

Commissioner Lipka then stated if the staff is privatized it would be through a bid process and the staff who would be hired may not be the current staff that has been providing support for the past several years.

Mr. Richmond stated there is not enough information available yet in terms of the four options being considered. He added some options may be more amenable to retaining the staff that exists. He urged the Commission not to rule out the possibility of privatizing at this time stating there would be an opportunity to review any legislation that would be entertained. Mr. Richmond stated any request at this time may be premature then further stated that asking for the Director and administrative staff to remain available until an acceptable alternative has been reached would be appropriate.

Commissioner Shaw offered comment stating now would be a bad time to make a change. He stated it is important during this time frame that the current staff remain involved. He then added, privatization could be an opportunity for the existing staff and that it would be important to maintain the integrity of the Commission staff.

Commissioner Sanidas added the industry would welcome keeping the current staff because of their Code knowledge and being able to call and ask questions and obtain information that may not be as readily available with a new staff.

Commissioner Bassett offered comment stating the engineer's public-private corporation is working very well. He noted the organization is slightly different than what is being proposed in the Commission's situation. Commissioner Bassett continued stating the engineer's organization is a group regulating individuals and how they practice professionally. He stated in the case of the Commission, a group is controlling everything that has to do with buildings and how they are constructed in the state of Florida. He expressed concern with legal issues if the Commission is controlled by a private corporation writing public laws.

Chairman Rodriguez stated the concerns of the Commission members has been heard and he would make every attempt to represent those concerns in a letter in a positive manner.

Mr. Richmond reminded the Commissioners about the Sunshine Law in terms of discussing the content of the letter. He stated the Commission could agree in concept to the subject of the letter and review the draft via email. He continued stating staff could then receive any objection to the letter and if the objection is sufficient (75%) the letter could be withheld.

Chairman Rodriguez suggested the letter be drafted and included in each Commissioner's packet at the next Commission meeting. He stressed the importance of the Commission being able to review and approve the letter due to the sensitive nature of its content.

It was agreed through a straw poll and accepted as a friendly amendment that the letter would be prepared then included in each Commissioner's packet for the April meeting.

Chairman Rodriguez then addressed the next issue which concerns the Agency for Health Care Administration. He stated AHCA has requested the Commission support their efforts to seek Legislative action to clarify the law regarding facility licensing-specific standards that are incorporated into the Code. He then directed the Commission to Skip Gregory to provide details regarding the issue.

Skip Gregory, Architect/Bureau Chief, AHCA

Mr. Gregory stated his Office of Plans and Construction has been involved with the Florida Building Code from the beginning of its creation. He stated his office has been supportive of the Code including AHCA's licensure standards of design and construction in the Code. Mr. Gregory

continued stating there had been language inserted into the section 553 of the Code at the recommendation of Legislators. He stated the language was intended to allow the agency to continue its involvement in writing design and construction standards for nursing homes, hospitals, and surgical centers, as well as the plans and construction review that is required for the facilities.

Mr. Gregory further stated when AHCA's rule was inserted into the Code it was indicated by attorneys that AHCA would not have sole enforcement and interpretation authority over their sections of the rule; i.e., sections 419, 420, and 421. He stated they would share the enforcement and interpretation with the local building authority. Mr. Gregory continued stating AHCA requests having final enforcement and interpretation authority only over sections 419, 420, and 421. He added it had not been formally proposed but had been sent to DCA and conversations had been held regarding the issue.

Chairman Rodriguez requested clarification in terms of specific language the Commission would consider.

Mr. Gregory responded simple language would be inserted into 553.80 by adding the words "enforcement and interpretation" of those sections. He stated AHCA is open to discussion regarding the issue.

Commissioner Shaw offered comment stating the state is undergoing a health care crisis in terms of insurance, doctors, and the costs to the facilities for those services. He expressed concern regarding the possibility of needing to become more flexible in the construction of the health care facilities.

Mr. Gregory stated AHCA works in conjunction with the providers in creating the rules for the design and construction of the facilities. He added there are many committee meeting discussions regarding the facilities and there is a lot of give and take in terms of cooperation between the providers, AHCA, and the local officials. He continued stating the greatest flexibility would be at the state level rather than the local building authority in terms of waivers or adjustments to the rules.

Commissioner Wiggins offered comment stating the intent was that the agency rules, particularly AHCA, would continue to be enforced, interpreted, and ultimately approved by that agency. He continued stating if the language granting the agencies that authority is not adequate then changes should be made to provide flexibility for those agencies. He then

moved approval for any Legislative change which would reflect in the Code the ability for AHCA to retain its interpretive and waiver authority with regard to their rules. Commissioner D'Andrea seconded the motion.

Mr. Richmond interjected there had been an issue brought forth by the Department of Health in terms of public swimming pools and their technical requirements. He stated there had been no process for waiver in place and it could be the case for other agencies as well. Mr. Richmond suggested this may be an opportunity to grant state agencies authority similar to what they had prior to the implementation of the Code, still allowing the building officials to recognize agency authority.

Commissioner Wiggins accepted Mr. Richmond's comments as a friendly amendment.

Commissioner Bassett stated this is the forum to address building Code issues. He continued stating it does not require Legislative action to pass a particular law. He stated the Code should be concerned only with structural rules and not any agency program information. He expressed support for any amendments to the Code which would eliminate any program language.

Commissioner Greiner offered support for Commissioner Wiggins' motion. He explained recently AHCA had an issue concerning a coordinated fault current which was different in AHCA's rules than in the NEC.

Mr. Dixon offered clarification stating the motion concerns interpretation and waiver authority and there may be an additional concern for dual enforcement authority for the same requirements. He explained the Code has inadvertently created a situation of double jeopardy where the intent of the reform of the Florida Building Code was to eliminate all instances of double jeopardy where there are two enforcement authorities for the same regulation, or to provide processes so anyone caught in the middle would have a defined process for the officials to go through to resolve any disagreement on the requirements.

Mr. Dixon continued stating in 1996 there were instances where agencies were exercising their Legislative authority for regulation and were not coordinating with the Florida Board Building Code and Standards, and how those regulations interfaced with the state minimum building codes. It was not the intent of the Code to create a situation where the building official and the facility licensing agency were

interpreting and enforcing the same requirement. He expressed support for Commissioner Wiggins' amendment to the motion with the clarification that the enforcement authority for the facility licensing regulations which are in the Code are the authority of the licensing agency rather than the local building official. He added it would be incumbent upon the agency to ensure that life safety requirements in their facility licensing regulations were moved into the core of the building Code and not in those licensing regulations. He recommended adding language stating "the interpretive enforcement and waiver authority lie with the facility licensing agency". He continued stating it should be stated also that the facility licensing agency should move the life safety requirements of their regulations into the core of the Code.

Commissioner Wiggins accepted the friendly amendment to the motion.

Commissioner Sanidas requested clarification stating the building official is relieved from enforcing the agency's regulations but Code requirements must be essential for structural requirements.

Mr. Dixon further stated there were discussions with a special committee dealing with state agency regulations and there is currently "hand-shaking" between certain agencies conducting plans review and the building departments. He continued stating the issue is who has the authority to enforce the specific regulation or requirement.

Commissioner Greiner offered comment stating it is important that the language in the motion is specific in identifying the difference in the agency's requirements and what the agency is responsible for and what the core Code issues are which is where the Commission's responsibilities lie.

Mr. Blair offered clarification regarding the motion stating the essence of the motion is to support the Agency for Health Care Administration's Legislative efforts clarify that of enforcement, interpretation, and waivers of facility licensing regulations is the authority of that agency. He continued stating the life safety requirements should be moved to the core of the Florida Building Code which is the authority of the building officials. Mr. Blair added the motion would state similar clarification for other Chapter 4 facility licensing agencies and regulations as recommended by Mr. Richmond.

Mr. Gregory stated the agency had worked hard to eliminate all of

the core Code items from their design rules and create reference material for the appropriate NFPA documents and other building code issues. He added the agency does not write code that already exists in the core Code.

Commissioner Corn recommended the issue be referred to a TAC and subjected to more thought and discussion before trying to resolve it during the current meeting.

Commissioner Lipka concurred with Commission Corn stating many of the health care facilities are done with a design/build which is prior to any building officials getting involved. He continued stating some issues are life safety and there should be oversight to eliminate any confusion or misinterpretation on the part of the Commission.

Mr. Dixon stated the urgency of the issue is that the legislature will be starting soon. The request is for support of the general concept that licensing regulations should be enforced by the facility licensing agency and not both the agency and local building official. Specifics on Technical standards are not needed in law and can be reviewed by committees later.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion resulted in 14 in favor; 5 opposed. Motion failed.

Commissioner Bassett suggested the Commission could develop the necessary amendments to remove that portion of the Code that is not critical to the construction of the building.

Chairman Rodriguez stated staff needs to work with AHCA to develop specific language the Commission can support at the next meeting in order to reach agreement.

Chairman Rodriguez announced staff is seeking to change the location of the April meeting from Pensacola to Orlando or another city that would coincide with the budget.

Commissioner Shaw moved approval to move the April meeting of the Florida Building Commission to Orlando. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez then addressed the committee changes. He stated the TAC and POC appointments was distributed to the chairs at the

recent meeting. He stated no members would be reappointed to the Education POC since the Commission will no longer have an education program to administer.

Chairman Rodriguez announced the appointments stating Commissioner Marshall would move from the Energy TAC to the Education TAC; Commissioner Thorne will move from Code Administration TAC to the Energy TAC and will also serve on the Product Approval POC; Commissioner Gonzalez will move from the Education TAC to the Code Administration TAC; Commissioner Patterson will move from Education POC to the Energy TAC; Mr. Kravit will move from the Electrical TAC to the Fire TAC; Commissioner Sanidas will move from the Fire TAC to the Product Approval POC; Mr. Affelbeck has been appointed to the Fire TAC; Commissioner Corn will move from the Accessibility TAC to the Education TAC; Commissioner Shaw has been appointed to the Product Approval POC; Mr. Burman has been appointed to the Structural TAC replacing Raul V. Rodriguez; Mr. Dagner has been appointed to the Electrical TAC under the general interest category; and Mr. Van Wyke, attorney, will move to the Electrical TAC under the consumer category.

Commissioner Shaw stated he had asked staff to send a letter to his TAC members expressing the need for consistent participation and if they are unable to attend the meeting they could still participate when they have the opportunity and allow the TAC to reappoint so quorums are not effected.

Mr. Dixon added language supporting Commissioner Shaw's comments could be included in the letter going out to the individuals who are being appointed and reappointed.

Commissioner Patterson stated the Mechanical TAC has an appointment which needs to be made and asked when the appropriate time for appointment would be. She continued stating Ellory Barton with Reedy Creek Facilities Management is a member who has not attended regularly and requested that he be replaced with Larry Banks, Manager of BellAire Air Conditioning Company, pending approval from Commission Chair.

Chairman Rodriguez suggested the Mechanical TAC submit Mr. Banks' name along with any others who would be qualified and he would make the appointment as Commission Chair.

Commissioner Wiggins moved approval to request that staff work

with AHCA and other state agencies in a manner that facilitates their ability to enforce, maintain control over, and waiver ability of their agency rules.

Commissioner Sanidas moved to reconsider. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins then moved approval to ask staff to work with AHCA and other state agencies in a manner that facilitates their ability to enforce, interpret, and waiver their respective licensing rules. Commissioner Corn seconded the motion.

Commissioner Sanidas offered a friendly amendment suggesting staff work with the local building officials to prevent any conflicts.

Commissioner Wiggins accepted the friendly amendment.

Commissioner Shaw asked if the intent of the motion was to provide the maximum flexibility and if so if that language could be included in the motion.

Commissioner Wiggins accepted the friendly amendment.

Commissioner Parrino asked if staff would be presenting their progress in working with the state agencies at the next Commission meeting.

Commissioner D'Andrea recommended BOAF be included in the language as well.

Chairman Rodriguez confirmed staff would bring back their progress report and include AHCA, BOAF, and other state agencies. He then called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Mr. Mellick addressed each waiver application as they appeared in the Commissioner's agenda packets.

#1Crispin, Porter, Bogusky Office Interiors

Mr. Mellick presented the case which was deferred in December and again in January at the request of the applicant. He stated the case is a request for waiver from the vertical accessibility requirement to all rows of an auditorium area. He continued stating the Council's recommendation was to deny the request due to no hardship and no disproportionality.

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

#2 Jacksonville Museum of Modern Art

Mr. Mellick presented the case stating it was recommended by the Council to deny the request due to lack of hardship.

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

#3 Palm Beach Atlantic University School of Pharmacy

Mr. Mellick stated the case was a waiver request from vertical accessibility to all levels to a lecture hall. He continued stating the Council recommended approval of the request for waiver based on technical infeasibility with the following conditions: 1) the accessible seating at the end of each row be seats 2 and seats 4 from the end and seats 1 and seats 3 would be companion seats; 2) each end row of each level would have no or removable armrests; 3) the applicant provide appropriate signage to indicate the alternative accessibility ramp to the alternative level on the upper most portions.

Commissioner Richardson moved the recommendation of the Council to approve the request for waiver. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 City of Okeechobee

Mr. Mellick presented the request stating the case was an application for waiver from vertical accessibility to the second floor of an existing municipal building. He stated the Council recommended to deny the waiver based on lack of disproportionality, lack of hardship, and lack

of jurisdiction for Title 2 facilities.

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

Oscar Vermilio, Professional Engineer, City of Okeechobee

Mr. Vermilio explained the situation is that the second floor of the building was erected 22 years ago, being used by the police department. He stated the city used allocated money to renovate the second floor and installed an emergency stairway. He continued stating the second floor is being used by 4 or 5 certified firefighters as living quarters. He further explained that to install an elevator would be cost prohibitive as well as structurally infeasible due to the walls being built with pre-cast panels measuring 40' wide by 24" deep.

Keith Tommy, Fire Chief, City of Okeechobee

Mr. Tommy added the only people using the second floor of the building will be certified firefighters and explained when their families visit them they would visit the first floor, not the second. He stated currently the city has 2 3-man shifts and 1 4-man shift and stressed that an elevator would be a financial hardship.

Mr. Dennis interjected the building is subject to Title 2 regulations because it is a government municipal building relating to a government program, in addition to being subject to the Title 3 Building Public Access requirements. He continued stating there is no exemption provided under Title 2, nor does the Council or the Commission hold jurisdiction to waive Title 2 requirements. He then expressed concern in terms of establishing that kind of precedent.

Mr. Mellick stated the Council's concern is the Title 2 facility which has no exemption from elevator requirements and finds great conflict in terms of jurisdiction.

Commissioner Shaw suggested the applicant could withdraw his application for waiver rather than be denied the waiver.

Mr. Dennis responded the applicant could withdraw the waiver and possibly work it out at the local level. He stated the statutory language in the Florida Accessibility Act in Chapter 553 implies the federal ADA

always applies and nothing can abrogate those requirements.

Commissioner Corn offered clarification stating the only people who will be using the second floor of the building will be firefighters and EMT personnel who are required by their job description to be without disabilities. He stated the waiver should be granted in spite of Title 2 or Title 3 and the city could deal with it on the local level.

Commissioner Richardson added the case is a Title 2 issue and the Commission does not hold authority to grant the waiver. She then suggested the Commission support the recommendation of the Council to deny the waiver.

Commissioner Wiggins asked if there are exemptions from accessibility for special facilities under Title 2.

Commissioner Richardson responded there is no waiver or exceptions under Title 2.

Mr. Long added he has experienced cases where the use of buildings were changed and explained that's why the ADA is tougher on government municipal buildings and the public they serve.

Commissioner Richardson continued stating if the City of Okeechobee does not have the financial resources to support the accessibility requirement they should present their circumstances to the City Council for alternative suggestions.

The application was withdrawn by the applicant.

Commissioner Richardson then withdrew her motion to approve the Council's recommendation.

#5 Beachside Seafood

Mr. Mellick presented the case stating the restaurant is requesting waiver from vertical accessibility to their new second floor 1,000 square feet expansion to the dining area. He stated the Council recommended approval of the waiver based on economic hardship.

Commissioner Shaw moved approval of the recommendation of the Council to approve the waiver. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#6 Firehouse 4

Mr. Mellick explained the case stating the applicant was requesting waiver from vertical accessibility to the second floor undergoing renovation. He stated the building is a firehouse and is designated an historic structure. He continued stating the Council recommended approving the waiver based on the 20% disproportionate cost in 553.509 of the Florida Statutes. Mr. Mellick then stated the applicant failed to address specifically the second floor deck which is two steps lower than the second floor. He stated the Council considered the deck and recommended approval based on 20% disproportionality and the fact that the deck is not being renovated.

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

#7 Maya Magazine

Mr. Mellick stated the applicant is requesting waiver from vertical accessibility to the existing second floor. He continued stating the Council recommended approval of the request based on economic hardship.

Commissioner Richardson moved approval of the Council's recommendation to approve the waiver. Commissioner Shaw seconded the motion. Vote to approve the motion was unanimous.

**RULE DEVELOPMENT WORKSHOP FOR RULE CHAPTER 9B-1,
MANUFACTURED BUILDINGS**

Mr. Richmond stated Rule 9B-1 has been duly noticed in the Florida Administrative Weekly. He then called the workshop to order.

Commissioner Carson stated the POC had met on several occasions with regard to the rule with two items resulting for Commission action. He described the items as follows:

9B-1006 (4) Certification by Third Party Agencies

Commissioner Carson read the rule as follows: "Duties and responsibilities. Upon certification, the agency shall be entitled such plan review and inspection services for which it is qualified pursuant to these

rules and shall comply with Chapter 120 and the following general duties and responsibilities”.

Commissioner Carson stated the added language is “Chapter 120”.

9B-1009 (4)

Commissioner Carson stated the language has been deleted and the POC is proposing that it be indicated in the rule as repealed.

Mr. Richmond closed the workshop to entertain Commission action.

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

Commissioner Lipka moved approval to integrate the POC recommendations into 9B-1 and proceed with rule adoption. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous. Motion carried.

RULE DEVELOPMENT WORKSHOP FOR RULE CHAPTER 9B-3.054, NON-BINDING ADVISORY OPINIONS

Mr. Dennis opened the rule development workshop on draft rule 9B-3.054 Nonbinding Interpretations of the Florida Building Code, which has been noticed in the Florida Administrative Weekly. He explained the rule implements the authority granted in the 553.77(7) covering the issuance of non-binding interpretations of the Florida Building Code.

Commissioner Thorne presented the recommendations from the Code Administration TAC. He stated the TAC recommended section 2E of the rule to be revised to read as follows:

“The response shall be to send the request within 21 days and in no event may exceed 30 days. If more than 21 days, notify the petitioner.”

Ronnie Spooner, President, Building Officials Association of Florida

Mr. Spooner expressed support for the TAC’s recommendation stating BOAF’s intention was to provide interpretations as quickly as possible, anticipating completing interpretations within 14 days. He

stated they have maintained a 19-day turnaround time on the interpretations due to the volume received and the complexity of the issues. Mr. Spooner requested the Commission support the TAC's recommendation in order to amend the contract to allow a 19-day interpretation.

Mr. Richmond stated Ms. Jones and the DCA staff are negotiating with BOAF. He continued stating the contract and the rule are related however separate issues.

Mr. Dennis closed the rule development workshop to entertain Commission action.

Commissioner Kim moved approval of the TAC recommendations. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Greiner moved approval to integrate the TAC recommendations and proceed with rule adoption. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Shaw expressed concern regarding the volume of interpretations being submitted and asked if an adequate amount has been included in the budget.

Ms. Jones responded stating approximately \$40,000 has been budgeted for the fiscal year through June 30. She continued stating there appears to be adequate funding for the number of issues that will come before BOAF. Ms. Jones further stated an additional purchase order would be required as of July 1.

LEGAL REPORTS:
UPDATE ON FPSA CHALLENGE OF POOL ALARM STANDARDS
AND OTHER ISSUES

Mr. Richmond stated legal has received an order in the swimming pool safety alarm rule challenge case that was filed by the Florida Pool & Spa Association. He continued stating the Administrative Law Judge concluded the specific provisions the petitioners complained about, 424.2.17.1.9, pertaining specifically to barrier requirements as well as requirements for the pool alarms and self-closing, self-latching devices on doors, is beyond the Commission's Legislative authority. He explained

the decision for the Commission is whether or not to challenge the order, further stating an appeal of the decision would stay with the application of the order.

Mr. Richmond then stated his discussions with Mr. Dudley have resulted in the petitioner would seek to allow battery powered alarms in both new construction and existing construction expressing no room for negotiation. He continued stating the petitioner has also expressed the desire to have a stay lifted. He then asked whether the Commission would desire that he continue negotiations or whether the Commission would authorize him to file an appeal.

Commissioner Greiner moved approval to grant legal authority to file a Notice of Appeal. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond then called for a motion for consideration as to whether the Commission would desire Mr. Richmond to investigate and negotiate a potential settlement of this issue with the Pool & Spa Association. He stated the solid term of that settlement would be battery powered alarms being allowed in all construction, new and existing.

Commissioner Greiner moved approval to support the current language in the Code. Commissioner Lipka seconded the motion. Vote to approve the motion resulted in 16 in favor; 4 opposed. Motion carried.

PETITIONS FOR DECLARATORY STATEMENT

Mr. Blair explained the Commission's Declaratory Statement Process which was adopted unanimously in March 2002.

SECOND HEARINGS

DCA02-DEC-271 by Jack McStravic, Lee County Division of Development Services

Dismissed.

DCA02-DEC-352 by David Bishop, Fawley-Bryant Architects, Inc.

Mr. Richmond presented the petition which was deferred at the last meeting. He stated the declaratory statement pertains to Section 704.2.4 Exit Access Corridors and the fire resistance rating of the exit access

corridors. He explained the Commission concluded that Table 704.2.4 requires a one-hour fire resistance rating for exit access corridors in sprinklered E occupancies.

David Bishop, Fawley-Bryant

Mr. Bishop stated he attended the December Fire TAC meeting at which it was voted to approve January action regarding the declaratory statement. He continued stating the petitioners did not have adequate time to prepare and requested the statement be tabled.

Mr. Madani offered clarification stating when the issue came before the Commission the TAC report has two recommendations, one which is consistent with the Code and the other conflicting with the Code. He continued stating the Commission at that time voted approval of the recommendation consistent with Code language.

Commissioner Greiner brought it to the Commission's attention that during the last meeting when this issue was presented there were changes in the table that were missed. He continued stating the issue of changes was brought up during the TAC meeting. He stated he had requested the issue go back to the TAC.

Commissioner D'Andrea concurred with Commissioner Greiner and stated there was a glitch in the table between what the building Code should have stated and what the fire prevention code states. He added the TAC was supportive and agreed with the petitioner's position, there was uncertainty in terms of TAC action. Commissioner D'Andrea continued stating the issue is whether or not the Commission can rule there was an error which should have been corrected or whether to strictly adhere to the Code.

Chairman Rodriguez asked if the recommendation is to send the issue back to the TAC.

Commissioner D'Andrea replied the recommendation would be based on what action the TAC may take to resolve the conflict.

Mr. Richmond interjected the conflict is between the fire code and the building Code. He stated the Commission is limited in the resolution of those conflicts to that which provides the greatest life safety. He continued stating the Commission has adopted the Code by rule and is limited to the language that exists. Mr. Richmond stated appropriate

action would be to approve the draft, change the draft, or send it back to the TAC.

Mr. Bishop stated there appears to be a loose interpretation issue. He continued stating the Florida BOAF issued a statement based on Table 704.2.4 which was published on the website. He explained the unofficial interpretation from BOAF is the intent is to provide smoke partitions as indicated in the Florida Fire Prevention Code, Section 14.3.6 Exception 2. He further stated the smoke partition provisions were written to offer options not previously available.

Commissioner D'Andrea asked if the Commission could issue a non-binding recommendation to use the BOAF document with the local official having authority to make the ultimate decision.

Mr. Richmond stated the petitioner could withdraw his petition and go to the building official on the basis of the non-binding interpretation.

Mr. Bishop stated the reason they have come before the Commission is because of the local official.

Mike Bryant, Vice-President, Fawley-Bryant Architects, Inc.

Mr. Bryant added there is a middle school under construction currently which brought forward the issue being discussed. He stated the issue has a financial impact of approximately \$200,000.00, and there are other schools in the planning stages. He stated the issue has an enormous impact on the cost of construction of these facilities.

Chairman Rodriguez offered clarification stating if the petitioner withdraws the request, the local building official is able to approve it based on the non-binding BOAF recommendation. He then asked if the Commission could send word to the local building official and not be construed as a Code amendment.

Mr. Richmond stated he was uncertain as to how it could be done. He explained it could be considered as a means to interpret the Code in a manner that would be consistent with what the committee and the petitioner both desire. Mr. Richmond then stated staff had indicated that the Code requirement is clear.

Commissioner Sanidas stated the Commission needs more information regarding the issue to clarify the intent of the petitioner.

Commissioner Bahadori expressed concern regarding the informal interpretation from BOAF when the Code is specific in stating the requirement.

Commissioner D'Andrea concurred then stated the intent when the Fire TAC first discussed the issue was to correlate between the Code and the Florida Fire Prevention Code. He stated a joint decision was made that the correlation would be made in terms of what was in the Florida Fire Prevention Code. He suggested that the petitioners withdraw their declaratory statement then he could move approval for the Commission to advise the petitioner the BOAF interpretation would be available for use as a non-binding process.

Commissioner Bassett offered comment stating the problem is a "typo" in publishing the Code then asked if there was any way of correcting a typographical error without going through the formal process.

Mr. Richmond responded the issue has been identified as a substantial issue costing the petitioners \$200,000.00. He suggested calling the error a "typo" may be inaccurate.

Commissioner Bahadori interjected the item of discussion is not a "typo". He argued it is a requirement that has been in the Standard Building Code for a long time.

Mr. Bryant reminded the Commission his project is Type 4 construction with Class A building materials and the building is compartmentalized with one-hour partitions and 30,000 square feet compartments. He stated all the corridors must be smoke-rated and the building is fully sprinkled with a fully addressable fire alarm.

Commissioner Sanidas stressed that the project is not dealing with just adults and stated children deserve as much safety as the Code will give them.

Commissioner Wiggins asked if the request will relate to only one building or several buildings in the jurisdiction. He further asked if the request had been appealed to the Construction Board of Adjustments and Appeals.

Mr. Bryant responded the request relates to single-mass buildings and applies to the middle school at issue and will apply to an elementary school projected to be built, as well as other middle schools to be built

and a new high school.

Mr. Bishop interjected the May 2002 commentary which was published by the Commission shows the "1" stricken out of the column of Table 704.2.4.

Commissioner Kidwell asked if the petitioner intends to withdraw the application.

Mr. Bryant asked where the request would then go if it is withdrawn.

Mr. Dixon responded there is a new amendment process which begins April 18 in which a proposed change may be submitted for Commission consideration for adoption of the 2004 edition of the Code which would go into effect July 1, 2004.

Applicant withdrew the petition.

DCA02-DEC-354 by Lawrence Bennett, Civil & Structural Engineering

Dismissed.

DCA02-DEC-357 by Oriel Haage, Miami-Dade County Code Compliance

Mr. Richmond stated the issue pertains to the installation of pole lights by an electrical contractor for the city and whether it is exempt from permitting and inspection; also the request asks if the installation of pole lights by the city's electrical department is exempt from permitting and inspection; and whether the provisions of the National Electrical Code adopted by reference in Chapter 27 apply to construction of pole lights in the right-of-way.

Mr. Richmond continued stating the answers are that these situations are subject to permitting and inspection whether they are installed by the electrical contractor or the department, and that Chapter 27 adopts the NEC by reference which applies to installation of electrical equipment on public and private buildings, structures, and premises, which would include pole lights in the right-of-way.

Commissioner Wiggins moved to approve the TAC's recommendation. Commissioner Sanidas seconded the motion. Vote to

approve the motion was unanimous. Motion carried.

DCA02-DEC-365 by Peter Schwab, Wayne Automatic Fire Sprinklers, Inc.

Dismissed.

DCA02-DEC-001 by Peter Schwab, Wayne Automatic Fire Sprinklers, Inc.

Mr. Richmond explained the request was submitted to the department and assigned as case # DCA02-DEC-001 (below) which complied with the requirements of Chapter 120. He explained the petitioner inquires whether the building official is the final authority for the type of fire sprinkling system required for the building and whether the type of sprinkler system required for the building is dictated by the Florida Fire Prevention Code or the Florida Building Code, and if Table 500 of the Florida Building Code allows the building to be built without sprinklers; and whether sprinklers for the building are required to meet the standard designated NFPA 13, Standards for Installation of Sprinkler Systems, or NFPA 13R, Standards for Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.

Mr. Richmond stated the request came before the Commission during the January meeting for a first reading and the Commission has approved the draft as it appears stating the building official is the final deciding authority for the type of fire sprinkler system. He continued stating Chapter 9 of the Florida Building Code establishes standards enforced by the building official and pursuant to those requirements. Mr. Richmond added that NFPA 13 is applicable to the petitioner's project.

Mr. Richmond then recommended not determining the final deciding authority because it would involve an interpretation that the fire code does not apply which is beyond the Commission's authority. He added specific language should be entered that the Commission action is based upon determination and representation from the state fire marshal that the fire code does not apply to the building at issue.

Commissioner Greiner moved approval of declaratory statement DCA02-DEC-001 as recommended by legal staff. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-366 by Kim Northard, Kid Safe Pool Nets

Dismissed.

DCA02-DEC-369 by Joe Hetzel, DASMA

Mr. Richmond stated the request pertains to a project in Hillsborough County with the following issues: 1) does the requirement imposed by Section 1705.1 that construction sustain a superimposed load equal to two times the live load apply to garage doors that are subject to live load; 2) whether the allowable stress increase of 33 1/3 % on connections in Section 1621.1 of the Code is separate from the 150% test pressure increase over the design pressure as required in 1707.4.3 of the Code as applied to garage door connections; 3) should the KD factor for garage doors be .85 pursuant to ASCE 7-98 adopted by reference in 1606.1.1 for the determination of wind loads?

Mr. Richmond continued stating the responses to the questions as follows: the appropriate KD factor for the garage doors identified by the petitioner is .85; a declaratory statement has been previously issued pertaining to designing component and cladding where the sliding glass door for lateral windload only is within the scope of combinations specified in 2.3 and 2.4 ASCE 7-98 with the assumption that the dead load is 0; and Section 1705.1 is applicable to in-place construction where the Code does not provide for a specific test standard, garage doors required to be tested using a pre-construction load test in accordance with the test procedure outlined in 1707.4.3 of the Code; and the 33 1/3% and the 150% are separate with the 150% is a testing criteria requiring that the garage door be tested to 1.5 of the wind design load, 33 1/3% increase is an adjustment factor which as per Section 1609.4.3 is not permitted for garage door connections.

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

FIRST HEARING

DCA02-DEC-370 by Michael Huey, Florida AIA

Mr. Richmond stated the subject pertains to interpretation of the relationship between the permitting by affidavit process that appears in the Florida Building Code and the alternate plan review and inspection

provisions that were inserted in Chapter 553 last year and appear at 553.791. He stated the petitioner asked for an interpretation of the two alleging that a conflict may exist that requires a declaratory statement that the statute would supercede the Florida Building Code. Mr. Richmond stated staff's recommendation as well as the Code Administration TAC was that the two systems can co-exist side-by-side without conflict.

Commissioner Thorne moved approval of the TAC's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-007 by William Paul Myrick, Myrick Properties

Deferred.

DCA02-DEC-008 by Juliana Salas, Miami Dade County

Mr. Richmond stated the petition requests clarification regarding the maximum travel distance to an exit in a low hazard 400' X 930' building. He stated the TAC recommendation was according to Table 1004 of the Florida Building Code, which is consistent with Section 42.2.6.1 of the Florida Fire Prevention Code, the maximum travel distance to an exit in an unsprinklered, low hazard, storage building must be a maximum of 200'.

Joe Belcher

Mr. Belcher stated he didn't recall the TAC making a recommendation on the petition.

Mr. Madani advised the TAC discussed that the building had been misclassified but they did take a vote and it was recorded as presented.

Commissioner Bahadori stated he remember the vote.

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

DCA02-DEC-025 by Robert R. Bullard, Absolute Engineering Group

Mr. Richmond stated the question presented was whether structures

contemplated in the code requirements for clear distance above roofs for use as supports for mechanical equipment are required to be specialty design products or are the structures intended to be designed on a case by case, location by location basis as is typical for all custom structures. Mr. Richmond then stated the answer is that the Florida Building Code allows for both options.

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

DCA03-DEC-028 by Andy Brill, MI Home Products

Mr. Richmond explained the question presented is, the Code limit glass window and door aspect ratio to 5 to 1. He stated the TAC recommended answer is no.

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

DCA02-DEC-032 by Cathy Spafford, Town of Indialantic

Mr. Richmond stated the question pertains to playground equipment and whether the intent of the Florida Building Code is to regulate playground equipment in the yard of a single unit dwelling and require a building permit, if so, does this include all types and sizes of equipment, if regulated by the Code and a permit is required would it be retroactive from March 1, 2002 when the Code was adopted. Mr. Richmond stated the TAC recommendation is that it is not the intent of the Code to regulate the equipment.

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

Mr. Richmond stated DCA02-DEC-359 and DCA02-DEC-006 have been withdrawn.

COMMITTEE REPORTS AND RECOMMENDATIONS

Accessibility TAC

Commissioner Richardson presented the report of the Accessibility

TAC. (See *Accessibility Technical Advisory Committee Meeting Minutes Attachment.*)

Commissioner Richardson moved approval of the advanced accessibility training program with the conditions outlined by the TAC. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Commissioner Richardson offered comment concerning a lengthy discussion regarding the commentary received. She stated the Commission had been given commentary for SBCCI as well as the plumbing commentary. She continued stating as she was reviewing the material there were numerous commentaries dealing with accessibility that had not been presented to the Accessibility TAC. She expressed concern that such material is available.

Code Administration TAC

Commissioner Thorne presented the report of the Code Administration Technical Advisory Committee. (See *Code Administration TAC Minutes.*)

Commissioner Thorne moved approval of the TAC recommendation not to adopt the proposed commentary through Chapter 120, Florida Statutes Procedures, and if so make the comment available as a source of information and tools for guidance. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Thorne moved approval of the TAC recommendation that the appeal procedure was already established and completed by virtue of criteria and procedures already established by Section 103.7, Alternate Materials and Methods of the Code. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Thorne moved approval of TAC recommendation to submit Section 106.3.3 of the 2000 International Building Code regarding foundation permits as a replacement for Section 104.5.4 for adoption in the 2004 code update. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Shaw requested clarification regarding the motion not to accept a commentary. He then suggested a broader discussion may be necessary before the issue is eliminated after one TAC.

Commissioner Bassett moved to reconsider. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval to table the recommendation from the TAC for further discussion. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Electrical TAC

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

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

Energy TAC

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

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

Joint Fire TAC

Commissioner Greiner presented the report of the Joint Fire Technical Advisory Committee. (See *Joint Fire Technical Advisory Committee* Attachment.)

Commissioner McCombs moved approval of the Fire TAC report.

Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mechanical TAC

Commissioner Patterson presented the report of the Mechanical TAC. (See *Mechanical Technical Advisory Committee Attachment*.)

Commissioner Patterson then asked when a workplan is approved if the 2003 IMC would be automatically implemented.

Mr. Dixon responded stating one of the workplan items last year was to decide on a policy on transition to the International Codes. He explained the decision on updating to the new editions of plumbing, mechanical, and fuel gas codes was not done through the workplan approval. Rather it was done through specific motions defining how to implement the 2004 Code update. Mr. Dixon continued stating it was decided that the 2004 revision of the Florida Building Code would be done by adopting the 2003 editions of those three codes and consideration of differences between the Florida Building Code and the International Building Code on a case by case basis. He continued stating the international residential code would be reviewed on a chapter by chapter basis.

Mr. Dixon offered clarification stating the new edition of the mechanical code would be submitted as a single amendment, which is allowed under the settlement agreement with the Florida Home Builder's Association, with the exception that any existing Florida amendment would not be overturned. He continued stating any change between editions of the base model code could be considered individually if a party asked it be considered separately.

Commissioner Bassett requested clarification regarding the adoption of the 2003 IMC.

Mr. Dixon responded stating April 18 is the deadline for submitting an amendment to update the 2003 IMC.

Bassett then asked if the TAC can then modify the IMC anytime during the process or if it is restricted also by the April 18 time line.

Mr. Dixon replied under the settlement agreement with the Florida Home Builders Association anyone can ask that any single change be considered individually and the TAC can modify any proposed amendment as it is considered.

Mr. Richmond clarified stating in order to obtain review of the fiscal impact of any new provisions a written request is required. He continued stating in order to make an affirmative change it would be subject to publication of the changes in advance on the website which would be in line with the April 18 date.

Commissioner Bassett expressed concern regarding the magnitude of the task of reviewing and updating the provisions. He stated he doesn't believe it possible to make the deadline.

Chairman Rodriguez responded there is no way to predict how long it will take and encouraged the Commission to remain optimistic and make a recommendation based on receipt of the proposals to be reviewed.

Mr. Dixon stated the Florida specific provisions would not be effected. He continued stating non-Florida specific provisions which may have been deleted between the two editions of a model code would require action.

Mr. Madani offered clarification stating the 2003 codes will be provided electronically and made available via email. He stated staff will review the codes and integrate into them the Florida specific provisions which may take up to a month.

Mr. Dixon further clarified stating the Florida specific amendments are known and any changes to the base model code the effect the same sections of the code will be identified for an easier review.

Commissioner Sanidas stated when the plumbing and mechanical codes were adopted they were ICC codes. He continued stating the only changes to be reviewed would be from the last two years.

Commissioner Bassett asked what the procedure would be for reviewing all of the local amendments.

Mr. Dixon responded stating the most defensible position is being explored. He stated there is a specific requirement of law that must be complied in dealing with the local amendments.

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

Plumbing TAC

Commissioner Shaw presented the report of the Plumbing Technical Advisory Committee stating their discussion was limited to the commentary. (See *Plumbing Technical Advisory Committee Minutes Attachment.*)

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

Education Program Oversight Committee (POC) and TAC

Commissioner Thorne presented the report of the Education Program Oversight Committee. (See *Education Program Oversight Committee Minutes Attachment.*)

Commissioner Thorne moved approval of a course which was submitted by Design Arts, Inc. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Thorne moved approval that the Structural TAC should take the Structural Advance Course to the Commission for approval. Commissioner Shaw seconded the motion. Vote to approve the motion was unanimous. Motion carried.

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

Product Approval/Prototype Building/Manufactured Buildings/ Program Oversight Committee

Commissioner Carson presented the report of the Product Approval Prototype Building/Manufactured Buildings/Program Oversight Committee. (See *PAPBMB POC Minutes Attachment.*)

Commissioner Carson moved approval to recommend rule making procedures to amend Rule 9B-74 to authorize applicants to waive the 90-day time limit established by Chapter 120, FS, as it applies to the issuance or denial of approval of building plans for prototype buildings. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval of the report. Commissioner Kim 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 Minutes Attachment*.)

Commissioner Parrino moved approval of the UF training course on Chapter 16 contingent upon staff confirming all comments by the Structural TAC are incorporated into the course. Commissioner Wiggins seconded the motion.

Commissioner Kidwell offered a friendly amendment suggesting that staff confirm the finalized version of the program be sent to the committee members.

Parrino accepted the friendly amendment.

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

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

Mr. Dixon explained the TACs decided there is no need for commentaries which have appeared on the workplan. He then opened the topic for discussion and action by the Commission.

Commissioner Shaw stated the Plumbing TAC considers the commentaries necessary. He continued stating the process of adopting a commentary by the 120 procedure may not be a positive avenue to accomplish the task. He added the adoption process is cumbersome and creates resistance. Commissioner Shaw then stated the Plumbing TAC made a recommendation for any new Code amendments to be presented in the future, a rationale be provided and used as a commentary for those amendments. He continued stating a rationale is one item missing from the Code amendment process.

Commissioner Bassett expressed his concern in terms of the commentary becoming the Code following the rule making process. He stated BOAF could write the commentaries upon TAC approval of each

provision.

Commissioner McCombs stated the Electrical TAC moved unanimously not to adopt any commentary acknowledging the handbook as one of many valuable documents available for commentary.

Commissioner Parrino stated the Structural TAC unanimously moved not to adopt the proposed commentary by rule but make available such commentary as a resource of information and a tool for guidance. He added there are 25 chapters for consideration for the Structural TAC and a thorough review of the material could not be accomplished to the satisfaction of the TAC members given the time frame available. Commissioner Parrino then stated the commentary was derived from very few staff members and not necessarily the bodies who wrote that portion of the Code.

Commissioner Patterson stated the Mechanical TAC reached no solutions and decided there was not an adequate time frame for completing a commentary.

Mr. Blair explained the options available to resolve the commentary issue. He stated the Commission could entertain a specific motion if one were entered. He continued explaining procedurally discussion regarding the pros and cons of the available options for resolution could be entertained and the option with the most support could be a basis for a recommendation.

Commissioner Corn stated a commentary is available for use but no one seems to want to review it. He then moved the Commission not review and adopt commentaries. Commissioner Kidwell seconded the motion.

Commissioner Wiggins offered a friendly amendment on a positive note suggesting the Commission provide the website references to the existing commentaries that coincide with the Code as well as referencing declaratory statements and the BOAF non-binding interpretations for the purpose of commentary.

Commissioner Corn accepted the friendly amendment.

Commissioner Shaw offered a friendly amendment to add language to reserve the right to later create a commentary.

Commissioner Corn accepted the friendly amendment.

Commissioner Bassett expressed concern regarding publishing on the

website commentaries having problems with the Florida specific amendments. He suggested finding another method of issuing commentaries without the formality of the Chapter 120 procedures.

Commissioner Calpini offered an additional friendly amendment to add an element to the amendment process that deals with the rationale behind the recommendation for the amendment. He stated there are components currently in the system which will establish over time a history of intent and rationale as a resource without institutionalizing it as a commentary.

Commissioner Corn accepted amendment.

Mr. Blair repeated the motion as amended stating the Commission will utilize the website to provide the references to the existing commentaries along with the BOAF non-binding interpretations and the declaratory statements, but will not review and approve specific commentary at this time while retaining statutory authority to do so in the future, with future amendment adoption processes including a rationale.

Chairman Rodriguez called for a vote on the motion as amended. Vote to approve the motion resulted in 15 in favor and 1 opposed (Bassett). Motion carried.

Commissioner Wiggins asked if Accessibility could utilize a training course manual for purposes of commentary.

Mr. Dixon responded accessibility requirements carry additional superceding requirements mandated by the state through the development of laws to maintain the certification of the Florida Accessibility Code by the Department of Justice. He stated when DOJ reviewed the Florida Accessibility Code for certification they asked for all interpretive information, all policies ever written, and the law. He continued stating the situation with accessibility is complicated and must be explored and considered further.

Commissioner Corn stated the same commentary exists for accessibility and will be available for use for anyone who wishes to use them.

Commissioner Bassett reminded the Commission he had asked that the Commission receive accessibility comments and requested again that the Commission members be provided with accessibility commentary.

PUBLIC COMMENT

Paul Kidwell

Mr. Kidwell offered comment regarding venue for the Commission meetings stating the Florida Building Commission is a body that seeks to solicit comments, participation, and attendance from the public and as such costs to the public related to venues should be at a minimum. He then expressed objection to the use of a venue with an \$8.00 charge for parking. He formally requested staff to investigate ancillary costs associated with the use of any particular venue for these public meetings.

Paul Roth, Representing the Chief Inspector for Orange County

Mr. Roth stated there is a discrepancy in the size of a chain link that is currently within the Florida Building Code and was promulgated by the Consumer Products Safety Commission. He explained the Consumer Products Safety Commission states the mesh size should not exceed 1 1/4" square and the current Code states 2 1/4".

Mr. Dixon stated there is an opportunity for submitting proposed amendments up until April 18 and suggested Mr. Roth log onto www.floridabuilding.org and enter proposed code amendment addressing the discrepancy into the system so it can be considered.

Ray Yauchler, Director, Alarm Association of Florida

Mr. Yauchler stated the association is available to the Commission for any discussion concerning fire alarm and security and fire alarm electrical installation. He continued stating the association has been confronted with pool alarm issues which have not been assigned to any enforcement agency making it difficult for industry contractors to comply.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR COMMISSION'S FEBRUARY 2003 MEETING

Mr. Blair opened discussion for committee assignments and meetings for the April Commission meeting. He stated all TACs and POCs will be meeting with the exception of the Education POC which will no longer be meeting.

SUMMARY AND REVIEW MEETING WORK PRODUCTS

Chairman Rodriguez stated the Commission had reviewed and updated the workplan, decided on the chair's discussion issues, decided

on the accessibility waiver applications, conducted a rule development workshop on Rule 9B-1 and on 9B-3.054. He continued stating the Commission had decided on declaratory statements, had decided on the Accessibility, Code Administration, Electrical, Energy, Fire, Mechanical, Plumbing, and Structural TAC reports and recommendations. Chairman Rodriguez further stated the Commission had considered and decided on the Education and Product Approval / Prototype/Manufactured Buildings POC reports and recommendations and had considered and decided on actions regarding the rule challenge as well as reviewed committee assignments for the April Commission meeting.

ADJOURN

No further business discussed, meeting adjourned at 12:55 p.m.