



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

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

**JEB BUSH**  
Governor

**THADDEUS D. COHEN**  
Secretary

**BOARD MEETING  
OF THE  
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION  
October 19, 2004**

**PENDING APPROVAL**

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:30 a.m., on Tuesday, October 19, 2004, at the Rosen Plaza Hotel, Orlando, Florida.

**COMMISSIONERS PRESENT:**

Raul Rodriguez, Chairman  
Christopher P. Schulte  
Michael C. McCombs  
Hamid J. Bahadori  
Herminio Gonzalez  
Randall J. Vann  
George J. Wiggins  
Craig Parrino  
John Calpini  
Peter Tagliarini  
Nicholas "Nick" D'Andrea  
Richard Browdy  
Stephen Corn  
Dale Greiner  
Jeffrey Gross  
Joseph "Ed" Carson  
Do Y. Kim  
Steven C. Bassett

Jon Hamrick  
Doug Murdock, Adjunct Member  
Paul D. Kidwell

**COMMISSIONERS ABSENT:**

Christ T. Sanidas  
Leonard N. Lipka  
Diana B. Richardson

**OTHERS PRESENT:**

Rick Dixon, Executive Director  
Ila Jones, DCA Prog. Admin.  
Jim Richmond, Legal Advisor  
Richard Shine, Legal Advisor  
Jeff Blair, FCRC

## **WELCOME**

Chairman Rodriguez called the meeting to order at 8:40 a.m.

## **REVIEW AND APPROVAL OF 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 Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

## **REVIEW AND APPROVAL OF AUGUST 31, 2004 MEETING MINUTES**

Chairman Rodriguez called for additions or corrections to the minutes from the August 31, 2004 Commission meeting.

Commissioner Bassett stated the August meeting minutes had not been distributed.

Commissioner Wiggins concurred with Commissioner Bassett that the report on the computers was the Facilitator's Report.

Chairman Rodriguez stated a decision should be made regarding approval of the meeting minutes. He posed whether the Facilitator's Report could serve as the minutes or whether the full minutes should be presented to the Commissioners for approval.

Commissioner Corn expressed discomfort with approving a report that had not been reviewed.

Chairman Rodriguez decided to defer the approval of the minutes to allow the Commissioners time to perform a thorough review.

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

Chairman Rodriguez stated there were six issues and addressed each as follows:

### **Hurricane Charley, Frances, Ivan, and Jeanne**

Chairman Rodriguez stated there would be studies conducted by state and local government groups, researchers, scientists, design professionals, trades representatives, product manufacturers and testers to determine the impact of the four hurricanes on the state of Florida. He stated the Commission would be convening workshops, co-

sponsored by the Institute of Business and Home Safety and the Department of Community Affairs, to review hurricane data, lessons learned and code implications. Chairman Rodriguez continued stating the primary goal for the Commission is to determine whether any Code enhancements should result from the data review. He then stressed the importance of the workshops in terms of determining why certain failures and successes occurred. He announced the first workshop would be held in December, on a date yet to be determined, which will provide a forum for researchers to exchange information and will provide the Commission with their initial analyses. Chairman Rodriguez then stated the second workshop would be scheduled for January/February and would involve a broader scope of issues as well as be more policy oriented. He further stated one of the goals will be to determine how well the Florida Building Code has performed in terms of the four statewide hurricane events.

### **FBC Participation in the ICC Process**

Chairman Rodriguez stated participating in the Code development process is the Commission's reason for existence. He stated the updates with emphasis on Florida-specific issues will always need to be maintained. Chairman Rodriguez continued stating the pace of the Code review process has been set by the transition to the ICC Code and its development cycle. He then recommended for Commission consideration that the Commission participate in the ICC Code development process which would provide input related to the base national model code as well as presenting national changes on an interim basis for the Florida Building Code. Chairman Rodriguez announced Commissioner D'Andrea would be chairing a task group assigned to investigate options for how to work with state partners such as BOAF and other professional groups to represent Florida interests in the ICC codes development. He stressed the importance for the Commission to maintain its existing relationships with the building officials and industry representatives.

### **Quality of Construction Assessment**

Chairman Rodriguez stated Mr. Blair would be presenting a quality of construction assessment in response to Senator Constantine's request to the Commission. He stated Mr. Blair has completed more than 32 hours of interviews with more scheduled before completion. Chairman Rodriguez then encouraged each Commissioner to participate as requested to complete the quality of construction research phase in order to respond to the Senator by December.

### **Pool and Spa Industry Commission Participation**

Chairman Rodriguez reminded the Commission of the Pool and Spa industry's interest in actively participating with the Commission in some way. He stated John Schwartz, Executive Director, Florida Swimming Pool Association, reported the association had delayed its directors meetings due to the hurricanes and was not prepared to answer the Commission's offer yet. Chairman Rodriguez continued stating

the association advised it would have a reply for the Commission in January relating to how they would prefer to participate in the Commission's process.

### **Special Legislative Session**

Chairman Rodriguez announced Senator Constantine would be addressing the Commission concerning Commission issues and the special session. Chairman Rodriguez stated the Senator expressed the special session may be an opportunity to forward Commission consensus Legislative requests and would be stating his opinions relating to those issues later in the agenda.

### **Meeting Schedule**

Chairman Rodriguez stated there had been previous discussion regarding not holding TAC/POC meetings on Sundays because of interference with family time. He proposed the TAC/POC meetings be held on Monday and Tuesday mornings, with the Plenary Session held in parts on Tuesday afternoons from 2:00 p.m. to 5:00 p.m. with focus on Accessibility Waivers, Declaratory Statements, and Product Approval, then the balance of agenda items on Wednesday mornings from 8:00 a.m. to 12:00 p.m. with focus on policy issues. He then opened for Commission discussion.

Commissioner Wiggins suggested in lieu of the Accessibility Council's ability to bring their waiver requests before the Commission with summary and recommendations, it may be possible to complete the Commission's Plenary agenda on Tuesday afternoons leaving an option for Wednesday mornings if the agenda is too filled.

Chairman Rodriguez stated the three major agenda items, Accessibility Waivers, Declaratory Statements, and Product Approvals, generally present delays in completing the Commission agenda. He reminded the Commission Product Approval occupied three hours of agenda time during the August meeting. Chairman Rodriguez stated the time devoted to the Commission for members in private practice is great, particularly for those Commissioners who participate in TACs, the POC, and then the full Commission meeting.

Commissioner Corn stated if it would require he be out of his office a week, he would probably be forced to resign from the Commission.

Commissioner Parrino asked if staff had determined whether the POC meetings would be considerably shortened with the contract of the new product approval administrator.

Mr. Blair responded stating the reality would be there would be someone dedicated to reviewing the list and it would be more organized, however, the meetings would still have product advocates wishing to discuss certain issues and the number of products will not be decreased. He added there were many comments resulting from the Commission survey concerning the lack of time to consider issues during the plenary session. Mr.

Blair continued stating the Commission would not be allocating more time to the meetings but the time would be during the work week.

Chairman Rodriguez stated it is imperative that the Commission not lose the private practitioners if the schedule takes the meetings further into the work week.

Commissioner Kidwell offered comment stating he is a private practitioner and would find it easier to attend the Commission meetings on Monday, Tuesday, Wednesday.

Commissioner Browdy offered support for retaining the current schedule stating he would find it difficult to take another day out of his work week.

Commissioner Gross suggested the issues like product approval, declaratory statements, and accessibility waiver applications, which take considerable agenda time during the meetings, be placed on consent agendas as much as possible with hearings held prior to the plenary session.

Mr. Richmond responded stating the issues requiring consent agendas have already been consolidated as much as possible prior to the plenary session. He reminded the Commission product approval issues like conditional approvals, deferrals, and denials may not be placed on consent agendas because the applicant must agree to a delay. He continued stating the more familiar the applicants become with the process and the system, the fewer items will be deferred and conditionally approved, which would then increase the number that may be included in the consent agenda.

Commissioner Calpini moved approval of the Chairman's proposed meeting schedule revision. Commissioner Carson seconded the motion.

Commissioner Wiggins offered a friendly amendment to continue accomplishing the full plenary agenda on Tuesdays whenever possible and the workload permits.

Commissioner Calpini accepted the friendly amendment.

Commissioner Gonzalez asked if the consent agenda items may be considered via teleconference meetings or electronically to reduce Commission meeting time.

Mr. Richmond responded stating it may be possible to hold the consent agendas electronically, however, he stated the consent agendas were not the items requiring the most Commission agenda time. He continued stating due to limited technology available to the Commission it may not be practical.

Mr. Long offered comment stating the Accessibility Council members had tried attending the meetings electronically and found it difficult on a variety of levels. He stated it is expensive, difficult to hear, and many times there would be inability to connect

altogether.

Commissioner Calpini offered additional comment concerning technological possibilities in terms of conference calls. He stated the in-person meeting time certainly enhances the Commission's purpose and creates an environment for a clearer understanding of the issues and the processes involved in considering the issues.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion resulted in 13 supporting and 4 opposed. Motion carried meeting the 75% threshold.

Chairman Rodriguez offered comment stating the importance of a balanced Commission and encouraged the Commission members to attend the meetings under the new approved schedule.

### **REVIEW RESULTS OF THE WORKPLAN PRIORITIZATION AND ASSESSMENT SURVEY**

Mr. Blair expressed appreciation to the Commission for their response to the survey. He stated it had been decided the survey would be conducted annually to reassess the Commission's priorities. (See *Florida Building Commission Workplan Prioritization Ranking Results and Survey Comments by Question Attachments*.)

Commissioner Wiggins asked if any action would be taken from the results of the survey.

Mr. Blair stated there would be changes resulting from the survey. He stated the workplan issues are already in place and other issues such as time and information are being addressed as they are brought to staff's attention.

Commissioner Wiggins more specifically stated there had been discussion in the past concerning the issues being brought before the Commission versus being taken to the Legislature. He suggested that effective communication could prevent some of those actions through the use of newsletters or a communications director.

Chairman Rodriguez noted Janice Browning, DCA division director, was present in the gallery. He stated the Commission accomplishes so much and the work of the Commission is not being communicated to the general public. Chairman Rodriguez continued stating most of the Commission support has been provided when there has been a crisis, which has not occurred very often. He stated the issue is not as much about spending but getting the right message out about the Florida Building Commission.

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

Mr. Dixon conducted a review of the updated workplan that was included in each Commissioner's meeting files.

Commissioner Calpini moved approval of the updated Commission Workplan including the corrected date. Commissioner Wiggins seconded the motion.

Commissioner Bassett requested further clarification regarding the attic ventilation issue. He stated the requirements in the RFP were too strict to attract respondents. Commissioner Bassett then addressed the Florida Energy Code issue stating it is too late to have the software delivered in March of 2005 when the Code will go into effect at that time.

Mr. Dixon responded stating the Energy Code issue is a project with cost sharing between the federal government and the state. He stated initiation of the revisions will depend on when federal funds have been received. Mr. Dixon then stated the Energy Code issue could be revisited to see what funds might be available to ensure the computer program reflecting the changes to the energy portion of the Code is in effect in time for training. He addressed the attic ventilation issue stating there had been no respondents to the RFP. He stated certain university groups, which may be interested in conducting the literature survey portion of the project, had been identified and were being contacted to see if they were interested in doing the project.

Ms. Jones stated staff was currently in the process of receiving informal quotes for the project and would have specific responses by the end of the week.

Mr. Dixon then stated the attic ventilation issue is a controversial one with the intent of and criteria for the RFP was to find a neutral party that would present accurate, unbiased information.

Commissioner Wiggins asked if Chapter 34, Existing Buildings, was included as part of the training schedule.

Mr. Dixon responded stating there is a course that had been developed and approved as a BOAF course that was presented at the 2004 BOAF education conference. He then directed the Commission to Ms. Jones for further information relating to additional courses.

Ms. Jones interjected the Education TAC and the Commission have approved the core courses and the advanced courses. She stated a course on existing buildings had not been completed nor approved. She then welcomed the Commission to make a recommendation to the Education TAC concerning the existing buildings course.

Commissioner Wiggins expressed strong support for making the recommendation to the Education TAC. Commissioner Browdy, Education TAC Chair, noted the recommendation.

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

carried.

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

Mr. Melick presented the consent agenda applications for which the Council recommended approval:

# 2 St. Anne's Catholic School Gym

# 8 Orb Realty, LLC

# 9 Lora McDougal

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

Commissioner Bassett expressed concern with the format the Accessibility Waiver files were entered into the computers. He suggested the application number appear before each applicant name for better identification. He then requested the waivers be distributed in paper form due to difficulty reading the file.

Mr. Melick then addressed the applications which were approved with conditions:

# 4 Florida International University

Mr. Melick explained the applicant was requesting a variance from providing vertical accessibility to all rows of the 60-seat teaching laboratories as well as the 228-seat auditorium which were all part of a \$17.4 million addition to the university. He explained the request had been considered in two parts:

1. 60-seat teaching laboratories consisting of three levels of seating in a horseshoe shape with the first and third rows being accessible. Mr. Melick stated the Council recommended approval based on unnecessary and unreasonable costs.

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

Mr. Melick then explained the second part of the request:

2. 228-seat auditorium with two sections. The first section containing tables with movable seats. The second section (upper section) was fixed seating. Accessible seating was proposed for the first row of the movable seats and for the upper-most row of the fixed seats. Mr. Melick stated the Council recommended approval of the request with the condition accessible seating be provided for the center section of

the auditorium, either at the top level of the movable seats or the lowest level of the fixed seats. He then stated the Council also recommended the applicant provide removable armrests on the end rows of the fixed seats. Mr. Melick stated revised plans must be submitted to DCA staff prior to final order.

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

#### # 5 Northwood University Student Life Center

Mr. Melick stated the applicant was requesting a waiver from providing vertical accessibility to all rows of a retractable bleacher in a gymnasium. He stated the project is a \$5.7 million addition to the university which includes a bookstore, classrooms, and administrative offices. Mr. Melick stated the Council recommended approval of the waiver with the condition the pockets of the bleachers is increased to provide for required companion seating. He stated revised plans must be presented to DCA staff providing dimensions of the increased pockets delineating the wheelchair locations and companion seating locations prior to final order.

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

#### # 6 Southeast Mechanical Service

Mr. Melick stated the applicant was requesting a waiver from providing vertical accessibility to the second floor of an addition to an existing building. He stated the second floor consisted of four offices, two work rooms, a plan room, and a conference room. Mr. Melick explained the alteration was estimated at \$80,000 with a lift estimated at \$15,000 and \$11,000 for a lift, both falling under the disproportionate cost exemption. He then stated the Council recommended approval based on financial hardship with the condition vertical accessibility will be provided within 36-months of the certificate of occupancy issuance.

Commissioner Bassett declared a possible conflict with the current request for waiver. He stated Southeast Mechanical Service provides much of his company's design work and stated he would complete the necessary forms.

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

#### # 7 Grove Isle Club and Resort

Mr. Melick explained the applicant was requesting a waiver from providing vertical accessibility to the second floor spa adjacent to the hotel. He stated the alterations to the existing 2,800 square foot structure were estimated to be \$417,071 with the cost for an exterior elevator was estimated to be between \$137,000 and \$147,000. Mr. Melick stated it was technically infeasible to install an interior elevator or stairwell. He stated the Council recommended approving the waiver with the condition that a tub be moved to the first level providing facilitation for equipment. Mr. Melick stated revised plans must be presented to DCA staff prior to final order.

Commissioner Greiner moved approval of the Council's recommendation. Commissioner D'Andrea seconded the motion.

Commissioner Bassett disclosed possible conflict stating the condominium association which composes part of the complex is a client of his company.

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

#### #1 The Stock Exchange

Mr. Melick stated the Council unanimously recommended deferring the request to allow time for additional information and clarification.

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

#### # 3 Blessed Trinity Catholic Church

Mr. Melick stated the applicant was requesting a waiver from providing required handrails of a baptismal area of a new \$4.7 million building. He explained the Council recommended denial for the request based on lack of jurisdiction; i.e., places of worship are exempt from accessibility and, handrails are governed under the Florida Building Code with variances to those provisions falling under local jurisdiction.

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

#### Weaver Dental Office

Mr. Melick explained the application was not included in the Commission package. He stated legal counsel had recommended the Council hear the applicant's position regarding the request. He continued stating the applicant was requesting waiver from providing vertical accessibility to the second floor of a new \$750,000 dental office. Mr.

Melick stated the Council had originally recommended denial based on lack of hardship, however, after reconsideration the Council unanimously recommended denial based on lack of jurisdiction, citing federal law does not exempt medical facilities from elevators.

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

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

Mr. Shine directed the Commission to the appropriate files on their laptops, as well as supportive printed material, which was distributed to each Commission member.

**Second Hearings-**

DCA04-DEC-139 by T. A. Krebs

Mr. Shine stated the issue was an interpretation of Section 1005.7.3 of the Florida Building Code. He explained the question and TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Shine stated the TAC recommended the multiple means of egress was referring to the mezzanine, not to the room in which the mezzanine was located.

Commissioner Gross moved approval of the declaratory statement as presented. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-145 by C. W. McComber, Palm Beach County

Mr. Shine stated the petitioner requested an interpretation of Section 1606 of the Florida Building Code, Building Volume. He explained the question asked and TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Shine stated the TAC recommended according to ASCE 7-98 the metal hut building must be designed for both the main wind force resisting system and component and cladding loads as applicable.

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

DCA04-DEC-147 by Ricco Longo, Fire Districts of Collier County

Mr. Shine stated the petitioner requested an interpretation of Section 104.4.1.3 and Section 104.4.1.3(5) of the Florida Building Code, Building Volume. He explained the

question asked and TAC response as presented in the declaratory statement provided in each Commissioner's files. Mr. Shine stated the TAC recommended it was not possible to provide a list of items which shall not be included when attempting to discern whether fire detection and alarm system costs exceed \$5,000, pursuant to the aforementioned Code sections.

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

DCA04-DEC-157 by James Bell, Assa Abloy Inc.

Mr. Shine stated the petitioner requested clarification concerning Rule 9B-72, specifically relating categories. He explained the question asked and TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Shine stated the TAC recommended component hardware for exterior doors falls under the category Structural Components.

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

**First Hearings-**

Mr. Richmond directed the Commission to the declaratory statement reports in each Commissioner's computer files.

DCA04-DEC-123 by Stephen P. Maslan, PE

Mr. Richmond stated the petitioner was requesting clarification concerning the American Steel Span Quonset Hut Metal Buildings fabricated by Aztec Steel Buildings. He explained the question asked and TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Richmond stated the TAC recommended utilizing the final order in Declaratory Statement DCA04-DEC-070 previously issued by the Commission, which determined the buildings in question were custom fabricated buildings in accordance with F.S. 553 842(11) not requiring separate approval for individual buildings.

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

DCA04-DEC-161 by Robert G. Boyer of Palm Beach County

Mr. Richmond stated the issue pertained to a roof access hatch. He explained the

question asked and TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Richmond stated the TAC recommended a pre-engineered hatch attached to the structure meets the definition of structural component provided in Rule 9B-72.010(28).

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

DCA04-DEC-162 by Robert G. Boyer of Palm Beach County

Mr. Richmond stated the petitioner asked whether a particular pre-cast concrete wall system requires approval under the Manufactured Building Program. He explained the question and the TAC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Richmond stated the POC recommended pursuant to F.S. 553.37(11) the system was not required to comply with the requirements of Rule 9B-1.

Ken Treadwell, Representing Proponent

Mr. Treadwell stated while he concurred with the recommendation of the Program Oversight Committee he took issue with the process entered to reach the recommendation. He stated the Manufactured Building Program was designed to address closed structures and buildings. He argued his product was a wall system and stated there was no mechanism by which a manufacturer building a wall system would fall under the Manufactured Building Program by definition. Mr. Treadwell continued stating his petition additionally requested whether the product would be required to obtain product approval for the component. He then read, "Components that incorporate elements of a building subject to the product approval system adopted under Section 553.842 are subject to approval in accordance with the product approval system upon implementation thereof, and are not subject to the rules adopted under this part." Mr. Treadwell stated he would work with staff with respect with the rationale of why the conclusion was reached.

Mr. Richmond responded stating the rationale was discussed during the committee meeting. He stated the Manufactured Buildings Program does in fact include panelized construction, which is closed in nature. He continued stating certain wall systems are approved through the Manufactured Buildings Program already receiving the insignia. Mr. Richmond then stated there is overlap and staff has been working to determine which products fall under which program.

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

DCA04-DEC-163 by C. W. Macomber of Palm Beach County

Mr. Richmond stated the issue was previously resolved through DCA04-DEC-117. He then explained the question and the POC response as stated in the declaratory statement provided in each Commissioner's files and as previously addressed in DCA04-DEC-117.

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

DCA04-DEC-165 by Ricardo Lizaranu of Suncoast Post-Tension

Mr. Richmond explained the petition had been recommended for deferral to obtain additional information.

No Commission action required.

DCA04-DEC-171 by Jo McCann of Coral Springs

Mr. Richmond stated the petitioner requests clarification concerning Sections 104 and 105 of the Florida Building Code. He explained the question and the POC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Richmond stated the POC recommended installations and permits for satellite dish installations are required.

Commissioner D'Andrea moved approval of the POC recommendation. Commissioner Parrino seconded the motion then stated the FCC has specific requirements relating to the issue and asked if any member of the POC had considered whether there was a conflict.

Commissioner McCombs responded stating the FCC documents were considered by the POC. He stated the primary issue during discussion concerned the licensing board. Commissioner McCombs stated there are problems and concerns statewide relating to permits for satellite installations.

Mr. Richmond added under the law construction activities typically require permits and inspections as provided by the Code. He stated he was not aware of specific inspections for satellite installations. Mr. Richmond then stated the threshold issue for Commission consideration would be whether satellite installation is construction.

Commissioner Wiggins offered comment stating after reviewing the original question there are several federal regulations concerning satellite installations that building departments were not authorized to address. He then recommended further legal research concerning the issue and moved approval to defer the response for

additional information. Commissioner D'Andrea seconded the motion.

Chairman Rodriguez called for a vote on the motion to defer. Vote to approve the motion resulted in 1 opposed (Corn). Motion carried.

DCA04-DEC-188 by C.W. Macomber of Palm Beach County

Mr. Richmond stated the issue pertained to termite baiting systems. He explained the question and the POC response as stated in the declaratory statement provided in each Commissioner's files. Mr. Richmond then stated the POC recommended the jurisdiction for issues of contracting lies under the Department of Agriculture and Consumer Services.

Roland Holt, Building Official, Palm Beach County

Mr. Holt requested the Commission add a phrase to the recommendation concerning the issue. He then directed the Commission to the informal interpretation presented to each Commissioner. (See *Florida Building Code Informal Interpretation Report # 2530 dated Tue Jul 15, 2003* and *One Look Dictionary Search Attachments*.) Mr. Holt stated the recommendation did not specifically answer the question asked by the petitioner. He requested the Commission provide the answer specifically then stated the information being distributed would provide answers to some of the issues raised during the POC meeting; i.e., definition of assure. Mr. Holt stated legal advised the Commission could not address requirements concerning pest control operators. He continued stating he had provided each Commissioner with F.S. 482.227 referring to guarantees and warranties, as well as the rule relating to pest control operators and their guarantees, none of which prevents a pest control operator from fully complying with the contractual requirements provided in the Florida Building Code. Mr. Holt stated it was recommended during the POC that he obtain the opinion of Steve Dwinell, Department of Agriculture and Consumer Services. He then read Mr. Dwinell's opinion as printed in the April 8, 2001 edition of the *Orlando Sentinel*: "With baits, if they're not maintained, there is no protection."

Mr. Richmond stated the provision provided in Chapter 482 specifically allocates authority for the determination of contracting provisions for termite protection to the Department of Agriculture and Consumer Services. He stated while the Code supports the interpretation provided by Mr. Holt, the authority lies outside the Commission's jurisdiction for action, leaving the Code invalid concerning the issue.

Commissioner Bassett stated declaratory statements must be reviewed in the context of the requirements of the current building code. He continued stating discussions have been raised previously concerning whether the Commission may remove items in the Code that are in error. Commissioner Bassett expressed concern with leaving sections in the Code that have been determined to be "invalid" and cannot be enforced by the Florida Building Commission.

Mr. Richmond then stated the Commission must interpret the current provisions of the Code consistently with the existing statutory law. He added in the case of termite contractual provisions, the Code requires a five-year contract, Section 482 grants DACS with the regulatory authority and DACS has stated an adequate contract would be a one-year contract with four guaranteed annual renewals equaling five years. Mr. Richmond concluded it was his opinion the question had been answered consistently with the existing law then advised the Commission to uphold the answer and the law.

*Frank Dowling, Termite Manager, Hewlett Environmental*

Mr. Dowling stated his company was a provider of Centricon, a colony elimination system. He offered comment stating the word "assure" is the critical term. He stated consumers would pay for the five year contracts to assure the property is protected for five years.

Commissioner Wiggins asked if it was possible to have the Code position upheld with a mechanism other than a five-year contract. He then asked Mr. Richmond if the issue was a conflict between two administrative law provisions.

Mr. Richmond responded F.S. 482 allocates authority to an agency other than the Florida Building Commission.

Mr. Dowling countered Section 1816.1.7 required a "...signed contract assuring the installation, maintenance, and monitoring of a baiting system..."

Commissioner Browdy concurred with Mr. Holt stating the Code is specific. He stated there are mechanisms other than a signed contract to assure a building official. He continued stating the building official can determine whether a method is an equivalent method for the purpose of Code compliance.

Mr. Dixon advised the Commission that as a body it must behave as a state agency. He stated the Legislature would not smile upon boards who step outside their authorities. Mr. Dixon continued stating there are protocols between agencies regarding authorities that must be adhered to. Delineation of which agency has responsibility and authority is established by the Legislature in Florida law and the Commission must remain within that established authority, which in this case is DACS not the Florida Building Commission.

Mr. Holt acknowledged he had not found nor had staff advised him of any language in the statute or the rule stating the duration or mechanics of a baiting system contract. He argued neither the statute nor the rule prevent the pest control operator from meeting the Florida Building Code requirements.

Commissioner Kim stated the Structural TAC devoted a lot of time to the issue

during 2003 which resulted in contradictions between BOAF's and the Florida Building Commission's interpretation concerning the issue. He stated the Commission found BOAF's Interpretation # 2530 to be incorrect and inconsistent with the Commission's position. Commissioner Kim asked what would be the mechanism for BOAF to retract their informal interpretation.

Mr. Richmond finally noted there was no mechanism in place for BOAF to retract their position. He suggested it may be an item that would need to be added to the contract with BOAF in the future. Mr. Richmond stated there had been very few informal interpretations issued that had been contrary to the Commission's interpretations. He then stated Mr. Holt's comments and opinions did not reflect an understanding of the Commission's authority or the rule adoption process. He continued one would not point to language in the statute stating the Commission would be "prohibited from," rather the way the law works is that there must be language specifically authorizing the Commission to take certain actions. Mr. Richmond again stated Chapter 482 specifically authorizes the Department of Agriculture and Consumer Services to adopt the requirements for contracts for termite treatments. He then stated there had been previous discussion relating to the issue and a declaratory statement had been issued previously with no appeals submitted on the decision.

Commissioner Greiner recalled previous discussions concerning the war on termites and stated ultimately the maintenance and prevention was the property owner's responsibility. He then moved approval of the POC's recommendation. Commissioner Corn seconded the motion.

Commissioner Wiggins asked if the contract required under the provisions of the Florida Building Code is not valid, could that portion be declared invalid leaving in place the language relating to assuring maintenance and monitoring the system for five years.

Mr. Richmond responded nothing has been declared "invalid." He stated the declaratory statements provide interpretation of the requirements in the Code in conjunction with other controlling provisions of law.

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

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

Mr. Blair conducted a review of the process of Commission action for each consent agenda group of applications or individual applications as presented. He then presented the application numbers for specific products in the four consent agenda groups:

#### **Certification Mark or Listing**

Recommended Unconditional Approval

Product #'s: 2192; 2489; 2549; 2586; 2774; 2823; 2824; 2825; 3059;  
3192; 3204; 3214; 3215

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

Recommended Conditional Approval

2932

Mr. Blair stated the product was approved under the condition the applicant provides standards of reference or indicate the product is not for use in the high velocity hurricane zone.

Commissioner D'Andrea moved conditional approval of product # 2932 as recommended by the POC. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

2804

Mr. Blair stated the applicant needed to change the reference to the Florida Building Code.

Commissioner Greiner moved conditional approval of product # 2804 as recommended by the POC. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

2807

Mr. Blair stated the applicant needed to change the reference to the Florida Building Code to the current edition.

Commissioner Browdy moved conditional approval of product # 2807 as recommended by the POC. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

3234

Mr. Blair stated verification of product listing with Miami-Dade County was needed.

Commissioner Gross moved conditional approval of product # 3234 as recommended by the POC. Commissioner Browdy seconded the motion. Vote to

approve the motion was unanimous. Motion carried.

Recommended for Deferral

3031

Mr. Blair stated the POC recommended deferral based on penetration documentation needed to be reviewed and clarified; fastening spacing needs to be specified; nails were tested on some products and not others; deflection limit needs to be specified; and limitations of use indicating the product is not for use in the high velocity hurricane zone need to be provided.

Commissioner Greiner moved approval of the POC recommendation to defer product # 3031. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

3130

Mr. Blair stated the POC recommended deferral citing the application was not corrected from the August deferral.

Commissioner Browdy moved approval of the POC recommendation to defer product # 3130. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

3131

Mr. Blair stated the POC recommended deferral citing the application was not corrected from the August deferral.

Commissioner Parrino moved conditional approval of product # 3131 in lieu of deferral stating the updated edition of the referenced test report has been obtained and upon submittal to staff the product would be in compliance. Commissioner Vann seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended for Denial

1925

Mr. Blair stated the POC recommended denial for product # 1925 based on the UL declining certification.

Commissioner McCombs moved approval of the POC recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was

unanimous. Motion carried.

3096

Mr. Blair stated the POC recommended denial for product # 3096 based on the applicant failing to make corrections from the August deferral.

Commissioner Greiner asked if the applicant responded to the recommendation for deferral.

Mr. Case stated the applicants made one of the requested changes but failed to make the additional change.

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

### **Evaluation Report**

#### **Recommended for Approval**

Product #'s: 2662; 2664

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

#### **Recommended for Deferral**

2694

Mr. Blair stated the POC recommended deferral for product # 2694 stating the applicant needed to check for closed construction.

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

#### **Recommended for Conditional Approval**

2641

Mr. Blair stated the POC recommended conditional approval for product # 2641 stating the standards of reference need to be provided or the limitations of use indicating

the product is not for use in the high velocity hurricane zone.

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

2672

Mr. Blair stated the POC recommended conditional approval for product # 2672 with the condition the applicant provide the limitations of use indicating the product is not for use in the high velocity hurricane zone.

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

2685

Mr. Blair stated the POC recommended conditional approval for product # 2685 stating the applicant must provide proper documentation for high velocity hurricane zone use or the statement of limitations of use indicating the product is not for use in the HVHZ.

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

#### Recommended for Denial

2671

Mr. Blair stated the POC recommended denial for product # 2671 based on the applicant not acting on any of the comments made from the August deferrals.

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

2399

Mr. Blair stated the POC recommended denial for product # 2399 based on corrections from the August deferral not being made by the applicant.

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

2558

Mr. Blair stated the POC recommended denial for product # 2558 based on the application not being corrected from the June deferral.

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

**Product Evaluation Entity**

Recommended for Approval

2039

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

Recommended for Conditional Approval

2772

Mr. Blair stated the POC recommended conditional approval for product # 2772 stating the applicant needed to provide a Certificate of Independence from the Quality Assurance entity not an Evaluation entity.

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

2516

Mr. Blair stated the POC recommended conditional approval for product # 2516 stating the applicant needed to indicate the product was not for use in the high velocity hurricane zone.

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

3124

Mr. Blair stated the POC recommended conditional approval for product # 3124 stating the correct Certificate of Independence must be provided along with its limitations of use indicating the product is not for use in the high velocity hurricane zone.

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

Recommended for Denial

2820

Mr. Blair stated the POC recommended denial for product # 2820 based on the corrections not being made to the application.

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

**Testing Report**

Recommended for Approval

Product #'s: 2376; 2401; 2779; 2780; 2781; 2783; 2957; 2965; 2999

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

Recommended for Conditional Approval

3161

Mr. Blair stated the POC recommended conditional approval for product # 3161 to provide time for staff to verify the information had been corrected and was in compliance.

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

**New Applications**

Recommended for Approval

Product #'s: 2218; 2848; 2935; 3077; 3255; 3256; 3259; 3265; 3273; 3277; 3281; 3284; 3288; 3298; 3299; 3301; 3307; 3310; 3311; 3319; 3329; 3341; 3353; 3355; 3356; 3357; 3358; 3362; 3363; 3367; 3372; 3384; 3387; 3389; 3391; 3396; 3397; 3398; 3410; 3421; 3427; 3435; 3438; 3442; 3450; 3477; 3478; 3479; 3480; 3482; 3494; 3495; 3504; 3509; 3411

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

Recommended for Conditional Approval

Product #'s: 2964; 3325; 3374; 3392

Mr. Blair stated the POC recommended conditional approval for the products under the condition the applicants provide a limitations of use indicating the products are not for use in the high velocity hurricane zone.

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

1658

Mr. Blair stated the POC recommended conditional approval for product # 1658 stating the applicant must clarify the limitations of use.

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

2036

Mr. Blair stated the POC recommended conditional approval for product # 2036 stating the applicant must clarify limitations of use or provide the standards of reference.

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

3148

Mr. Blair stated the POC recommended conditional approval for product # 3148 stating the applicant must provide standards of reference.

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

Product #'s: 3242; 3244; 3246; 3248; 3249; 3264

Mr. Blair stated the POC recommended conditional approval for the products citing the applicant must

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

3283

Mr. Blair stated the POC recommended conditional approval for product # 3283 stating the applicant must list the standards of reference.

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

Product #'s: 3285; 3286; 3287

Mr. Blair stated the POC recommended conditional approval for the products stating the applicable standards of reference must be listed for each product.

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

3390

Mr. Blair stated the POC recommended conditional approval for product # 3390 stating the standards of reference must be corrected.

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

Product #'s: 3429; 3430; 3431; 3432

Mr. Blair stated the POC recommended conditional approval for the products provided the limitations of use are entered into the appropriate field of each application.

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

Product #'s: 3475; 3476

Mr. Blair stated the POC recommended conditional approval for the products stating the limitations of use must be provided.

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

3492

Mr. Blair stated the POC recommended conditional approval for product # 3492 stating the standards of reference must be corrected to show compliance or the limitations of use must be provided indicating the product is not for use in the high velocity hurricane zone.

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

3506

Mr. Blair stated the POC recommended conditional approval for product # 3506 provided the applicant must provide limitations of use.

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

3508

Mr. Blair stated the POC recommended conditional approval for product # 3508 under the condition the applicant provide the correct standards of reference title.

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

3512

Mr. Blair stated the POC recommended conditional approval for product # 3512

with the condition the applicant provide correct standards of reference as well as the limitations of use indicating the product is not for use in the high velocity hurricane zones or demonstrate compliance with TAS 202.

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

3515

Mr. Blair stated the POC recommended conditional approval for product # 3515 under the condition the applicant provide correct standards of reference as well as state limitations of use excluding use in the high velocity hurricane zone.

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

Product #'s: 3483; 3484; 3485; 3486; 3487

Mr. Blair stated the POC recommended deferrals for the products based on the standards of reference are not consistent with the Code and an equivalency of standards letter must be provided by the applicant as well as limitations of use indicating the product is not for use in the high velocity hurricane zone. He stated additionally the manufacturer's installation instructions must be removed due to conflicting data.

Gary Fleming, TraCo Windows and Doors

Mr. Fleming stated the recommendation from the POC was for conditional approval with the condition an equivalency letter be provided along with the limitations of use indicating the product is not for use in the high velocity hurricane zone.

Commissioner Carson concurred with Mr. Fleming that the products were recommended for conditional approval not deferral.

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

Recommended for Denial

3266

Mr. Blair stated the POC recommended denial for product # 3266 based on incorrect NOA information with the product not belonging to the applicant.

Commissioner D'Andrea moved the POC recommendation to deny. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair then called for a motion to reconsider.

Commissioner D'Andrea moved approval to reconsider action for product # 3266. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated the POC recommendation was to defer action for product # 3266.

Chairman Rodriguez interrupted the product and entity approval process to introduce Senator Constantine for his address to the Commission.

### **SENATOR CONSTANTINE'S ADDRESS TO THE COMMISSION**

Senator Constantine thanked the Commission for the opportunity to speak and then commended the Commission for the successes it has achieved. He briefly discussed the history of the implementation of the Florida Building Code as it was presented to and then approved by the Florida Legislature. Senator Constantine assured the Commission the product that has been developed works for the citizens of Florida stating the Commission had done a very good job in creating and implementing the Code. He stated the citizens of Florida now know that the newer homes built to Code standards are still standing while some older homes would be less likely to remain intact. Senator Constantine continued stating in 1996 the Speaker of the Florida House of Representatives stated to the press the most important piece of Legislation to be passed during his term of office was something very few media wrote about or discussed but over the next 20 years would save more lives and protect more property in Florida than any other piece of Legislation, which was the unified Florida Building Code.

Senator Constantine posed what happens next. He stated for the past four years he had been "playing defense." He continued stating there has been good will created resulting in an opportunity to create consensus. Senator Constantine then announced a special Legislative Session scheduled in December where the citizens of Florida will be looking for positive Legislative action. He stated certainly there would be discussion concerning the devastation from the recent hurricanes and funding disbursement, as well as possible changes in the insurance industry. He urged the Commission to provide him with a few issues that he can take to the session for Legislative action. He then stated there were certain items that would not be conducive for presentation during the special session; i.e., product approval and other lengthy issues. Senator Constantine further stated issues like ASCE lines, insurance industry issues, manufactured homes regulations, and the hospice facility issue would be appropriate for special session consideration. He assured the Commission he would continue the process for ensuring

the best building code possible for the state of Florida. He encouraged the Commissioners to work toward building consensus among all interested parties who are part of the process. Senator Constantine stated there would be disagreements and it was the Commission's responsibility to find the middle ground keeping in mind safety, accountability, and affordability for all Floridians.

Chairman Rodriguez expressed appreciation to Senator Constantine for being the Commission's building code champion and for appearing before the Commission seeking ideas for issues to be presented to the Florida Legislature.

Senator Constantine added that over the last four years, most Legislators had avoided the building code issues either because they didn't understand them, or because they thought the proponents were being too rigid and too controlling in terms of the issues presented. He stated now he is receiving calls from many Legislators throughout the state asking about co-sponsoring bills and what building code issues would be presented. He then read the following article:

*Hurricane Ivan also produced the strongest storm surge with broad impact of the four hurricanes. Those buildings built to the elevation and foundation requirements of the new code were left standing with relatively minor surge damage while others were destroyed.*

Senator Constantine again thanked the Commission for their hard work and the results it has produced.

Chairman Rodriguez then directed the Commission to Mr. Blair to continue consideration of the product approval applications.

### **RECONVENE CONSIDERATION FOR PRODUCT AND ENTITY APPROVAL**

#### **Recommended for Deferral**

3266

Mr. Blair stated the POC had recommended deferral for product # 3266 to allow time for further research concerning the product being represented by the correct manufacturer.

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

3217

Mr. Blair stated the POC recommended deferral for product # 3217 based on the

standards of reference not being consistent with the Code.

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

3303

Mr. Blair stated the POC recommended deferral for product # 3303 based on standards of reference being incorrect and limitations of use not indicating the product was not for use in the high velocity hurricane zone.

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

3328

Mr. Blair stated the POC recommended deferral for product # 3328 based on standards of reference not being consistent with the Code.

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

3406

Mr. Blair stated the POC recommended deferral for product # 3406 stating the standards of reference are inconsistent with the Code.

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

3445

Mr. Blair stated the POC recommended deferral for product # 3445 based on compliance for high velocity hurricane use not being provided and standards of reference not being consistent with the Code.

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

3463

Mr. Blair stated the POC recommended deferral for product # 3463 based on standards of reference being inconsistent with the Code and the applicant did not provide compliance for use in the high velocity hurricane zone or limitations of use indicating the product is not for use in the high velocity hurricane zone.

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

3464

Mr. Blair stated the POC recommended deferral for product # 3464 stating the standards of reference are not consistent with the Code.

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

3465

Mr. Blair stated the POC recommended deferral for product # 3465 based on the standards of reference not being consistent with the Code and limitations of use not being provided.

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

Recommended for Approval

Product #'s: 2626; 3115; 3267; 3278; 3342; 3380; 3381; 3399; 3402; 3403; 3408; 3472; 3474; 3481; 3496; 3497; 3498; 3499; 3501; 3502; 3507; 3510; 3514; 3517; 3263

Commissioner Parrino moved approval of the POC recommendation to approve the consent agenda. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended for Conditional Approval

3405

Mr. Blair stated the POC recommended conditional approval for product # 3405 under the condition the standards of reference are corrected.

Jaime Gascon, Miami-Dade County Code Compliance Office

Mr. Gascon stated the product was recommended for conditional approval as a result of the inability to download required information. He stated since the POC meeting the information has been successfully downloaded and reviewed. Mr. Gascon then recommended deferring product # 3405 based on testing documentation being provided then reviewed and confirmed.

Commissioner Browdy moved approval to defer product # 3405. Commissioner Greiner seconded the motion.

Commissioner Parrino requested that a copy of Mr. Gascon's documentation be provided to staff.

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

3407

Mr. Blair stated the POC recommended conditional approval for product # 3407 under the condition the limitations of use indicate the product is not for use in the high velocity hurricane zone.

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

3443

Mr. Blair stated the POC recommended conditional approval for product # 3443 under the condition the standards of reference are corrected.

Jaime Gascon, Miami-Dade County Code Compliance Office

Mr. Gascon stated the installation guide accompanying the product indicates a wood nailer is to be installed with a 250 lb. per linear foot fastener which is in conflict with RAS 111 Section 3.3.1 which requires a 300 lb. per linear foot minimum for corners. He then recommended the product be deferred until the installation requirements are corrected as well as the product's high velocity hurricane zone provisions be specified.

Commissioner Browdy moved approval to defer product # 3443. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

3513

Mr. Blair stated the POC recommended conditional approval for product # 3513 under the condition the limitations of use indicate the non-reinforced version of the product is not for use in the high velocity hurricane zone.

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

2457

Mr. Blair stated the POC recommended conditional approval for product # 2457 with the condition the limitations of use information be corrected.

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

3346

Mr. Blair stated the POC recommended conditional approval for product # 3346 under the condition the standards of reference are corrected and the limitations of use be provided.

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

3395

Mr. Blair stated the POC recommended conditional approval for product # 3395 with the condition a Certificate of Independence be provided and the limitations of use be completed.

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

3400

Mr. Blair stated the POC recommended conditional approval for product # 3400 under the condition the standards of reference be corrected.

Commissioner Parrino moved approval of the POC recommendation.

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

3452

Mr. Blair stated the POC recommended conditional approval for product # 3452 with the condition the limitations of use be provided indicating the product is not for use in the high velocity hurricane zone.

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

3462

Mr. Blair stated the POC recommended conditional approval for product # 3462 under the condition the standards of reference be corrected.

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

Recommended for Deferral

3457

Mr. Blair stated the POC recommended deferral for product # 3457 stating the product needed to be reviewed for closed construction.

Commissioner Kidwell interjected the proper recommendation by the POC was for approval, which fell under the consent agenda. He then disclosed the applicant was his client.

Commissioner Parrino stated the application was reconsidered late in the POC meeting with product #'s 2694 and 3457 due to declaratory statement discussions concerning the same issue.

Commissioner Kidwell offered comment stating he was familiar with product # 3457 and they are wall panels. He stated they were not intended to be manufactured buildings or wall systems. Commissioner Kidwell stated the reason the product is before the Commission for product approval is because building officials are requesting they have a product approval number. He further stated every time the products are being used engineered plans are being provided which are being customized for the particular structure.

Commissioner Parrino stated the scope of the products falls close to the similar products considered during declaratory statements. He then recommended approval for deferring the application for further POC discussion.

Commissioner Kidwell stated deferral constitutes hardship on the part of the manufacturer because there are currently building officials requiring a product approval number. He expressed opposition to a deferral under the circumstances.

Commissioner Parrino added the issue is there may be approved pre-panelized wall systems that should not have been approved. He stated the products are considered custom fabricated and would fall under the exemption and are not required to have product approval.

Commissioner Kidwell recommended product # 3457 be issued an approval while staff conducts the necessary research for similar products that have been previously approved. He stated if it is determined the products do not require product approval then a statement could be issued at a later date indicating such. Commissioner Kidwell noted his recommendation would avoid creating inequality.

Mr. Richmond expressed opposition for approval stating to recall an approved product in the future would require administrative action which would be extensive and exhaustive involving several months.

Commissioner Kidwell reminded Mr. Richmond there are existing products that have been approved which would have to go through the administrative process.

Mr. Richmond responded stating the manufacturers may be encountering unjustified resistance in certain jurisdictions then stated he would not support aggravating potential past mistakes by continuing to make the same ones which would add to the workload for correction.

*Ken Treadwell, Representing RollAll Systems*

Mr. Treadwell concurred with Commissioner Kidwell's position offering support for the products obtaining product approval with consideration for setting precedents.

*Bob Boyer, Palm Beach County*

Mr. Boyer offered comment stating his jurisdiction originally issued the declaratory statement for clarification. He stated his position is that the products are closed construction which requires inspection at the factory.

Commissioner Kidwell added through the Chair there are quality control measures in place at the factory.

Commissioner Kim offered comment stating the manufacturer stated it is a unique product which is engineered for each specific project. He stated products that qualify for product approval must be standardized products. He then moved approval to defer approval for product # 3457.

Commissioner Parrino stated perhaps a recommendation to deny may be more appropriate action specific to the product and the applicant's position.

Commissioner Kidwell responded stating a recommendation to deny would need to state that the product does not require Florida product approval which would provide the manufacturer documentation to take back to the resisting building official. He then stated the components for the panels and the calculations provided are based on standardized provisions.

Commissioner Kim then stated the logic of the TAC to defer the approval of these products was for the TAC to come to more definitive conclusions of whether the products require product approval via rule 9B-72.

Commissioner Parrino requested that the motion be changed to denial. He then asked staff to research the previous wall systems which were approved to determine similar future action.

Commissioner Kim stated he would accept Commissioner's recommendation as a friendly amendment for a substitute motion to deny.

Commissioner Kidwell stated his client was wary of how a denial would be received by the building official then stated it may be the best course of action.

Commissioner Kim withdrew his motion for deferral.

Commissioner Parrino then moved to deny approval for product # 3457 based on Commission finding the product does not fall under the scope of the product approval rule. Commissioner Greiner seconded the motion.

Commissioner Kidwell requested language be added to the motion stating the product is an individually engineered product. He then disclosed that he was the evaluating engineer for the product.

Commissioner Parrino accepted Commissioner Kidwell's additional language and amended his motion.

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

Mr. Blair stated the POC recommendation was to defer product # 2894 based on the standards of reference being inconsistent with the Code and installation instructions were not provided.

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

3275

Mr. Blair stated the POC recommended deferral for product # 3275 based on nonconforming report.

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

3276

Mr. Blair stated the POC recommended deferral for product # 3276 based on nonconforming report.

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

3293

Mr. Blair stated the POC recommended deferral for product # 3293 based on installation instructions not being provided, evaluation report was not signed and sealed and requires corrections or specificity, and limitations of use were not provided.

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

3344

Mr. Blair stated the POC recommended deferral for product # 3344 based on standards of reference being inconsistent with the Code and the evaluation report needs correction, drawings were not legible, limitations of use were not provided.

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

carried.

3393

Mr. Blair stated the POC recommended deferral for product # 3393 based on Certificate of Independence not provided and standards of reference were inconsistent with the Code.

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

3473

Mr. Blair stated the POC recommended deferral for product # 3473 based on quality assurance entity needs to be corrected.

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

Recommended for Approval

Dixie Pacific Manufacturing (3451)

Mr. Blair stated the POC recommended approval for product # 3451.

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

Recommended for Deferral

2572

Mr. Blair stated the POC recommended deferral for product # 2572 based on the evaluation report was expired and standards of reference need to be corrected.

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

2573

Mr. Blair stated the POC recommended deferral for product # 2573 based on Certificate of Independence was not provided and the limitations of use were not complete.

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

2805

Mr. Blair stated the POC recommended deferral for product # 2805 based on standards of reference need to be corrected and the Certificate of Independence was not provided.

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

2928

Mr. Blair stated the POC recommended deferral for product # 2928 based on Certificate of Independence not provided and standards of reference not provided.

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

3219

Mr. Blair stated the POC recommended deferral for product # 3219 based on Certificate of Independence not provided and the evaluation report needs to be reviewed and corrected.

*Randy Shackelford, Simpson Strong-Tie Co.*

Mr. Shackelford expressed support for the POC recommendation then stated the motion during the POC meeting did not include the product's limitations of use for HVHZ.

Mr. Blair offered clarification stating the applicant would be required to provide the testing allowing use in the HVHZ or provide the limitations of use indicating the product was not for use in the HVHZ.

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

3394

Mr. Blair stated the POC recommended deferral for product # 3394 based on Certificate of Independence not provided and standards of reference need to be corrected.

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

3453

Mr. Blair stated the POC recommended deferral for product # 3453 based on evaluation report inconsistent with the Code and Certificate of Independence and limitations of use not provided.

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

3505

Mr. Blair stated the POC recommended deferral for product # 3505 based on Certificate of Independence not provided and the evaluation report was inconsistent with the Code.

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

Recommended for Approval

Product #'s: 1313; 2547; 2548; 2703; 2704; 3235; 3245; 3247; 3269; 3368; 3455;  
3458

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

Recommended for Conditional Approval

1498

Mr. Blair stated the POC recommended conditional approval for product # 1498 under the condition the limitations of use are provided indicating the product is not for use in the high velocity hurricane zone and staff confirmation that the report is complete.

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

3171

Mr. Blair stated the POC recommended conditional approval for product # 3171 with the condition testing is verified or provide limitations of use indicating the product is not for use in the high velocity hurricane zone.

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

3366

Mr. Blair stated the POC recommended conditional approval for product # 3366 under the condition the limitations of use are provided indicating the product is not for use in the high velocity hurricane zone.

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

3461

Mr. Blair stated the POC recommended conditional approval for product # 3461 under the condition specific sections are provided and limitations of use indicating the product is not for use in the high velocity hurricane zone.

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

Product #'s: 540; 3254

Mr. Blair stated the POC recommended conditional approval for product #'s 540 and 3254 with the condition the Certificate of Independence is provided.

Commissioner Vann moved approval of the POC recommendation. Commissioner

Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended for Deferral

Product #'s: 3459; 3460

Mr. Blair stated the POC recommended deferral for product #'s 3459 and 3460 based on the applicant providing laminate specification as well as compliance with Chapter 26.

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

3491

Mr. Blair stated the POC recommended deferral for product # 3491 based on the Certificate of Independence was not provided and the test report was unclear.

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

2962

Mr. Blair stated the POC recommended deferral for product # 2962 based on the standards of reference being inconsistent with the Code.

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

2969

Mr. Blair stated the POC recommended deferral for product # 2969 based on the standards of reference not being consistent with the Code, test report was expired, and no Certificate of Independence was provided.

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

Recommended for Approval

Product #'s: 229R-1; 42R-1; 43R-1; 44R-1; 45R-1

Mr. Blair stated the POC recommended approval for the products.

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

Recommended for Deferral

143R-1

Mr. Blair stated the POC recommended deferral for product # 143R-1 based on corrections to be made to the model name and number, the limitations of use were not provided.

Chuck Anderson, Code & Regulations Manager, Simonton Windows

Mr. Anderson stated the product offering is very complicated. He continued stating the company had submitted 9 applications for review during the Commission meeting. He stated 4 of those applications were for new product applications with 5 being for revisions. Mr. Anderson further stated the only revision that was approved was the most basic application, which was for sliding doors. He explained the other applications were very complicated making it difficult for staff to review them accurately. Mr. Anderson stated discussion had been held addressing how to correct the applications. He stated there were three types of changes that were made to the applications, the biggest being a name change. Mr. Anderson explained Simonton manufactures and sells 40 different product lines of windows on the east coast. He stated the largest application change resulted from one of their customers, The Home Depot At Home Services, requesting a name change from The Home Depot Renovations to The Home Depot At Home Services. He then discussed other name change examples on the applications and stated many of their customers, marketing group, and their sales group had been "held off" while the revision process was taking place. Mr. Anderson requested the Commission approve product # 143R-1 because the changes to the applications are very minor in nature.

Commissioner Parrino requested clarification in terms of why the application was deferred. He asked if there was more to the process than simple revisions.

Mr. Richmond responded stating staff was concerned that there were new products being added to the approvals which is a prohibited use of the revision. He explained the reason for the deferral was to allow staff time to further review the applications following the revisions.

Commissioner **xxxx** moved to conditionally approve product 143R-1 under the condition that staff review the application and ensure only revisions were made to the

application and no products were added. Commissioner xxxx seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson then presented applications recommended for entity approvals:

CSA – Certification Agency

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

Applied Research Laboratories – Testing Lab

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

Cerney & Ivey Engineers, Inc. – Testing Lab

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

Construction Technologies Laboratories – Testing Lab

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

**LUNCH**

Commissioner Gonzalez moved to reconsider product # 3263. Commissioner Browdy seconded the motion.

Commissioner Gonzalez explained the reason for the request to reconsider product # 3263 was the test laboratory could not be found in the BCIS which prompted concern that it may set a precedence for using a non-FBC approved testing laboratory. He then moved approval for the item to be conditionally approved under the condition that staff review the report and determine if the laboratory is an approved lab. Commissioner Browdy seconded the motion.

Mr. Richmond interjected there had been a declaratory statement issued concerning the item and the evaluation report from the engineer was the document being relied upon for compliance purposes. He explained an architect or engineer may rely on

a non-approved testing lab when the approval of the product is not based on the testing lab.

Commissioner Gonzalez requested a response from Mr. Gascon.

Jaime Gascon, Miami-Dade County Office of Code Compliance

Mr. Gascon stated the issue is the precedent that will be established regardless of the method of application being filed. He stated the basis for reference to any testing material being listed that is not within the scope of the rule is basically unknown. Mr. Gascon further stated there is no information about the testing lab being used in the report. He then urged the Commission to maintain consistency in the requirements for approved entities through the product approval process.

Commissioner Parrino expressed uncertainty concerning the laboratory issue. He stated it had been his understanding the tests used to justify a product's performance must be performed by an approved laboratory.

Mr. Richmond explained again the test report was not being relied upon for product approval. He stated the approval was an evaluation report approval not a test report approval.

Mr. Madani interjected a declaratory statement had been issued specific to the product based on the evaluation report as the means of compliance, not the test report. He stated the test report would not be required to be issued from an approved test lab when the product approval is relying on evaluation report from a licensed architect or engineer.

Mr. Gascon added if the Commission approves the products without approved entities it would probably go against what the governor would prefer the Commission uphold, which would be not to reduce the provisions existing in Florida. He stated South Florida holds provisions for laboratory certification which is part of the Code under TAS 301, for which the laboratory being discussed has no certification nor is it recognized by any certification agency for conducting tests.

Commissioner Kim echoed Mr. Gascon's concerns stating he was currently working on disciplinary cases with the Florida Board of Professional Engineers with engineers that have served as evaluation entities. He stated the engineers are using inappropriate test information which is not from approved test laboratories. Commissioner Kim continued stating the Commission should not ignore the issue of approved entities.

Mr. Dixon stated the Commission has been consistent in adhering to standardized evaluation methods, whether they be test methods or calculation methods, recognized by the Code, the product must be evaluated by the recognized standard. He stated the

issue is whether the laboratory must be accredited and approved by the state even when the standardized test method is used.

Commissioner Bassett offered comment stating he was an advocate of treating architects and engineers the same way as other entities. He stated if the engineer witnessed the test being performed, his evaluation should be accepted. He continued stating if the engineer simply reviewed the report from the laboratory and was not an eyewitness to the test, then the evaluation report from the engineer should not be accepted.

Mr. Richmond recommended deferring the item if the Commission wished to review the issue further.

Commissioner Gonzalez stated the POC had asked the question whether the laboratory was included in the BCIS and it was not found. He stated the issue could be revisited and reconsidered during the next POC meeting in December. Commissioner Gonzalez then withdrew his motion to conditionally approve the product then entered a motion to defer product # 3263. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **CONSIDER THE ALTERNATIVE PLANS REVIEW AND INSPECTIONS WORK GROUP REPORT**

Chairman Rodriguez stated that during the January 2004 Commission meeting, the Commission had voted to convene a workgroup tasked with reviewing issues relating to the implementation of Legislation, specifically Section 553.791 authorizing the use of private providers to conduct plans reviews and inspections. He continued stating the Commission had adopted a plan which would address the issue in phases with Phase I focusing on identifying and agreeing on consensus recommendations to enhance the systems' efficacy for the short term. Chairman Rodriguez then stated the group's Phase II would be presented before the Commission and if the Commission approves the recommendation, the report will be included in the package of Commission recommendations to the 2005 Legislature.

Chairman Rodriguez then thanked the 13 members of the workgroup on behalf of the Commission for their consensus building efforts. He named the members as follows: Barry Ansbacher; George W. Dixon; Allen Douglas; Bill Dunbaugh; Gary Elswig; Jack Glenn; Commissioner Do Kim; Doug Murdock; Robert Nagin; Mike Rodriguez; Ronnie Spooner; Jim Shock; and Commissioner George Wiggins.

Mr. Blair conducted a review of the recommendations and / or modifications resulting from the Alternative Plans Review and Inspections Work Group sessions. (See *Alternative Plans Review and Inspections Work Group Report Phase II Attachment*.) He explained to the Commission the process for agreeing to or opposing the recommendations.

Mr. Blair then brought before the Commission each recommendation for public comment, discussion, and Commission action.

### **Insurance**

Mr. Blair stated the consensus recommendation was to require the private provider to submit to the local jurisdiction a certificate of their insurance coverage pursuant to the requirements and law prior to providing services within the jurisdiction.

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

### **Appeal Rights of Private Providers**

Mr. Blair stated the consensus recommendation was to add a new section to 553.791 which legal will prepare to clarify the law does not limit the authority to local jurisdictions to stop work as authorized by provisions of other laws or local ordinances.

Commissioner D'Andrea moved approval of the workgroup recommendation. Commissioner McCombs seconded the motion.

Commissioner Browdy noted the recommendation does not limit the building official from stopping work concerning a site-specific issue but it does limit the building official from stopping the private inspector from performing inspections on other sites.

Mr. Blair offered clarification stating on a specific project concerning a specific issue, the building official has the authority to place a stop-work order for finding violation of compliance.

Commissioner Corn stated he did not understand the purpose of the recommendation.

Commissioner Greiner concurred with Commissioner Corn stating Commissioner Browdy's question may not have been answered.

Commissioner Browdy stated his query was answered in a negative way. He explained if a building official wanted to stop a bad private inspector, he would have to shut down each site where the inspector was performing services rather than reporting the inspector for licensure action.

Commissioner Wiggins explained there had been concern that under the current law, building departments may be limited from stopping work when Code violations are being discovered. He stated the language in the recommendation was intended to clarify

that building officials are not limited from stopping work for Code violations.

Mr. Blair offered clarification stating the recommendation was not intended to discipline the provider, rather to clarify that when a homeowner or contractor hires a private provider, it does not limit the building official's authority to issue a stop-work order.

Commissioner Corn then asked if the building official has the right to stop the work due to Code violations why doesn't the language reflect just that clarification. He stated the language is unclear.

Commissioner Greiner offered further clarification stating the paragraph indicates the recommendation to add a section to the existing law for clarification purposes.

Jim Shock, City of Jacksonville

Mr. Shock stated the recommendation was submitted to clarify that stop-work orders may still be issued for any violations of the law or local ordinances even when a private provider has been contracted.

Commissioner Greiner offered clarification stating while he agreed with Mr. Shock in terms of being permitted to use a stop work order where Code violations have been discovered. However, he noted Mr. Shock also stated the building official could use the stop work order for local ordinance enforcement which would be in violation of Section 101.4.2.1 which prohibits the building official from using the Florida Building Code to enforce local ordinances. He then moved approval of the recommendation. Commissioner Browdy seconded the motion. Vote to approve the motion resulted in 1 opposed (Corn). Motion carried.

**Documentation Requirements**

Mr. Blair stated the workgroup consensus recommendation was to add a sentence stating, "Work may proceed after inspection or approval by the private provider provided that notice is given pursuant to 553.791(a)."

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

Revise F.S. 553.791(9)

Mr. Blair stated the workgroup's consensus recommendation was to add, "The building official may waive the requirement for a written record of each inspection within the time frame indicated provided that a copy is posted at the building site and that they are all submitted with a certificate of compliance."

Commissioner Wiggins moved approval of the workgroup recommendation provided legal revise the language “may waive” to “is permitted to waive” or “is authorized to waive”. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Local Qualifications for the Private Provider**

#### Revise 553.791(14)

Mr. Blair stated the workgroup’s consensus recommendation was to add the word “qualifications” and add the language, “local enforcement agencies, local building officials, local governments, or other authorities having jurisdiction may establish a system of registration for the private providers and the duly authorized representatives working in that jurisdiction whereby staff verifies statutory compliance with the insurance requirements and the licensure requirements of the appropriate sections of that law.”

Commissioner Wiggins moved approval of the workgroup recommendation. Commissioner McCombs seconded the motion.

Commissioner Greiner asked if the issue was dealing with jurisdictions being permitted to request additional qualifications higher than Chapter 468 for local enforcement officers and would it not apply to the private provider.

Mr. Richmond responded stating the answer to the question is yes. He stated the issue resulted from a reference in the Shimberg Report as well as the result of a county that was seeking to enforce their local official regulations on the private providers.

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

### **Buyer’s Choice and Disclosure to Buyer**

Mr. Blair stated the workgroup’s consensus recommendation was for the Commission to seek statutory authority to adopt by rule the job site notice form and its requirements as well as for the Commission to determine and adopt by rule who the viewer should be directed to in terms of contacting a provider.

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

### **Time for Private Providers to Notify Their Intent to Conduct Inspections on a Project**

#### Revise F.S. 553.791(4)

Mr. Blair stated the workgroup's consensus recommendation was to provide exception to 553.791(4) when a fee owner is using a private provider to provide inspections only. The requirement would state the building code inspector shall notify the local building official at the time of permit application or seven (7) business days prior to the first scheduled building department.

Commissioner Bassett stated the language did not need to have both "at the time of permit application" or "seven (7) business days prior..." He stated the intent would be accomplished with just the "seven (7)" business days language.

Mr. Blair stated the reason for both time frames is to allow adequate time for the requirement to be met.

Commissioner Greiner and Commissioner Corn offered support for Commissioner Bassett's recommendation.

Mr. Richmond then suggested the following language: "...at least at the time of permitting *or* ..."

*Allen Douglas, Workgroup Member and representing Associated General Contractors*

Mr. Douglas stated if a private provider is hired to perform both plans review and inspections, the affidavit must be provided at the time of permit application for the plans review section.

Commissioner Greiner noted the key is in the first paragraph where it speaks to building code inspection services. He stated the intent addresses both plans review services and inspection services.

Commissioner Browdy asked if the fee-owner would always know in advance that a private inspector is being used if the fee owner is not the contractor.

Mr. Richmond offered clarification stating the fee owner is required to make the selection. He stated if the contractor is not the fee owner, he would not be permitted to make the selection.

*Joe Crum, City of Port Orange*

Mr. Crum stated one example of a case brought before the workgroup was where a permit application had been made, the permit was ready to be issued, the workload in the building department was such that inspection delays were occurring and the contractor wanted to hire a building inspection service to provide the inspections due to the delays, and then was told he could not hire a private inspector because he did not

inform the building department at the time of application. He explained the recommendation would allow a contractor to hire a private provider up to seven (7) days before the inspection, which could be six months following permit application.

Commissioner Bassett moved approval of the workgroup recommendation with the language to read, "shall notify the local building official at least seven (7) days prior to the first scheduled inspection ". Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **Job Size Restrictions for Chapter 468 Private Providers**

Mr. Blair stated the workgroup's consensus recommendation was to change the definition of private provider to allow any person licensed under Chapter 468 as a building code administrator to perform services as a private provider subject to the limitations of the licenses that they hold.

Commissioner Greiner moved approval of the workgroup recommendation. Commissioner Corn seconded the motion.

Commissioner Bassett asked if the minority report referenced should be reviewed.

Mr. Blair responded stating the minority report was intended to allow anyone licensed under Chapter 468 as a building code administrator to perform the services.

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

### **Uniform Interpretation and Enforcement by Licensing Boards**

Mr. Blair stated the workgroup's consensus recommendation was that the respective licensing board shall adopt rules to facilitate better communication and uniform interpretation and enforcement of the laws regarding plans review and inspections and training for both building officials and private providers, and the Commission shall further this effort by publishing applicable rules, interpretations, and enforcement actions on the website.

Mr. Richmond recommended a letter be sent to the licensing boards requesting that they seek authority to open lines of communication.

Commissioner Bassett suggested the licensing boards be required to use the tests that are used for the Florida Building Code rather than the tests for the International Code.

No Commission action was taken.

Jim Shock, City of Jacksonville

Mr. Shock stated the reason the recommendation should be implemented is that many departments are told that the process does not fall under the requirement for a qualifier's license. He continued stating Chapter 481 is clear that the inspections fall under the scope of the rule.

Commissioner Calpini moved approval of the workgroup recommendation. Commissioner Kim seconded the motion. Vote to approve the motion was unanimous. Motion carried.

**Commission Rule Authority to Establish Format for Forms**

Mr. Blair stated the workgroup's consensus recommendation was that the Commission seek authority to establish the minimum information required on the stamp by rule with the private provider being required to stamp each sheet of all plans reviewed or approved with the Commission seeking authority to determine what information should be on the stamp.

Commissioner Bassett stated the local jurisdiction would use their stamp when utilizing the form and may create confusion if a stamp other than that of the local building department were used.

Jim Shock, City of Jacksonville

Mr. Shock provided background stating the issue was presented because there had been incidents of non-complying stamps appearing on professional drawings.

Commissioner Browdy asked if it would be in keeping with the concept behind the private provider rule where the private provider is acting on behalf of the local jurisdiction, that the determination of which stamp appears on the plans and documents would be made by the local building department.

Mr. Shock concurred with Commissioner Browdy stating his jurisdiction provides the stamps then stated there had apparently been problems in other areas of the state where non-complying stamps were being used.

Commissioner Tagliarini expressed concern with the individual stamp issue stating it may be advantageous to have a statewide stamp so the building departments would see a distinction of what was approved and who approved the drawings.

Commissioner Kidwell offered support for Commissioner Tagliarini's position. He stated establishing the form would maintain consistency throughout the state.

Commissioner Tagliarini moved approval to establish a format for the minimum information to appear on the forms for private providers. Commissioner McCombs seconded the motion. Vote to approve the motion resulted in 14 supporting and 3 opposed. Motion carried.

### **Policy Statement**

Mr. Blair stated the workgroup recommendation was for the Commission to implement an education program to inform consumers, local governments, builders, and contractors about the rules and procedures of the private provider program.

Commissioner Greiner moved approval to implement the education program concerning inspection services. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **50% Favorable Vote**

Mr. Blair called for discussion concerning any other issues resulting from the workgroup meetings and recommendations.

### **Jim Shock, City of Jacksonville**

Mr. Shock stated the workgroup failed to obtain consensus on a couple of issues, one issue was the issue of a local official having authority to prevent a private provider from working in their jurisdiction regardless of the private provider's quality of work or integrity. He stated it could leave the jurisdictions using unintended methods to put the private providers out of business. He stated resolution could be accomplished by the jurisdiction having the option of bringing the issue or complaint before a local board of appeals.

Commissioner Wiggins moved approval of the package of Phase I recommendations along with the approved Phase II recommendations for inclusion in the recommendations for the 2005 Legislature. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **CONSIDER/DEVELOP RECOMMENDATIONS REGARDING FBC WIND RESISTANCE DESIGN ISSUES**

Mr. Richmond stated Section 109 of 2000-141 of Laws of Florida designates ASCE-7 98 as the standard for wind resistance throughout the state of Florida. He continued stating the standard additionally requires for internal pressure design options throughout the state with the exception of the high velocity hurricane zones. Mr. Richmond further stated ASCE 7-98 also creates an area of the state, Franklin County

then west, requiring protection of the openings or design for internal pressure for construction within one mile of the coast. He explained Exposure C is the subject of definition within Chapter 553 which is utilized in the standard and is limited to within 1,500 feet of the coastal construction control line or the mean high tide line. Mr. Richmond then stated the definition has been included in the Florida Building Code.

Mr. Blair conducted a review and opened for discussion concerning the wind resistance design. He referenced the material provided to each Commissioner stating there were four issues for discussion and consideration and addressed each issue individually. (See *Florida Building Code Wind Resistance Design Forum Attachment*.)

*Joe Belcher, JDB Code Services*

Mr. Belcher requested permission to address all four issues during his comment. He stated Section 109 of the 2000-141 of the Laws of Florida should be completely stricken with the exception of one sentence. He continued stating he would like the Commission to consider banning the internal pressure options in the windborne debris regions.

*Guy Marvin, President, Florida Insurance Council*

Mr. Marvin stated the Florida Insurance Council supports Mr. Belcher's comments.

*Carrie Hebrank, Representing PGT Industries*

Ms. Hebrank offered support on behalf of PGT Industries for removing ASCE 7 standard from the Laws of Florida for consistency. She recommended the Commission review and consider Legislative action concerning the internal design pressure issue and the one mile issue for the panhandle.

*Jeff Burton, Institute of Business and Home Safety*

Mr. Burton stated IBHS would support the removal of ASCE 7 and additionally support eliminating the other sections as previously stated.

*Dennis Braddy, Fenestration Manufacturing Association*

Mr. Braddy offered support for granting the Commission authority to provide wind resistance regulations.

*Mike Fisher, Window and Door Manufacturer's Association*

Mr. Fisher concurred with the removal of ASCE 7 standard. He added he would support the internal pressure design option removal then cautioned the Commission there was one I-Code cycle still underway.

Commissioner Bassett moved approval to request Legislative authority to adopt windborne design standards by rulemaking authority. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Kim offered support for Mr. Belcher's comments. He then moved approval to request Legislative authority to remove the windborne debris definition for the panhandle of Florida and provide the Commission with authority to define the windborne debris region. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Kim addressed the internal pressure design option issue stating it was never intended that the option would be available for residential design. He then moved approval to remove the internal pressure design option. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **553.71(10)**

Commissioner Kim moved approval to bring back to the Commission the definition of Exposure. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins requested clarification concerning the wind regions and whether local jurisdictions would still have authority to define wind speed.

Commissioner Kim responded stating local jurisdictions would maintain authority to define what the wind zones for their area would be.

Mr. Glenn reminded the Commission determination for shutter requirements would then fall under the local jurisdiction authority through a local technical amendment.

Ms. Hebrank recommended that the Florida-specific issues be packaged as four individual issues.

Mr. Blair called for a motion to approve the package of the wind issues.

Commissioner Greiner moved approval of the package of wind resistance issues. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

### **IDENTIFY ISSUES FOR REPORT TO THE 2005 LEGISLATURE**

Chairman Rodriguez stated there are issues to be considered for presentation to the Special Legislative Session scheduled for December as well as the regular 2005 Legislative Session. He then directed the Commission to Mr. Richmond for an overview

of the issues.

Mr. Richmond reviewed the list of issues that have been previously discussed for presentation to the Legislature:

- Alternate Plans Review and Inspections
- Disciplinary Action Authority for Violations of Manufactured Buildings, Prototype Buildings, and Product Approval Regulations
- Facility Permitting
- Building Code Training Program Clarification
- Hospice Facilities and Their Addition as a Designated Occupancy under the Florida Building Code
- Recognition of the International Code Council as an Evaluation Entity
- Wind Resistance Standard
- Support for the Architects and Landscape Architects to Obtain Authority for Electronic Sign and Seal
- Binding Interpretation

Chairman Rodriguez then conducted an overview of the issues bringing the following issues forward for presentation during the Florida Legislature:

- Alternate Plans Review and Inspections
- Disciplinary Action Authority
- Facility Permitting
- Building Code Training Program
- Hospice Facilities
- Evaluation Entity Recognition
- Wind Resistance Standard ASCE 7-98
- Architects and Landscape Architects Electronic Seal Authority

Commissioner Bassett moved approval for presentation in the package of recommendations, the eight issues listed to the Florida Legislature. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez then opened for discussion and Commission action to recommend the ASCE-7 issue and the Hospice Facilities issue for possible action in the Special Session scheduled for December.

Commissioner Parrino moved approval for the ASCE 7 and the package of wind resistance issues and the Hospice Facilities issue be submitted to Senator Constantine as possible issues for the Special Session in December. Commissioner Calpini seconded the motion.

Mr. Richmond interjected the best strategy for presentation to the Legislature would be to submit the entire package to obtain as much as possible.

Chairman Rodriguez stated Senator Constantine specifically identified the two issues for presentation to the Special Session. He then called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

### **CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:**

#### **Education TAC**

Commissioner Browdy stated there were issues which would require Commission action. (See *Education Technical Advisory Committee Meeting Report October 18, 2004 Online.*)

Commissioner Browdy addressed the first issue for Commission action which was the TAC recommendation for an expenditure to BASF (Building a Safer Florida) of continuing education and training funds in the amount of \$190,000 as allocated according to the minutes and the topics discussed during the TAC meeting. He continued stating the funds would be obtained from the \$4 license renewal fees from the industry. Commissioner Browdy asked the Commission to ratify the recommendation of the Education TAC.

Commissioner Corn moved approval to allocate the expenditure to BASF as presented. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy stated the second action issue was the TAC recommendation for an endorsement of expenditures for RCMP (Residential Construction Mitigation Program) funds, whereby the Commission through its Education TAC endorses the utilization of the funds for building a safer Florida. He continued stating the amount of the RCMP funds is \$500,000 and requested the Commission endorse the recommendation of the TAC for the use of the RCMP funds for contractor education.

Commissioner Bassett moved approval for Commission endorsement of RCMP expenditures in the amount of \$500,000 for contractor education. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy then requested Commission action for the approval of the 4-hour Building Fire Core Course as recommended by staff and the input from the Fire TAC.

Commissioner Tagliarini moved approval of the 4-hour Building Fire Core Course as recommended. Commissioner Carson seconded the motion.

Commissioner Bassett asked if new licensees were still required to take the core course and if so better publication of the requirement would be recommended.

Commissioner Browdy replied new licensees are required to take the core courses and better publicizing has been discussed and better communication efforts are in process.

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

Commissioner Browdy presented for approval the 4-hour Building Structural Core Course as recommended by the Structural TAC.

Commissioner Bassett moved approval of the 4-hour Building Structural Core Course as recommended. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy presented for approval the 4-hour Residential Advanced Course as approved by the Structural TAC.

Commissioner Bassett moved approval of the 4-hour Residential Advanced Course as recommended. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Browdy requested the Commission grant the Education TAC authority to schedule a Rule Development Workshop on Rule 9B-70 prior to the December Commission meeting.

Commissioner Wiggins moved approval for the Education TAC to schedule a Rule Development Workshop on Rule 9B-70. Commissioner Vann seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#### **REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR THE COMMISSION'S DECEMBER 7, 2004 MEETING**

Mr. Blair briefly reviewed the committee assignments for the December 7, 2004 Commission meeting.

#### **DISCUSS PRELIMINARY OBSERVATIONS FROM HURRICANES CHARLEY AND IVAN**

Chairman Rodriguez stated the presentation for hurricane observations was originally scheduled to be presented in Miami during the Commission meeting however was postponed and since then, there have been three additional hurricanes in Florida.

He stated the DCA triage team was deployed to Port Charlotte, Punta Gorda, and Cape Coral to survey the effects of Hurricane Charley during the week of August 16. He continued stating the team was then deployed to Pensacola during the week of September 20 after Hurricane Ivan, and to Port St. Lucie and Vero Beach the week of September 27 following Hurricane Jeanne. Chairman Rodriguez further stated from the observations reported the Florida Building Code had made a difference in terms of damage to buildings built to the Code. He then directed the Commission to Mr. Dixon for a presentation.

Mr. Dixon presented the paths as well as projected and measured wind speeds of Hurricanes Charley, Frances, Ivan, and Jeanne via overhead presentation. He stated the only area of Florida that was not affected by one of the hurricanes was the area that experienced the greatest damage from Hurricane Andrew in 1992. Mr. Dixon stated the measured wind speeds were not as high as what was being reported by the media with highest predicted wind speeds from Hurricane Charley for a 10-meter elevation, clear and open terrain, being 130 mph, falling rapidly after approaching the harbor at Punta Gorda. He explained the wind speeds for all four hurricanes dropped rapidly as the storms came onshore.

Mr. Dixon stated the information presented on building system failures was anecdotal and not statistically representative of the full scale events. He stated there were successes resulting from Florida-specific amendments; e.g., the tie down clips for HVAC systems proved to be successful. He addressed the aluminum soffit successes and failures, which occurred on many buildings, stating the short spans were more successful than the longer spans and soffits with backing at the building wall performed better than soffit with no backing to prevent the uplift at the wall. Mr. Dixon reported a consistency in the failure of roof tile systems. He also reported shutter failures for particular types of installations as well as screened enclosure successes and failures in specific instances. Mr. Dixon stated roof shingles performed very well for all four storms, which was contradictory to their performance during Hurricane Andrew in 1992. He continued stating impact resistance windows performed well when impacted and in general new home windows performed well to pressure. He reported tidal surge successes and failures for different types of building foundations. He showed examples of corrosion of metal framing and reinforcement materials and failures of EIFS wall systems. Mr. Dixon noted the Welcome Center on Pensacola Beach fared very well and was a DCA retrofitted older building. He stated overall the buildings built according to the current Florida Building Code performed well and the researchers will develop a consensus of their observations and the causes for failures that can be reviewed and considered by the Commission. Mr. Dixon stated there would be a symposium held after the first of 2005 where issues may be addressed and any necessary consideration or action by the Commission can be made.

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

Commissioner Bassett noted there had been a meeting scheduled in October 2005 on a national holiday, October 10, 2005, which is Columbus Day.

**ADJOURN**

No further business was discussed, Florida Building Commission Plenary Session adjourned at 3:30 p.m.