

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH STEVEN M. SEIBERT
Governor Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

PLENARY SESSION
March 26, 2002

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:33 a.m., on Tuesday, March 26, 2002, at the Rosen Plaza Hotel, Orlando, Florida.

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| Commission Members Present: | Frank Quintana |
| Raul Rodriguez, Chairman | Diana Richardson |
| Hamid Bahadori | Christ Sanidas |
| Dick Browdy | Dan Shaw |
| John Calpini | Karl Thorne |
| Ed Carson | George Wiggins |
| Stephen Corn | Doug Murdock, Adjunct Member |
| Nick D'Andrea | Commission Members Absent: |
| Dale Greiner | Suzanne Marshall |
| Paul Kidwell | |
| Do Kim | Others Present: |
| Bob Leonard | Al Bragg, Legal Advisor |
| Leonard Lipka | Jim Richmond, Legal Advisor |
| Michael McCombs | Rick Dixon, Advisor |
| Craig Parrino | Jeff Blair, FCRC |
| Peggy Patterson | Ila Jones, Program Administrator |

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WELCOME INTRODUCTIONS

Chairman Rodriguez welcomed the Commission and gallery to the first meeting since the enactment of the Florida Building Code. He explained that there would be a hearing conducted during the meeting for a Notice of Proposed Change on the proposed Product Approval System then move adoption of the proposed Product Approval and Prototype Building Rules. He referenced the agenda packet stating there were more than 20 Declaratory Statements as well as a county request for a wind speed compliance recommendation.

Chairman Rodriguez stated growing pains following implementation of the Code were expected. He continued stating the requests for Declaratory Statements and advisory opinion on local amendments are a natural part of implementing any new system, particularly one as complex as the Florida Building Code.

Chairman Rodriguez welcomed new members to the Commission: Paul Kidwell, Structural Engineer, Tampa; Hamid Bahadori, Fire Protection Engineer, Orlando; Do Kim, Insurance Industry Representative and Structural Engineer; and Dale Greiner, Lake County Building Official. Chairman Rodriguez then recognized the re-appointed Commissioners: Ed Carson, Steve Corn, Diana Richardson, John Calpini, and Frank Quintana.

AGENDA REVIEW AND APPROVAL

Mr. Blair briefly reviewed the meeting agenda stating the Chairman has important issues which will be discussed under the Chair's Discussion Issues and Recommendations section of the agenda.

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

REVIEW AND APPROVAL OF FEBRUARY 12, 2002 MEETING MINUTES

Commissioner Browdy motioned approval of the February 12, 2002 Commission meeting minutes. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez began by stating it has been a very busy six weeks. He brought the TAC and POC membership issue to the table for discussion stating it has to be revised on two counts. He stated the first is the revision due to the new appointments. Chairman Rodriguez reminded the Commission specific requests from Commissioners will be considered, some of which have been submitted. He continued stating the matrix is difficult to balance and announced the following appointments: Do Kim, Code Administration and Code Enforcement TAC and Structural TAC; Dale Greiner, Fire TAC and Code Enforcement TAC; Paul Kidwell, Structural TAC and Product Approval/Prototype Manufactured Building POC; Hamid Bahadori, Fire TAC and Electrical TAC.

Chairman Rodriguez then referenced the workplan prioritization project. He briefly reviewed the prioritization of workplan tasks. (See *Prioritization of Workplan Tasks - February 2002* Attachment.)

Commissioner Lipka motioned to approve workplan prioritization of tasks as presented with options as recommended. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez opened discussion regarding a successful mediation meeting held March 25. He stated Mr. Dixon had attended a Florida Windows Manufacturer's meeting and heard some concerns about what is happening with local officials throughout Florida since March 1. Chairman Rodriguez continued stating the Window Manufacturers and the building officials had been asked to attend a meeting at 4:00pm on March 25. He stated that also in attendance at the meeting to benefit both organizations, was Mr. Dixon, Mr. Blair, and Mr. Richmond for advice on the best course of action.

Chairman Rodriguez stated everyone in attendance at the meeting participated forthrightly. He continued stating the Window Manufacturers and the building officials agreed on the following: 1) that the Florida Building Commission approved certification agencies, AAMA, WDMA and other ANSI accredited certification agencies, listings, and labels would be accepted in lieu of signed and sealed test reports. He stated the manufacturers all agreed they would

submit copies of test reports as requested. Chairman Rodriguez furthered stating there was also participation from the engineering board assuring an exception to the rule that test reports must be signed and sealed by a state registered engineer; 2) the installation instructions were of concern to some of the building officials and it was agreed if the installation instructions differed from those that were tested and approved, the manufacturers would provide signed and sealed installation instructions.

Chairman Rodriguez announced work on a collaborative initiative with BOAF to advise the building officials of the agreement and to promote a BOAF administered product registration master file. He stated there could be reciprocity between counties. Chairman Rodriguez then expressed appreciation to all those who attended the meeting and to Mr. Dixon for bringing the issue to the front. He continued stating he would like to see more collaborative ventures with BOAF as well as other organizations.

Commissioner Browdy asked if the agreement addressed the concern specifically for window manufacturers during this interim period so AAMA's window seals will be sufficient until a product approval system is in place in 2003.

Chairman Rodriguez replied that it does address that concern and stated he would seek confirmation from those in attendance. He stressed from March 1 through October 1 was expressed as particular concern.

Chairman Rodriguez reported great success during the meeting held March 25 between the Commission and the Department of Community Affairs. He stated there was frank discussion held and everyone agrees that the Florida Building Commission should be the first forum where people come to establish consensus.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Neil Mellick, Vice Chair, stated there were five waiver applications to be considered. He stated legal staff would explain one of the cases.

#5 Young Achievers Day Care Center

Mr. Mellick presented the waiver application stating the Accessibility Waiver Council recommended approval to grant the waiver with the condition that the restrooms would be in compliance with the guidelines of children's facilities.

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

#1 Mater Academy East Charter School

Mr. Mellick presented the waiver application for Mater Academy stating it was the third time the applicant has appeared before the Council. He explained the Council has concerns regarding jurisdiction authority for charter schools and its Title 2 relationship and asked that legal research that issue. Mr. Mellick then stated the Council unanimously recommended deferral for the waiver application for another month allowing time for legal to conduct their research.

Mr. Rolando Yanez, Corradino Group Architects and Engineers, provided copies of the proposed expansion plan of the charter school to each Commissioner. (See *Academia, Mater Academy East Charter School, The Corradino Group Attachment.*)

Mr. Yanez explained the charter school is a not-for-profit, funded charter school occupying an existing building in Little Havana, formerly an apartment building. He continued stating charter schools can only be opened in areas of overcrowding and stated the neighborhood seriously needed a school like Mater in the area. Mr. Yanez stated the school has 148 students with three classrooms upstairs and three classrooms downstairs. He continued stating the site has extremely limited constraints when taking the Florida Accessibility Code into consideration. Mr. Yanez stated the site was cited to qualify under the exemption in the Code for buildings within three stories and under 3,000 square feet per floor and stated the City of Miami okayed the project based on the exemption. He furthered stating the drawings circulated for the Commission's review proposed three solutions; two with an elevator and one with a chair lift. He explained one problem with all of the proposed solutions is the second floor corridor is four inches below the classrooms, and slopes from front to back. He stated correcting the concrete stairwell would be an extremely costly endeavor. Open discussion ensued.

Commissioner D'Andrea asked if the Advisory Council was satisfied with the proposed solutions distributed.

Mr. Long stated he had contacted the building department as well as the project architect explaining there was a building official from Miami at the Council meeting who, following the Council meeting, expressed concerns regarding the first floor ramping not being in compliance. The building official had gone to the project site and cited them for not providing vertical accessibility on the first floor. Mr. Long stated he did not believe the chair lift provided accessibility to all and the plan doesn't show that the two rooms would be made accessible.

Commissioner Richardson requested a recommendation from the Accessibility Waiver Council as well as an opinion from Mr. Bragg, Commission Legal Advisor.

Mr. Bragg addressed the Commission explaining his observations regarding this request for waiver. He stated he had three observations in terms of the request for waiver. He explained Mr. Yanez appears to have relied on the number of stories and the 3,000 square footage test, which is not a requirement state law, rather a requirement imposed by Title 3 of the Americans with Disabilities Act. He stated the issue is an overlay in terms of state law which is more stringent than the federal requirement. He continued stating Florida requires vertical accessibility to all levels subject to specified exceptions in the statute. He expressed concern regarding officials in Miami not taking state law into consideration.

Mr. Bragg stated his second observation in terms of the unusual character of charter schools concerning whether a charter school is a public program or service within the meaning of Title 2 of the Americans with Disabilities Act, and is subject to the requirement that all services, programs, and facilities be made fully available and accessible.

Mr. Bragg furthered stating his third observation regarding applicants coming before the Council on the Monday of the meeting, being met with opposition, then ensuing in a scramble to metamorphasize the project by Tuesday morning's Commission meeting, putting the Council in an awkward position, undermining their authority and the vital role they serve.

Chairman Rodriguez concurred then stated it is not the intention of the Commission to embarrass or undermine the Council. He stated in the past there had been joint meetings of the Council and the Commission due to not only changes from Monday to Tuesday, but there was question regarding how often the Commission affirmed a

Council recommendation. He stated the Commission is not obligated to affirm the recommendations but certainly take the Council's suggestions very seriously.

Mr. Melick interjected a recommendation, in the form of a motion to the Council, to extend the TCO until the end of the school year, and defer this request until the next Commission meeting for more time to research and review the project. The motion was seconded by Mr. Harding. The Council vote to approve the motion was unanimous.

Commissioner Shaw moved the Council's recommendation to extend the Certificate of Occupancy and defer the request for waiver. Commissioner Lipka seconded the motion.

Commissioner Wiggins offered an amendment to the motion that the owner obtain a letter from the City of Miami Building Department explaining the scenario regarding the development of the project. Commissioner Lipka seconded the amendment.

Commissioner Shaw stated he would not support placing the burden on the owner to obtain documentation from the building department. He continued the Commission should request the information.

Commissioner Corn stated the Commission was asking the City of Miami to admit or deny that they did something incorrect. He then expressed concern stating the amendment should not be passed.

Commissioner Browdy expressed opposition to the amendment. He stated it is unreasonable to ask an owner to demand a letter of explanation from the city regarding its oversight.

Commissioner Kidwell stated the amendment should be made part of the request for the extension of the temporary CO.

Commissioner Wiggins then amended his amendment to request a logical explanation, not placing blame or responsibility. He restated the amendment to request specific information from the Miami Building Department on the scenario of events regarding the interpretation on this matter. Commissioner Lipka accepted the amended amendment.

Commissioner Patterson offered comment the burden should be on the Commission, not on the owner.

Commissioner Calpini confirmed his understanding that the request for information would be part of the request for the extension of the temporary CO.

Vote to approve the amendment to the motion was unanimous. Amendment approved.

Vote to approve the motion as amended was unanimous. Motion carried.

Mr. Yanez offered clarification regarding the drawings presented before the Commission stating the drawings were available at the time of the Council meeting.

Commissioner Richardson noted accessibility problems remain on the first floor as well as with restrooms having a five-foot turning circle. She recommended the Commission take those issues into consideration when conducting further research for this project.

Mr. Long stated he had requested drawings which were not provided for the Council meeting.

#3 Crazy Cot Cafe

Mr. Melick stated the Council had a number of questions for the applicant who did not appear before the Council. The Council recommended the request for waiver be deferred until the next Council and Commission meetings to obtain more information for a formal recommendation.

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

#2 McFarland, Cassidy Law Firm

Mr. Melick stated the request had been deferred in the past. He continued the Council had questions and the applicant did not appear before the Council. Mr. Melick cited discrepancies regarding the request and stated the Council's recommendation is to deny the request for waiver.

Commissioner Shaw moved approval of the recommendation to deny. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion to deny carried.

4 Plaza Resort and Spa

Mr. Melick stated the applicant was heard but the Council has made no recommendation. He directed the Commission to Mr. Bragg for discussion.

Mr. Bragg stated the request had been before the Commission in October with the owner not appearing before the Council. He then directed the Commission to his letter dated March 20, 2002 explaining the Commission has no authority to act on the request. (See *Bray v. Florida Building Commission, No. 5D01-3506 (Fla. 5th DCA Attachment.)*)

Commissioner Shaw moved to approve legal counsel's recommendation for no action regarding the request for waiver. Commissioner Lipka seconded the motion.

**CONDUCT HEARINGS ON CHANGES TO PROPOSED
PRODUCT APPROVAL RULE AND PROTOTYPE
BUILDINGS IF REQUESTED**

Mr. Blair explained the process for conducting the hearings stating the Commission would hold an overview of the changes, take public comment on the changes, consider clarifying questions only from the Commission, close the hearing, then ensue into Commission discussion on the comments considering any recommendation for change, then proceed to move to file for rule adoption.

Mr. Richmond opened the hearing pursuant to the notice published in the March 1 edition of the Florida Administrative Weekly of the Notice of Proposed Change to Rule 9B-72. He stated the Commission had received several hearing requests. He called for public comment.

PUBLIC COMMENT

Jon Hill, Vice President, Keystone Certifications, Inc.

Mr. Hill presented the application for recognition of the “Keystone Certification Program” product certification and labelling program. (See *Keystone Certifications, Inc. Letter to Mr. Raul Rodriguez, Chairman dated March 25, 2002 Attachment.*)

The hearing was recessed until 10:05 a.m.

SPECIAL OCCUPANCY TAC REPORT

No meeting.

ACCESSIBILITY TAC REPORT

Commissioner Richardson presented the Accessibility TAC report. (See *Accessibility TAC Report and Recommendations Attachment.*)

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

CODE ADMINISTRATION TAC REPORT

Commissioner Thorne presented the Code Administration TAC report. (See *Code Administration TAC Report and Recommendations Attachment.*)

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

**PRODUCT APPROVAL/PROTOTYPE BUILDING /
MANUFACTURED BUILDINGS PROGRAMS OVERSIGHT
COMMITTEE (POC)**

Commissioner Quintana presented the Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee report. (See *Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee Attachment.*)

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

Commissioner Quintana restated the recommendation to approve local building officials to accept Miami-Dade product approvals as complied with the Florida Building Code for use statewide. Commissioner Wiggins moved approval of the recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

EDUCATION PROGRAM OVERSIGHT COMMITTEE (POC)

Commissioner Browdy presented the Education Program Oversight Committee report and recommendations. (See *Education Program Oversight Committee, March 25, 2002, Orlando, Florida Attachment.*)

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

CONTINUE HEARINGS ON CHANGES TO PROPOSED PRODUCT APPROVAL RULE AND PROTOTYPE BUILDINGS IF REQUESTED

Mr. Richmond re-opened the hearing at 10:07 a.m. and called for public comment.

PUBLIC COMMENT

Carrie Hebrank, Florida Building Materials Association

Ms. Hebrank offered comment regarding concerns relevant to product usage specifically as it relates to doors and windows. She stated it was discovered last week two cities did not permit the use of laminated glass due to fire concerns. She stated there are issues which arise each week relative to product approval.

Ms. Hebrank expressed concerns regarding quality assurance and where it falls in the process. She stated there are no product failures in Florida and would like to ensure regulations are not overburdensome.

Ms. Hebrank stated the rule remains unclear relative to providing documentation of certification of approved products. She then expressed concern in terms of the issue of fees. She stated the \$300 fee is arbitrary and furthered if products are already approved by nationally recognized agencies and were used prior to implementation of the Code, moving forward with those products should not incur additional costs to those in the industry.

Ralph Hughes, Tampa

Mr. Hughes offered comment in response to Ms. Hebrank's comments. He stated Ms. Hebrank's comment problems will be resolved when the product rule is finalized. He noted the product approval rule and system would have been in place a year ago and the problems would not exist, if not for the objections of those who are now saying problems exist because the rule is not finalized.

No further comment was heard. Mr. Richmond closed the hearing at 10:14 a.m.

**REVIEW ANY COMMENTS ON NOTICE OF CHANGE TO
PROPOSED PRODUCT APPROVAL PROTOTYPE
BUILDINGS RULES AND DECIDE ON FILING/ADOPTING
THE RULE**

Commissioner Wiggins noted one of the items Ms. Hebrank commented on may have been addressed in Legislation which may require further modification of the rule. He stated there was a provision dealing with certification marks and listing agencies and acceptance of those holding the mark added to HB 1307. He asked if the provision needed to be reflected in the rule.

Mr. Richmond responded the provision has no impact and has not been signed into law. He continued stating there was no substantive change was intended in the provision, therefore no substantive change is needed in the rule.

Wiggins moved proceeding with filing Rule 9B-72. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez called for discussion on Rule 9B-74 for prototype buildings.

Mr. Richmond interjected Rule 9B-74 was noticed on the same date, March 1, in response to a JAPC comment. He stated no request for hearing was submitted, then asked for direction to proceed to file for the rule.

Commissioner McCombs moved to proceed with filing for Rule 9B-74. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

PLUMBING TAC REPORT AND RECOMMENDATIONS

Commissioner Shaw stated the Committee was presented Declaratory Statements in which some of the issues are an attempt to make Code changes. He then presented the Plumbing TAC report and recommendations. (See *Plumbing TAC Report and Recommendations Attachment*.)

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

MECHANICAL TAC REPORT AND RECOMMENDATIONS

Commissioner Patterson presented the Mechanical TAC report. (See *Mechanical TAC Report and Recommendations Attachment*.)

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

FIRE TAC REPORT AND RECOMMENDATIONS

Commissioner D'Andrea presented the Fire TAC report and recommendations. (See *Fire TAC Report and Recommendations Attachment*.)

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

STRUCTURAL TAC REPORT AND RECOMMENDATIONS

Commissioner Parrino presented the Structural TAC report and recommendations. (See *Structural TAC Report and Recommendations* Attachment.)

Commissioner Wiggins moved approval of the report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous.

LEGAL STAFF REPORTS / DISCUSSIONS / RECOMMENDATIONS / APPROVAL

Mr. Richmond presented a Petition for Rule Challenge entered by the Florida Pool and Spa Association, Inc. (See *State of Florida Division of Administrative Hearings Petition for Rule Challenge* Attachment.)

Wellington Meffert, II, Attorney, Akerman Senterfitt Law Firm, Tallahassee, Florida, Representing FPSA, Inc.

Mr. Meffert stated the petition had been filed with the Division of Administrative Hearing, therefore open discussion would not be appropriate. He stated this procedure would serve as an additional method of testing the amendments to the Florida Building Code. Mr. Meffert continued stating the action by the association was in no way intended to offend the Commission, simply it was representative of a disagreement with a section of the Code that appeared too vague.

Chairman Rodriguez suggested legal staff bring an opinion back to the Commission during the May Commission meeting.

Commissioner Wiggins asked if there were other options to determine a solution.

Mr. Richmond responded stating Chapter 120;F.S., is the process currently underway, explaining a result amenable to the Commission and the Petitioner could also be reached through settlement processes by and through an administrative law judge. He then confirmed the issue could be resolved as well through the Chapter 120;F.S. process.

Chairman Rodriguez formally requested a closed door attorney-client meeting scheduled for the May Commission meeting.

PRESENTATION ON CHAPTER 120; F.S., ADMINISTRATIVE PROCEDURES FOR DECLARATORY STATEMENTS

Mr. Blair reviewed the proposed procedures for the Commission's declaratory statement process. (See *Proposed Commission's Declaratory Statement Process Attachment*.)

Commissioner Wiggins asked if there could be a shortened process with a short question, simply answered, as in the past in dealing with declaratory statements in order to prevent delay on the part of the applicant.

Mr. Richmond explained the rapid method of interpretive non-binding advisory opinions through a third party. He stated the procedure is in response to the number of declaratory statements received along with staff's ability to gather all the necessary information pertaining to those declaratory statements. Mr. Richmond stated nothing would prevent the Commission from directing legal to draft it, get it signed, and process it, however, the proposed process allows time to distribute the information to the Commission and other interested parties, and offers time for meaningful input concerning decisions which will be made.

Commissioner Corn asked if the statements can be voted on in one meeting.

Mr. Richmond confirmed that one meeting would be adequate.

Commissioner Browdy asked if there is any part of the proposed procedure that would include a review to determine the history or consistency of previous declaratory statements in order to prevent redundancy.

Mr. Dixon responded technical staff is charged with evaluating whether or not an existing declaratory statement can answer a request that has been submitted, then notifying the applicant and/or appropriate building official/department. He

continued stating the declaratory statements that have been issued by the Commission are posted on the website.

Commissioner Browdy then asked if it is possible to index the declaratory statements by topic on the website, rather than the declaratory number.

Mr. Dixon replied that index method could be implemented on the website for the short term, then explained an interactive tool is being developed for research on sections of the Code including declaratory statements and local amendments pertaining to the requirements.

Commissioner Greiner suggested the declaratory statements be indexed by number and topic. He then clarified the process of review for declaratory statements and their respective recommendations by staff. Commissioner Greiner stressed it appeared to be a lengthy process.

Mr. Richmond responded the problem lies in translating Commission action into Order in response to a legal declaratory statement. He stated the second opportunity for review of the declaratory statement is essential for accuracy and the intent of the Commission.

Mr. Dixon added there is an annual cycle for Code changes where all of the declaratory statements will become actual Code changes. He stressed the importance of fully notifying the public of any proposed changes prior to implementing the change. Mr. Dixon then explained the process as similar to a rule change process where public notice and opportunity to comment are guaranteed.

Commissioner Corn suggested there may be issues or requests which come before the Commission that may not require such a lengthy process and flexibility should be sought when issues can be resolved clearly in one meeting.

Mr. Dixon stated the Commission will develop a procedure for rapid advisory interpretation; to fill the need for immediate response.

Commissioner Greiner moved to approve the Commission's proposed declaratory statement process. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond explained the nature and legal requirements for declaratory statements. (See *FSA § 120.565, Declaratory statement by agencies Attachment.*)

Mr. Richmond stated there are three elements in the process; i.e., a substantially affected person, a statutory provision or rule, and a set of particular circumstances belonging to the substantially affected person. He continued stating determinations are made according to the individual nature of each request on a case by case basis. Mr. Richmond then defined for the Commission the difference between a declaratory statement and a rule. He stated a rule is a statement of general policy to be applied, such as the Florida Building Code. He furthered explaining a declaratory statement cannot make a general statement of policy, rather it serves as an opinion of how the general statement of policy applies to the circumstances. Mr. Richmond referenced the *FSA § 120.565, Declaratory statement by agencies* attachment, page 164, defining a declaratory statement as "...a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders..." however stressing it continues stating "A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability..." Mr. Richmond continued stating it was difficult to interpret the law because it states a declaratory statement is a means to resolve a controversy, but goes on to state it is not the appropriate means for determining conduct of another, thus remaining a case by case basis. Mr. Richmond then reviewed a declaratory and the determination of such included in the document distributed to each Commissioner.

PETITIONS FOR DECLARATORY STATEMENT:

Mr. Richmond recommended the following declaratory statements be deferred until the May Commission meeting:

DCA01-DEC-239 by Fabian Construction on dryer vent (holdover)

DCA02-DEC-063 by Door and Access Systems Manufacturers Association on garage door wind load guide

DCA02-DEC-062 by AIRTEMP on balanced air return

DCA02-DEC-036 by VAK-PAK on pools

DCA02-DEC-048 by Lake County on pool drains

DCA02-DEC-049 by Lake County on suction inlet covers

DCA02-DEC-060 by Triodyne Safety Systems on suction inlets/outlets

DCA02-DEC-061 by Triodyne Safety Systems on pool anti-vortex covers

DCA02-DEC-070 by Philip J. Childs on a skimmer as a pool inlet

DCA02-DEC-071 by Leisure Bay on pool skimmer and drains in above ground pools

DCA02-DEC-073 by Mermaid Pools on pool drains

DCA02-DEC-077 by George Pellington on vacuum relief for pools and spas

DCA02-DEC-078 by

Commissioner Shaw moved approval to defer the itemized declaratory statements until the May Commission meeting. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Shaw stated in some of the issues the declaratory statements were withdrawn and asked how staff was handling those statements, and also what time frame should be implemented for response to staff recommendation.

Mr. Madani responded the solution is similar to mechanical units fastening stating the Commission did not issue a decision on it but the structural TAC suggested a clarification would suffice. He stated a clarification was issued and submitted to all local governments.

Structural

DCA02-DEC-007 by Roll a Way Storm Shutters on allowable stress for shutter design

Mr. Richmond stated the TAC's recommendation is that the Commission issue a declaratory statement finding that a load combination exists with windloading only and that if a load combination does not exist, then the criteria in Section 1609.4.3 do not apply.

Commissioner Wiggins moved for approval of TAC's recommendation. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-052 by Indian River County on wind speed line

Mr. Richmond stated the issue presented before the TAC as the windspeed line in the county extending beyond the contour line on the map and requested clarification. TAC's recommendation is the last windspeed contour for Indian River County is 140 mph and the dashed 140 mph contour line of Figure 1606 of the Florida Building Code should be a solid contour line. He continued stating the windspeed for the area between the 130 mph contour line and the 140 mph contour line should be subject to linear interpolation as permitted under the ASCE 7-98 standard.

Commissioner Wiggins moved approval of the TAC's recommendation. Commissioner D'Andrea seconded the motion.

Commissioner Sanidas asked if a revised map showing the solid lines would be submitted.

Mr. Richmond suggested staff could issue a revised map if it is the will of the Commission. He continued stating the declaratory statement only applies to Indian River County and that contour line.

Mr. Blair clarified stating the focus at this time is on the specific declaratory statement as a specific instance, separating the two issues.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-064 by Door and Access Systems Manufacturer's Association on locking a garage door in a closed position

Mr. Richmond stated the petitioners proposed three separate garage door installations for consideration before the Commission. He stated the TAC's recommendation indicates an installation utilizing a garage door operator and no mechanical device is not in compliance with Section 2411.3.1.5 and does not provide for active or passive locking. He continued stating installation utilizing a mechanical locking device that the homeowner must activate, or installation utilizing a vertical reinforcement post, which the homeowner must install prior to a wind event, do comply with Section 2411.3.1.5 and are considered active locking.

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

Commissioner Parrino referenced declaratory statement DCA02-DEC-007 stating there were two questions asked. He directed the Commission to the second question concerning the load combination as it exists, and the application of Section 1609.4.3, stating the answer as yes, but additional language was not included. Commissioner Parrino stated the additional language which should read, "...with the understanding that simultaneous use of both the one-third increase in allowable stress and the twenty-five percent in reduction of combined loads is not permitted under the Florida Building Code."

Mr. Richmond responded the answer did include the additional language and that was the correct answer.

Commissioner Parrino moved to reconsider declaratory statement DCA02-DEC-007. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion for reconsideration carried.

Commissioner Corn asked if public comment should be a part of the process of deciding on declaratory statements.

Chairman Rodriguez stated the floor would be opened for public comment.

Mr. Richmond restated the TAC's recommendation that a load combination existed with windloading only and if a load combination does not exist, then the criteria in 1609.4.3 does not apply with the understanding that simultaneous use of both the one-third increase in allowable stress and the twenty-five percent reduction in combined loads is not permitted under the Florida Building Code

Commissioner Wiggins moved approval of the TAC's recommendation for DCA02-DEC-007. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-075 by Go Bolt on corrosion resistance of hardware

Mr. Richmond described the issue pertaining to hardware which is used to resist uplift forces and moment turnover, and

whether it must be corrosion resistant. The TAC's recommendation stated, per Section 2301.2.3 of the Florida Building Code, "...good engineering practices should mean that hardware used to resist uplift forces and turnover must have a protective coating as specified by the engineer of record and approved by the building official, or must be as specified by the specification design standard referenced in the Florida Building Code.

Mr. Blair asked for clarifying questions regarding the declaratory statement.

Commissioner Kidwell asked if the statement included "engineer of record and/or architect of record."

Commissioner Parrino stated it would be appropriate to add "engineer or architect of record" in the TAC's recommendation to the Commission.

Mr. Blair called for public comment. No one approached for public comment.

Commissioner Wiggins moved approval of TAC's recommendation as amended. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Fire

DCA02-DEC-074 by Walker Parking Consultants on stand alone parking garage

Mr. Richmond described the issue as the requirement and statutory Section 553.895 allowing stand alone parking garages be excepted from the requirement that they be fully sprinkled. The TAC's recommendation was the proposed project is of mixed occupancy and therefore does not comply with the criteria for stand alone garage, thus the exception would apply.

Chairman Rodriguez called for clarifying questions from the Commission. He then called for public comment.

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

Pool Barriers

**DCA02-DEC-040 by Miami-Dade Permitting and
Inspection Center on pool barriers**

Mr. Richmond presented the issue before the Commission. The request consisted of three separate questions.

Mr. Dixon referenced a handout which was distributed to each Commissioner. (See *Issue: Declaratory Statement #. DCA02-DEC-040*. Attachment.)

Mr. Richmond responded to Question #1 stating the TAC's recommendation was that the child safety fences described do not meet the requirements of 424.2.17.1.2. He stated use of standard screen enclosures was the only separator envisioned, or separators detachable in a single unit and can be permanently attached from one end which cannot be removed without the use of a tool. He then responded to the second question stating the one unit system described would not meet the intent of the requirements of that section of the Code. Mr. Richmond addressed the third question stating each pole would have to be attached to the deck, assuming the screen sections meet the requirements of Section 424.2.17.1, which is no different than building a permanent screen enclosure.

Chairman Rodriguez called for clarifying questions.

Commissioner Leonard asked if each was an individual section rather than being attached to each other.

Mr. Richmond replied that would be the difference in the context of how the question would be answered.

Commissioner Greiner stated there are different types of products being used and asked if how the products were being used is a part of the issue at hand.

Commissioner Corn asked if the reason for the recommendation was because the section could be disassembled without the use of tools.

Mr. Richmond responded the intention was to assure that the safety method was going to be present at the pool.

Mr. Madani added one section could also be used as a gate, and then the question becomes does each section have to meet the gate requirement. He stated it then goes beyond the intent of the Commission.

Commissioner Greiner interjected it is important to distinguish between a screen enclosure and a child-proof barrier.

PUBLIC COMMENT

Paul Roth, Owner, Roll-a-Way Protective Pool Fence

Mr. Roth stated he brought this issue before the Commission in December. He referred to issues the Commission had considered, made decisions on, and is now re-considering from a new perspective. He stated nowhere in SB 86, which has passed as law, and nowhere in the Florida Unified Building Code, does the barrier have any indication of removability, or bolting in any location other than a fixed location at the end, it does not specify a material component nor a working component. He furthered stating it does specify that a barrier must meet the requirements of SB 86 and 424.2.17.1. Mr. Roth stated there had been a wide interpretation of the feasibility of meeting the additional code of a self-closing gate and one end affixed at one location. He continued stating staff's current recommendation contradicts staff's recommendation, and the order signed and affixed on January 31, 2002. He noted the 30-day appeal process time has expired and stated revisiting this issue is questionable.

Mr. Roth stressed to the Commission in order to save lives and use the barrier as intended, it must be made so adults can choose to use the products rather than permanently affixing the integrated barrier.

Chairman Rodriguez concurred recalling the same discussion in December and stated the alarm issue is a different issue. He stated the intent of Senator Wasserman-Shultz was to make the alarm impractical to encourage homeowners to choose the fence instead. Chairman Rodriguez expressed disagreement with that kind of rationale, however stating it is now law. He then asked Mr. Richmond if there was anything in this issue that may have been missed by Mr. Roth.

Mr. Richmond clarified the issue is different from the discussion in December, which specifically dealt with retractable as a

differentiating factor from removable, thus opening opportunity for a different interpretation.

Chairman Rodriguez stated the difference in the words is a problem. He explained the only additional circumstance for the homeowner under the new wording, is the requirement of a post at one end of the assembly which requires a tool for removal. Chairman Rodriguez stated it is important for everyone to understand the word retractable, requiring manual removal from the fixed pole.

Mr. Madani interjected there was no indication of whether the barrier was in separate sections when the issue came before the technical staff in December. He stated staff's understanding was an integrated, one-piece, barrier.

Commissioner Corn posed when the barrier consists of the two poles, and can be removed section by section, does that defeat the purpose of one continuous fence.

Chairman Rodriguez directed the Commission to legal to describe how the current declaratory statement is different from the previous discussion.

Mr. Richmond responded stating the Commission is not approving the current wording as an alternative method and material. He stated the current declaratory statement involves separate sections approximately twelve feet long.

Commissioner Quintana stated retractable and removable are the same by definition in his opinion. He then recalled from the Swimming Pool Safety Ad Hoc Committee discussion on life safety barriers the reason for the provision in the Code for one end being fixed was because of the kiddie fence, not the screen enclosure.

Commissioner Corn stated the current wording does not appear any different from the previous, it's just another method of retraction, and appears to meet the intent of the Code.

Commissioner Greiner added it does meet the intent of the Code, there are sections but the sections are put together, then stated the issue is much broader than the Commission has addressed in terms of the materials the sections are composed of and whether or not they will guard against a child falling through them. He continued there is no standard for the fences and it makes it very difficult for a building official to approve any type of fence.

Chairman Rodriguez stated building officials have been approving the fences for a very long period of time and it was only for Senator Wasserman-Shultz the wording was changed to requiring one end to be permanent.

Commissioner Shaw stated the intent was to make the screen enclosure available so it could not be completely removed. He stated retractability and disassembly are being used interchangeably with the discussion.

John Bedneric, Executive Director, Florida Pool & Spa Association

Mr. Bedneric commented on the consideration on Mr. Roth's declaratory statement previously stating there was discussion regarding the baby barrier and the gate, as well as the sectionals and the disassembly possibility, he then urged the Commission to approve and adopt the position of the recommendation.

Commissioner Browdy offered comment in support of making the pool child proof and stated the wording does meet the intent of the Code. He then addressed question 2 of the issue stating the removability of one end could substitute for a gate.

Commissioner Leonard moved the product as specifically described by the petitioner in the petition is in compliance with the Code, i.e., the sectional pool barrier as identified in the declaratory statement, complies with the requirements of Section 424 of the Florida Building Code, if the sections are connected, and if one pole at the end of the barrier is not removable without the use of a tool. Commissioner Wiggins seconded the motion.

Commissioner Corn interjected the product is not properly identified in the declaratory statement. He stated no specifications were identified and suggested in the future it may be helpful for more effective decision making.

Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez directed the Commission back to declaratory statements DCA02-DEC-052 and DCA02-DEC-064 and called for public comment. No one approached for public comment.

DCA02-DEC-046 by Lake County on pool alarms

Mr. Richmond presented the declaratory statement identifying the issue as whether a battery alarm system can be used to limit direct access to the pool through windows or doors of the dwelling wall which serves as part of the barrier for swimming pools. He continued stating staff's recommendation was no.

Commissioner Greiner explained he was the petitioner for the declaratory statement and stated he was basing the request on a particular permit application and after research into the issue and considering Chapter 515, F.S., there was no requirement as to how the alarm was to be powered. He stated in this case it is not reasonable for the alarm to be hardwired.

Chairman Rodriguez assured Commissioner Greiner the alarm issue had been thoroughly discussed and stressed the intent was to encourage homeowners to use a barrier such as the one which was just approved.

Commissioner Shaw interjected the position in this matter is that no existing homes would be identified as un-alarmable stating if an existing home can be alarmed for security purposes, then it could be alarmed for pool circumstances. He furthered stating the argument that existing homes are non-available for alarming is inappropriate.

Commissioner Corn asked if the discussion should continue.

Mr. Richmond interjected Commissioner Greiner was not a member of the Commission when the request for declaratory statement was submitted. He continued stating Commissioner Greiner had submitted the request based on a specific permitting application. Mr. Richmond then advised the Commission of an amendment to the petition which had also been submitted, which requires a clear Code intent. He stated a declaratory statement was not the appropriate method to retreat from specific requirements of the Code. Mr. Richmond continued stating there had been a rule challenge filed in the case citing the specific subject as the reason for rule challenge. He recommended the Commission approve the recommendation and stated resolutions could be potentially achieved through the rule challenge.

Mr. Murdock added staff's recommendation should be approved, then recalled the workshop with Senator Wasserman-Shultz stating a plug-in was a substitute for existing homes. He then

stated the problem is there is no plug-in alarm listed by any approved testing laboratory.

Chairman Rodriguez reminded the Commission this issue was thoroughly discussed and stated again, the intent is for the homeowner to resort to the barrier option.

Commissioner Shaw stated the alarm system does not have to be hardwired, wire nutted together, it could have a low voltage transformer to power it, much like a burglar alarm system, which has a low voltage transformer.

PUBLIC COMMENT

Mel Holkower, Manufacturer Representative

Mr. Holkower stated his company has a product available which meets Code requirements and is hardwired, using a low voltage transformer and meets all the specifications, and has been approved by an independent laboratory. He stated he would provide documentation upon request.

Mr. Murdock added any electrical installation must bear a listing mark from an approved testing laboratory.

Commissioner Shaw stated his understanding is any device that is after a class 2 low voltage transformer, is non-electrical as far as the Code is concerned, and beyond the class 2 transformer, does not require any electrical certification.

Commissioner D'Andrea moved approval of staff's recommendation that battery powered alarm systems are not permitted under Section 424.2.17.1.9 of the Florida Building Code. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-047 by Lake County on pool covers

Mr. Richmond presented the declaratory statement for whether a cover meeting ASTM F 1346-91 as the sole protection for the pool meets the requirements for Section 424.2.17 without any additional methods of protection. He stated staff's recommendation is the proposed cover, which meets the identified standard is an independent manner of protection and no further steps are necessary.

Chairman Rodriguez called for clarifying questions from the Commission. He then called for public comment.

Commissioner Browdy moved to approve staff's recommendation that the pool cover meets the barrier requirement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-050 by Lake County on pool perimeters

Mr. Richmond presented the declaratory statement which concerns an issue raised at the last Commission meeting. Mr. Richmond recommended the declaratory statement be deferred until the next Commission meeting to be considered with a similar declaratory statement.

Commissioner Greiner asked for clarification as to why it is recommended for deferment.

Mr. Richmond responded final resolution of the issue was not met at the last meeting. He then referenced the original case, DCA02-DEC-023, and explained it had been voted to leave the rationale of the issue until a later date but had not been included in the agenda for the current meeting.

Chairman Rodriguez called for public comment.

Commissioner Greiner moved approval of staff's recommendation. Commissioner Wiggins seconded the motion.

Mr. Madani reviewed staff's recommendation which is included in the document provided to each Commissioner. He stated the fence complies with the specific requirements of Section 424.2.17.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-051 by Lake County on pool screen enclosures

Mr. Richmond presented the declaratory statement as whether a standard screen enclosure and a child barrier meet the requirements of Section 424.2.1.1. He stated staff's recommendation is a screen enclosure and a child barrier would meet the requirements of the Section as long as such enclosures consist of a single unit and

can be permanently attached from one end and cannot be removed without the use of tools.

Chairman Rodriguez called for clarifying questions from the Commission.

Chairman Rodriguez called for public comment.

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

Chairman Rodriguez announced the October meeting dates previously approved, October 28 and 29, 2002, conflict with hotel availability and requested the meeting be re-scheduled for November 7 and 8, Thursday and Friday. Open discussion ensued.

Commissioner Lipka moved October's Commission meeting remain on October 28 and 29, 2002 and a different location be explored. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

LEGISLATIVE REPORT

Mr. Richmond updated the Commission on HB 953, SB 2078, and SB 104. (See *HB 953, First Engrossed, Bill No. SB 2078*, and *Florida Senate - 2002 CS for SB 104 Attachments*.)

Mr. Richmond identified one item of significant impact to the Commission. He noted an amendment to Chapter 553.512 which expressly defines a threshold, twenty percent disproportionate cost over which a waiver must be granted, an item brought forth by the building owner's association, offers support for the position legal staff has taken in that disproportionate cost is not applicable by the local by the local building official.

Commissioner Shaw asked what the action was regarding disproportionate cost.

Mr. Richmond replied the action was to place it in Section 553.512, F.S., as a clear delineation that for costs exceeding the disproportionate cost threshold a waiver would be granted for accessibility requirement.

Commissioner Wiggins suggested the Commission direct legal staff to look into developing new statutorily created licensing categories for an educational inspector or building official. He stated the issue contradicts the intent which is to unify the requirements for inspector licensing. He then moved to oppose efforts toward creating new statutorily created licensing categories for educational inspectors. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous.

Mr. Richmond referenced page 34 of the bill which was provided to each Commissioner concerning the authority to establish an informal process of rendering non-binding interpretations to the Code. He then addressed an issue pertaining to product approval, referencing page 47 of the bill, concerning its impact on the rule making proceeding.

**HERNANDO COUNTY REQUEST FOR AN ADVISORY
RELATED TO COMPLIANCE OF LOCAL WIND SPEED AMENDMENT
WITH REQUIREMENTS OF S.553.73(4), F.S.**

Chairman Rodriguez presented Hernando County's request for an advisory related to compliance of local wind speed amendment with requirements of S.553.73(4), F.S. (See *Board of County Commissioners, Hernando County Development Services Letter to Mr. Raul L. Rodriguez, AIA, Chair Dated March 14, 2002 Attachment.*)

Mr. Dixon explained Hernando County's position in requesting the Commission's opinion concerning whether they have properly adopted an ordinance which establishes the wind speeds for their county. He noted Hernando County has a 120 mph contour just off the coast with a 110 mph contour further inland, then a 100 mph contour just east in Sumter County. He stated the principle which applies is that a local amendment can only make the Code more restrictive. Mr. Dixon furthered Hernando County established two wind speeds to apply in the county. He described the county's proposed wind speeds as 120 mph between the 110 mph contour and the 120 mph contour, thus higher or equal to the wind speed in the western section of the county. He continued stating that for the eastern section of the county, they would require 110 mph wind speed establishing a higher criteria than the Florida Building Code requires. He explained they are requesting an opinion on whether their interpretation of how to establish the local ordinance is correct.

Mr. Dixon stated staff's recommendation and analysis concurs with Hernando County it has properly established the

location of the 110 mph contour line, has properly interpreted requirements for their ordinance which establishes a greater requirement than what the Code requires. The 120 mph wind speed in the western part of the county, and the 110 mph wind speed in the eastern part, are proper under the law. He furthered staff also recommended it be clarified to the county the designer has the option of interpolating the speed for locations between the 110mph and 120 mph wind contours in the western part of the county and between 100 and 110 in the eastern part.

Commissioner Kim asked for clarification regarding the designer's opportunity to interpolate between the designed wind speed contour lines which would not meet their higher standards.

Mr. Dixon responded Commissioner Kim is correct, and stated the ASCE 7 map also states the designer may interpolate. He continued explaining the county has properly set the wind speeds, however, should recognize the right of the designer to interpolate between the 100 and 120 wind contours.

Mr. Madani interjected when the county desires to make the requirements more stringent than Code requirements, it should be done through amendments, not through local ordinances, and stated staff made recommendations based on that principal.

Commissioner Parrino stated two different issues are on the table. He explained one issue is the county is required to set the specific line, and if they choose to set an area as more restricted, then they should make an amendment to the Code.

Mr. Dixon stated an ordinance is required to propose an amendment to the Code. He then responded to Commissioner Parrino's first statement concerning the county being required to set a specific line, stating the Commission does not hold the authority to issue an opinion of whether the county established the location of the line correctly because it is not a local amendment to the Code.

Mr. Richmond stated there was a specific direction to local government by the Legislature to place a line along geographic boundaries that are readily recognizable within jurisdiction.

Commissioner Parrino asked if there was an intent to make a technical local amendment to the Code, and if so, there is a process which must be followed and if it was followed correctly.

Mr. Dixon clarified the county is requesting an opinion regarding whether they are properly interpreting the requirement of the law by making wind speeds in the zones between wind contour lines the greater of the two wind speeds.

Chairman Rodriguez requested a recommendation from staff.

Mr. Dixon stated staff's recommendation is the county's interpretation of how to determine what wind speed to adopt by ordinance is correct. He then explained there is controversy within their county concerning wind speeds in particular areas.

Commissioner Lipka moved to approve staff's recommendation. Commissioner Sanidas seconded the motion.

Commissioner Parrino requested clarification regarding the county making the determination on interpolation for the Code, which allows interpolation, and if interpolation is not allowed, it would have to be through a local, technical amendment to the Code.

Mr. Richmond responded the issue has been framed properly by Hernando County that the designation of the wind speed lines are more stringent than the Florida Building Code.

Vote to approve the motion was unanimous. Motion carried.

PUBLIC COMMENT

Roland Temple, Velux America Skylights

Mr. Temple expressed his appreciation to the Commission for the opportunity to express the concerns they have. He offered comment concerning the passing of the product approval system earlier in the Commission meeting. He stated in the product approval system, it is stated that skylights are approved as referenced in the Code. Mr. Temple continued stating in the Code, there is a document referencing windows and glass doors, however it does not specifically reference any skylight specification used and tested in the industry. He noted for the Commission there is a product within the approval process for which there is no identified standard in the Florida Building Code.

Wayne Vines

Mr. Vines asked the Commission if a product is Dade County approved, would it then meet all the requirements of the Florida wind speed requirements.

Mr. Dixon responded by stating there was a motion earlier during the meeting advising building departments Dade County approval may be used as demonstrating Code compliance.

Mr. Vines asked if the approval supercedes wind code requirements established by the Commission.

Mr. Dixon replied Dade County requirements are a part of the requirements for the high velocity hurricane zone. He continued, stating Dade County requirements are more stringent than elsewhere in the state and therefore could be accepted by building officials.

Mr. Vines asked if a product has Dade County approval, does that product then meet the state Code.

Mr. Dixon replied yes.

Mr. Vines asked Commissioner Quintana if a product meets the state requirement, would it then be accepted in Dade County.

Commissioner Quintana responded not necessarily because the wind pressures in Dade County are higher. He then stated if there is a product approved meeting the state requirements, they will be accepted after October 2003.

Mr. Vines then asked if components that have been tested can be shipped to any builder's supply company and assembled, or would it be required that they are delivered in a complete unit.

Commissioner Quintana responded the Miami-Dade County product approval is for the assembly, i.e., a door would include the frame, the attachment, the hardware, everything.

Mr. Vines asked for clarification regarding the assembly and if it is required that assembly take place prior to shipping to the dealer, and if the answer included both codes.

Commissioner Quintana replied products do not necessarily have to be assembled prior to delivery to the dealer under either code.

Mr. Vines then asked if under both codes, custom doors must be individually tested.

Commissioner Quintana replied custom doors must be individually approved prior to installation.

Ralph Hughes, Florida Engineering Construction Products Corporation, Tampa

Mr. Hughes offered comment regarding transition to the International Building Code as a priority in the February meeting. (See *Ralph Hughes Public Comment* and *Florida State Legislature, Florida Building Commission Attachments*.)

Charles Everly,

Mr. Everly offered comment regarding a report from earlier in the meeting. He stated in addition to staff being present, there was a representative of the Florida Engineer's Registration Board who was key to the meeting. He continued stating the result of the meeting was that test reports were not required to be sealed, according to the Industrial Exemption Rule of the Registration Board. He stated if the installation of a window differs from the tested assembly, then the building official may require engineering by a state certified engineer.

Mr. Everly stated 1707.4.2.1 requires all windows and doors bear an approved label. He continued stating the only approved labels in the state of Florida are AAMA, WDMA, and Miami-Dade. He furthered recalling the introduction of a proposal from another speaker during the meeting for an approved label which hopefully will be approved.

Joe Belcher,

Mr. Belcher applauded the Commission on the work being accomplished. He stated he receives many calls concerning the Code. He commented the Florida Building Code has received so much attention making it the most read building code ever.

Lindsey Johnston, Huddig Building Products

Mr. Johnston asked if there is a provision in the Code addressing the issue of maximum threshold according to ADA. He

illustrated an example of an elevation and gasket being required on a bathroom door, but not at the entrance to the home.

Chairman Rodriguez responded there is a design conflict built into the issue. He stated there are two competing interests involved and there is not an easy answer. He stated while we want to keep water out of the home, we need to make the home or building accessible to disabled people.

Mr. Johnston then asked if there are approved products that meet ADA requirements.

Chairman Rodriguez replied there are products available in the market but when you deal with commercial products, the competition is much higher creating more difficulty.

Mr. Johnston asked when an assembly is tested, how are interchanging hinges and other components dealt with in the Code.

Chairman Rodriguez responded if the hardware is different than what has been tested, then engineering calculations proving Code compliance must be available.

John McFee, Window & Door Manufacturer's Association

Mr. McFee asked the Commission if any additional information was needed from his association as a certifying agency.

He then offered comment regarding the skylight standards stating his association is one of the co-publishers of the document and would make it available to the Commission.

John Brown, Safety Solutions

Mr. Brown offered comment regarding the financial hardship the barrier requirement in the Florida Building Code creates for new construction of pools and spas. He stated he had had a meeting with a group of barrier manufacturers and it was determined that utilizing the barrier requirement, only an additional \$450 is added to the cost of the home. He continued stating if the drain suction, entrapment prevention devices would add only from \$100 to \$400. He stressed there is no financial hardship to the homeowner, especially when weighed against loss of life. Mr. Brown stated a reporter from a newspaper in New York recently called and asked for comment on the Florida Building Code and the additional cost imposed on the

construction of new pools and spas, stating he had received information that it could be as high as \$15,000. Mr. Brown reiterated that the cost factor is just not significant.

Mr. Brown then called the Commission's attention to the recent letter from the U.S. Consumer Products Safety Commission voicing concern regarding certain alternative means of entrapment protection advanced by the Florida Pool and Spa Association, specifically a field fabricated vent pipe, as well as the use of a flapper drain plumbed to a skimmer system. He furthered that in both instances, CPSC expressed concern regarding the field fabricated vent pipe system because once installed, there is no way to prove the system will meet IAPMO ICG requirements. He then addressed the issue of the flapper drain cover plumbed to a skimmer system stating if the skimmer is clogged, creating a direct suction situation to the drain cover.

Mr. Brown encouraged the use of verifiable data substantiating the use of proposed devices when they are brought before the Commission, particularly when it concerns drain suction entrapment.

Richard Mosely, Contractor, Central Florida

Mr. Mosely stated the law requires bidline drafting to be engineered and it was done in Orlando and Commissioners as well as the general public was invited to the meeting dealing with that issue.

Jerry Decker, Specialty Windows

Mr. Decker stated their third party certification body is not AAMA or WDMA. He stated there had been previous discussion regarding another certification body being approved and asked if there is an interim period during which time the NAMI label, third party certification, will be accepted until the registration procedure is in place.

Mr. Richmond responded the procedure for other approved is a certification agency acceptable to the building official. He stated the state system will soon be in place, with the system in 9B-72 becoming mandatory in 2003.

**REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR
COMMISSION'S MAY MEETING**

Mr. Blair reviewed committee assignments and issues slated for May's Commission meeting. He called for committee meeting requests and restated committees scheduled to meet at the next meeting.

Commissioner Browdy asked if meetings of the subcommittees would occur at the same time as the primary committee meeting.

Mr. Blair responded the subcommittees would be scheduled concurrently and then reporting to the TAC.

Commissioner Shaw stated the Legislature had established a special group for oversight for Code interpretation requests and asked if that information was correct.

Mr. Richmond responded that was the interpretation element of the bill distributed earlier in the meeting. He stated the Legislature did not create it, however it asked the Commission to create it with the language remaining general enough in the law to account for the system to be established with the Building Official's Association.

Commissioner Parrino stated at the last meeting staff had been asked to propose two options for dealing with glitch amendments if it was decided that the Commission would deal with glitch amendments. He noted in a document distributed to each Commissioner the options had been provided and asked if those options were going to be discussed.

Mr. Dixon responded it was decided that the Chairman would decide which option to take. He stated staff's recommendation was to take option 2 because the deadline for identifying all necessary glitch amendments for option 1 is prior to the next Commission meeting.

Commissioner Wiggins offered comment responding to the question concerning BOAF having an interpretation committee called the Code Development Committee and they have been receiving numbers of interpretation requests. Commissioner Wiggins stated he serves on the committee with about fourteen other members and the chairman, Joe Crum, was present at the Commission meeting earlier today.

Commissioner Shaw requested the declaratory statements be distributed BOMA for their comments prior to their meeting.

SUMMARY REVIEW OF MEETING WORK PRODUCTS

Chairman Rodriguez reviewed the meeting work products stating the Commission had heard Chair discussion issues, accessibility waivers, and a public hearing on proposed product approval rule. He stated the Commission had decided on filing/adopting the proposed Product Approval and Prototype Building Rules. Chairman Rodriguez continued stating the Commission had heard reports from the education and product approval prototype buildings/manufactured buildings oversight committees, special occupancy, accessibility, code administration, plumbing, mechanical, and structural TACs as well as requests for declaratory statements. He furthered the Commission had heard legal staff's report, heard public comment, then reviewed committee assignments for the May meeting.

Mr. Dixon announced the Commissioners who recently retired from the Commission after 8 years of service will be invited back to the next Commission meeting for special recognition. He noted one of the manufactured homes groups had offered to hold a reception and would provide bus service to their facility then back to the hotel.

ADJOURN PLENARY

No further business was discussed. Chairman Rodriguez adjourned the meeting at 1:20 p.m.