

**FLORIDA BUILDING COMMISSION**  
**Hilton University of Florida Conference Center**  
**1714 S.W. 34<sup>th</sup> Street**  
**Gainesville, Florida 32607**  
**Plenary Session**  
**June 19, 2015**  
**8:30 AM**

**COMMISSIONERS PRESENT:**

Dick Browdy, Chairman  
Hamid Bahadori  
Steve Bassett  
James Batts  
Bob Boyer  
Donald Brown  
Oscar Calleja  
Jay Carlson  
David Compton  
Nan Dean  
Kevin Flanagan  
Charles Frank  
David Gilson

Richard Goff  
Jeff Gross  
Robert Hamberger  
Brian Langille  
Beth Meyer  
Darrell Phillips  
Bradley W. Schiffer  
Frederick Schilling  
Jim Schock  
Drew Smith  
Brian Swope  
Jeff Stone

**COMMISSIONERS NOT PRESENT:**

**OTHERS PRESENT:**

Drew Winters  
April Hammonds  
Robert Benbow  
Chris Burgwald

Mo Madani  
Brittany Griffith  
Jim Hammers

**MEETING FACILITATION:**

The meeting was facilitated by Jeff Blair from the FCRC Consensus Center at Florida State University. Information at: <http://consensus.fsu.edu/>

**Welcome:**

**Time: 8:30 am**

Chairman Browdy welcomed Commissioners, staff, and members of the public to Gainesville and the June 19, 2015 plenary session of the Florida Building Commission. He stated that in addition to considering regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, and recommendations from our various committees and workgroups, the primary focus of the June meeting is to conduct rule development on the Accessibility Procedures Rule, to consider fire service access elevator and blower door test and mechanical ventilation issues, and to approve the Draft FY 2014-2015 Commission Annual Report.

Chairman Browdy advised members of the public to sign the attendance sheet on the speaker's table in the center of the room. In addition, we have a sign-up sheet for general public comment. He stated as always, we will provide an opportunity for public comment on each of the Commission's substantive discussion topics (actions that are not procedural or ministerial in content). Chairman Browdy stated if a member of the public would like to comment on a specific substantive Commission agenda item, please come to the speaker's table when the issue is up for consideration so we know you want to speak. He advised that public input is welcome, but should be offered before there is a formal motion on the floor. Chairman Browdy asked that all participants and members of the audience keep all electronic devices turned off or in a silent mode. Thank you for your cooperation.

Chairman Browdy stated that there are also buff colored "*Public Comment Forms*" on the speakers' table that can be used to provide written comments. All written comments will be included in the Facilitator's Summary Report. Please give your completed "*Public Comment Forms*" to Jeff Blair. He advised some of the licensing boards located within the Department of Business and Professional Regulation have adopted rules regarding continuing education credits for attending Florida Building Commission meetings and/or Technical Advisory Committee meetings. If your board participates you may sign-in on the kiosk laptop provided in the meeting room.

**Roll Call:**

Chairman Browdy asked that Jeff Blair performed roll call, a quorum was met with twenty five members present.

Chairman Browdy requested that Jeff Blair cover the agenda items for the meeting today.

**Jeff Blair welcomed participants to the June Plenary Session and introduced the agenda as follows:**

- To Consider Regular Procedural Issues: Agenda Approval and Approval of the April 14, 2015 Facilitator's Summary Report and Meeting Minutes, and April 27, 2015 and May 4, 2015 Telephonic Meeting Minutes.
- To Consider/Decide on Chair's Discussion Issues/Recommendations.
- To Consider/Decide on Accessibility Waiver Applications.
- To Consider/Decide on Approvals and Revocations of Products and Product Approval Entities.
- To Consider Applications for Accreditor and Course Approval.
- To Consider/Decide on Legal Issues: Petitions for Declaratory Statements.
- To Review and Discuss Workplan for the 6th Edition (2017) Florida Building Code Update.
- To Consider "Fire Service Access Elevator and Blower Door Test" Issues.
- To Receive a Report on Legislation.
- To Consider Proposed Rule 61G20-4.001, F.A.C., Procedures.
- To Consider Approval of Energy Code Compliance Software for the 5th Edition (2014) Florida Building Code, Energy Conservation.
- To Consider/Decide on Technical Advisory Committees (TACs) and Workgroups: Accessibility, Code Administration, Energy, Mechanical, Roofing, and Structural TACs, and Code Coordination and Implementation Workgroup Report/Recommendations.
- To Consider/Decide on Program Oversight Committees (POCs): Education and Product Approval POC Reports/Recommendations.
- To Review and Approve Draft FY 2014-2015 Annual Report.
- To Receive Public Comment.
- To Discuss Commissioner Comments and Issues.
- To Review Committee Assignments and Issues for the Next Meeting—August 18, 2015 in Daytona Beach, Florida.

**Agenda (cont.)**

Chairman Browdy stated that he was taking Chairman's prerogative given the agenda items today to re-order the agenda. He stated that if anyone would like they can make notes on their agendas. Chairman Browdy read the new order of the agenda as follows:

- Item 3 Review and approval of the minutes
- Item 4 Chairman's discussion, issues and recommendations
- Item 5 Petition for Emergency Rule Making formally agenda item #10
- Item 6 6<sup>th</sup> Edition Work Plan
- Item 7 Accessibility Waivers Applications
- Item 8 Applications for Product and Entity Approval
- Item 9 Applications for Creditor and Course Approval
- Item 10 Petitions for Declaratory Statements
- Item 11 Legislative Report
- Item 12 Action on Rule 61G20-4.001, F.A.C., Procedures
- Item 13 Committee Reports
- Item 14 Consider Approval of Energy Code Compliance Software for the 5th Edition (2014) Florida Building Code, Energy Conservation.
- Item 15 Review and approval of the Annual Report to the Legislature
- Item 16 Public Comment
- Item 17 Commissioner Comments
- Item 18 Adjournment

Chairman Browdy requested a motion to approve the June 19, 2015 agenda as presented and amended. A motion was entered by Commissioner Gross and seconded by Commissioner Schilling, the motion passed unanimously as reordered.

Jeff Blair asked members of the public to sign in on a note pad if they wished to speak on the Service Access Elevator and Blower Door petition issue. He stated that the persons wishing to speak should have also signed in on the speaker sheet with their full contact information. Jeff stated this will give an idea as to how many people will want to speak and which order they will need to be taken. He stated he will announce the order of speakers when we reach that agenda item.

**Approval of the April 14, 2015 Facilitator's Summary Report and Meeting Minutes, the April 27, 2015 and May 4, 2015 Telephonic Meeting Minutes:**

Chairman Browdy requested a motion for the Approval of the April 14, 2015 Facilitator's Summary Report and Meeting Minutes, the April 27, 2015 and May 4, 2015 Telephonic Meeting Minutes.

Commissioner Schilling entered a motion to approve the April 14, 2015 Facilitator's Summary Report and Meeting Minutes, the April 27, 2015 and May 4, 2015 Telephonic Meeting Minutes. The motion was seconded by Commissioner Phillips. The motion passed unanimously.

**Chairman's Discussion Issues and Recommendations:**

Chairman Browdy advised Commissioners, Mary-Kathryn Smith our resident Accessibility Code expert is retiring after 29 years of outstanding service to the citizens of Florida. Mary-Kathryn is a senior staff-person who in her role as Community Planner has been with the Building Codes and Standards Office for over 29 years and with the Commission since our inception in 1998. Since the creation of the Florida Accessibility Code for Building Construction (FACBC), Mary-Kathryn has been the lead staff responsible for the Accessibility Code's development and maintenance, as well as for providing technical assistance on the Accessibility Code to consumers and interest groups. He stated that in addition, Mary-Kathryn has been the lead staff-person working with the Accessibility Advisory Council and the Accessibility Technical Advisory Committee (TAC). Chairman Browdy stated with Mary-Kathryn's leadership and commitment, Florida through adoption of the 2012 FACBC, this was the first state that's Accessibility Code was ready for certification concurrent with the effective date of the new ADA Standards for Accessible Design. Chairman Browdy stated on behalf of the Commission thank you Mary-Kathryn Smith for your hard work and over 29 years of outstanding service to the citizens of Florida with care and concern with sensitivity for those of our community and our State who are disabled. Mary-Kathryn you will be missed.

Chairman Browdy asked for a motion to adopt the Resolution of Commendation for retiring DBPR staff person Mary-Kathryn Smith.

Commissioner Myer entered a motion to adopt the Resolution of Commendation for retiring DBPR staff person Mary-Kathryn Smith. Commissioner Schilling seconded the motion. The motion passed unanimously.

**Chairman's Discussion Issues and Recommendations (cont.):**

Chairman Browdy announced that Commissioner Bassett was honored as Engineer of the Year from the Florida Engineering Society. He stated that the Commission was very happy for his award. Commissioner Bassett advised the award was actually Outstanding Services to the Engineer Profession and will go forward to the National Society for distinguished services award nomination.

Chairman Browdy congratulated Commissioner Bassett.

Chairman Browdy provided an update on the FBC Office Executive Director. He stated he was in an accident about 45 days ago when walking his dog, he was hit by an automobile and sustained significant injuries. Chairman Browdy advised that he has been in the hospital, rehab and now home, and we are sending our best wishes. He asked Drew Winters to provide a further update on Jim.

Ms. Hammonds stated for the record that Mr. Richmond waived his Hippa for this update.

Mr. Winters said he was glad to report that Jim has progressed well and is healing very good at this time. He said the good news is that there does not appear to be a need for more surgery. Mr. Winters stated we have missed him tremendously and we wish him a very speedy recovery. He said Jim is very anxious to get back.

**Appointments:**

Chairman Browdy advised that he wanted report that Tim Tolbert informed him that he has resigned from the Commission. Tim accepted a position as the building official for Lafayette, Louisiana. He expressed that Tim will be missed and his outstanding service is greatly appreciated. Chairman Browdy noted that the Commission would honor him appropriately with a Resolution of Appreciation at the August meeting.

Chairman Browdy stated he had appointed Doug Melvin to the Special Occupancy TAC to fill the vacancy left by Mark Boutin as the DBPR Bureau of Elevators representative. He welcomed Doug to the TAC and offered appreciation to Mark for his service to the citizens of Florida.

Chairman Browdy stated he had appointed Scott Waltz to the Special Occupancy TAC to fill the vacancy left by Wayne Young as the Agency for Health Care Administration (ACHA) representative. He welcomed Scott to the TAC and offered appreciation to Wayne for his service to the citizens of Florida.

**Appointments (cont.):**

Chairman Browdy stated he had appointed Ken Castronovo to the Electrical TAC to fill the vacancy left by the retirement of Lou Mark as the Broward County Board of Rules and Appeals representative. He welcomed Ken to the TAC and offered appreciation to Lou for his service to the citizens of Florida.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues:**

Chairman Browdy advised that the Commission has received a Petition for Emergency Rulemaking and consequentially a separate Petition for Rulemaking. He stated the Petitioners before the Commission today are familiar to us. Chairman Browdy advised they are both private for profit and not-for-profit entities representing developers, contractors and trade associations across the State of Florida. Specifically, the Petitioners are requesting the Commission delay the implementation and enforcement of two (2) separate and unrelated Code provisions, dealing with the number of fire service elevators required in high rise buildings pursuant to Section 403.6.1 of the Florida Building Code-Building, 5<sup>th</sup> Edition (2014), and the thermal envelope testing utilizing blower door tests pursuant to Section R-303.4 of the Florida Building Code-Residential, Fifth Edition (2014) and Section 402.4.1.2 of the FBC Energy Conservation Code, 5<sup>th</sup> Edition (2014).

Chairman Browdy said that because of this unusual request for emergency relief from these specific provisions of the 5<sup>th</sup> Edition of the Florida Building Code, our technical and legal staff has had numerous meetings with the Petitioners and their counsel to discuss (1) the receptivity of the Commission to address the industry’s concern at this time; (2) the statutory authority of the Commission to act on the requests; (3) what formats are available to the Commission to address the industry’s concern; and lastly (4) the appropriateness of that format.

Chairman Browdy advised on Monday of this week he received word that the issue was of such concern to members of the Legislature that it was reconsidered in the midst of the concluding days of the Special Session. He stated the industry’s concerns were heard and currently there is a funding line in the budget to address that concern in the form of a \$35,000 budget allocation to study the three code issues. Chairman Browdy then advised the pending legislation puts code implementation and enforcement on hold for up to one year until such time as the Florida Building Commission can through our technical processes study, evaluate and make whatever changes are appropriate to address these critical issues. He said in view of the pending approval of this legislation and the consequential timing, the industry is faced with a choice either to withdraw the petition for Emergency Rule Making.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy stated in the event the efforts of the industry are successful today with the Commission – Emergency Rule Making would not go into effect until June 30th and then be in place for a period of 90 days. He said if the legislative path is not successful, the Commission would then proceed with our standard rule making procedures. Chairman Browdy further stated that if the legislative path is successful, notwithstanding the Commission’s action today, there would be no need for the Commission to invoke the Emergency Rule on June 30th.

Chairman Browdy advised that because of that decision that was made the petitioners have elected to move forward with their petition not relying on the Legislative path, but to move through the emergency rule path.

Chairman Browdy said that the presentations and the Commission discussions this morning will be limited to the merits of the petition for relief and not the technical issues of the Code that are the subject of the code provisions from which the relief is being sought. He advised the Petitioners will be asked to present to the members of the Commission what they believe to be the compelling evidence to support their request for relief utilizing the Commission’s Emergency Rulemaking authority.

Chairman Browdy advised that after we have heard from our legal staff and the Petitioners have made their full and uninterrupted presentation to the Commission, we will then hear any public comment, and then members will be able to ask questions of both staff and the Petitioners. He said afterwards the Commission will be asked to vote on the request to initiate Emergency Rulemaking on the specific issues. Chairman Browdy stated if the Commission votes by super majority in the affirmative because the Emergency Rule is effective for only 90 days it will be necessary for the Commission to vote again to initiate Rulemaking under the standard procedures of Florida Administrative Law.

Chairman Browdy stated that the format today is not meant to be adversarial in any way but rather legally necessary for us to timely and authoritatively respond to this request. He said in the future, I would hope that we can have these discussions at the designated times to alleviate the “emergency” nature of this request. Chairman Browdy said that the Commission is more accessible than the Legislature and has the professional and technical expertise available to properly evaluate and act timely on such technical matters.

Chairman Browdy stated as the Chairman of the Florida Building Commission, I want to express to the Petitioners our receptivity to the concerns of the industry and the Commission’s desire to be the industry’s preferred path for Code development.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy addressed the members saying that the decision to either grant or deny this request for Emergency Rule Making belongs exclusively to them, the Florida Building Commission. He said that he knows the Commission is up to the task.

Chairman Browdy then asked that Brittany Griffith, DBPR, Rules Attorney to provide legal guidance for emergency rule making to the Commission.

Brittany Griffith introduced herself as the Rules Attorney for the Department of Business and Professional Regulation. She stated her purpose today is to provide the Commission with the framework and to answer any questions that they may have. Ms. Griffith provided a brief overview of the framework of what the Commission should be looking for as they evaluate the petition today. She said the first item to be addressed is in order for the Commission to adopt an Emergency Rule the Commission must find that there is an immediate danger to the public health, safety or welfare. Ms. Griffith stated she wanted to emphasize that any of these three may apply one or more of them. She said the Commissioner must find that there is an immediate danger to the public health, safety or welfare. Ms. Griffith said that the Commission may then adopt any rule that is necessitated by immediate danger. She said if the Commission finds there is an immediate danger to the public health, safety or welfare based upon the petition, the petitioner’s supplemental documents and testimony today, the Commission may enter into emergency rule making as is requested in the petition for emergency rule making.

Ms. Griffith further stated this will involve several steps. She said the first step will be to articulate specific facts and reasons for the Commission’s findings and there is an immediate danger to the public health, safety or welfare. She advised these facts will be listed in the Commission’s notice of emergency rule making and must be factually explicit and persuasive, she said she would also suggest that the Commission state why non-emergency rule making would not be adequate to deal with the problem targeted by the emergency rule. Ms. Griffith said what facts and circumstance constitute an immediate danger immediate danger to the public health, safety or welfare is an incredibly grey area in Florida Law, however, there are a couple of cases in Florida where significant and concrete economic threats have been found to be of immediate danger to the public welfare. Ms. Griffith advised the second step will be to determine what rule is necessitated by the immediate danger which can be discussed if the Commission decides that the emergency rule is warranted. She advised the third step will be for the Commission to articulate the reason why the procedure is fair under the circumstances.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Ms. Griffith stated Chapter 120.54(4)(a) in Florida Statutes explains that a procedure is fair under the circumstances if one the procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution. She advised the second factor is the agency takes only that action necessary to protect the public interest under the emergency procedure. Ms. Griffith stated the third factor is that the agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. She said again this is something we can discuss should the Commission decide that emergency rule making is necessary.

Chairman Browdy thanked Ms. Griffith and stated the procedure will now to presentation.

Jeff Blair advised Commissioner Brown asked to speak.

Chairman Browdy acknowledged Commissioner Brown.

Commissioner Brown stated on the advice of Counsel, he said it would be necessary for him to recuse himself on the blower door issue.

Chairman Browdy stated that there will be 24 members voting on this issue.

Chairman Browdy stated that Doug Buck representing the petitioners will introduce the petition and the issues are going to be separate with the first being the HVAC and Blower Door issue.

Mr. Buck stated there will be an attorney to speak on the legal issues. He thanked the Chairman, the Commissioners and the staff for the opportunity to be at the meeting and make their case. Mr. Buck stated he represents the Florida Home Builders Association and they represent 8,000 Corporate Entities with 25 local Home Builders Associations across the Stat. He said that they are seeking a delay in three separate provisions. Mr. Buck stated the Chairman had laid out what they are asking for. He said the reason for being at the meeting is that the Legislature failed to take action on this issue for a variety of reasons. Mr. Buck stated the Association and other members of the group asked them to find alternative ways of being successful as the paths were special session and this group for better or worse those were two simultaneous processes. He further stated they pursued both and we have heard the outcome of the special session. Mr. Buck said that specifically for their group he is going to speak on the blower door issue and the ventilation issue. He said that they are asking for the delay because they have conducted recently under resources provided by you all in form of grants on significant code changes. Mr. Buck said they have completed 27 around the State. He further stated they have trained 1500 people on these significant code changes and these people are building officials and builders.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Buck said that this issue of the new requirement of a standalone blower door test has drawn significant questions from our members. He further said that was going to steal a line from a significant person that thirty percent of the homes in this State probably are doing the blower door test now, but that is a long ways away from 100%. Mr. Buck said that he has to have this test everywhere in a timely manner and he said he would be remiss to say that the Industry that will be doing this test is gearing up. He said he knows that they are hiring people and training people. Mr. Buck advised the issue is the builders understanding where they get this service because on July 1<sup>st</sup> it happens. He said a greater concern in the industry is are the builders prepared to pass the test, is the training the workmanship, the ability to know exactly how to pass the test known and his answer from his experience is no.

Mr. Buck stated again from his resources provided they are conducting training on how to pass the test, they have completed 11 classes around the State; they have had 800 contractors take that test and the demand for more of those classes is growing every day because of the concern on the part of the home builders that they do not understand how to pass the test. He said not passing the test is very costly and so he is going to turn to Lee Arsenault a contractor from Jacksonville regarding the costs. Mr. Buck stated James Peterson will also speak about an accompanying issue dealing with ventilation. He stated they are proposing these delays gives the Commission time to specifically look at the ventilation issue and is it correct and it is interpreted correctly. Mr. Buck stated the Commission just paid for and will receive Monday at the Mechanical TAC a report from FSEC on this issue, and they make some suggestions. He further stated that all anyone is asking for today is a delay so that they can comply with the requirements of the Code. At this point Mr. Buck turned to floor over to Mr. Arsenault to speak about costs consequences.

Mr. Arsenault, stated he is a licensed General Contractor in the State of Florida and owns a small construction company and they build single family homes and also do remodeling and repairs in the Jacksonville Area. He said that he also been asked to serve as the Chairman of the Codes Taskforce for the National Association of Home Builders of Florida, the home builders branch here and he also is serving as Chairman of the Codes and Standards of his local association in Jacksonville. Mr. Arsenault said that he had been getting a great education in what the Commission normally deals with all of the time and appreciated the volunteerism to his community. He said as Mr. Buck suggested they are trying to figure out how to tighten up the houses and the blower door test is new to a bunch of them and about 30% of the homes are already receiving the blower door tests. Mr. Arsenault stated a lot of the larger builders have already taken the steps and using the testing. He said he is a small business and the remaining 70% of homes not tested are being built by the smaller contracting companies. Mr. Arsenault said there is a huge gap to try to overcome very quickly. He said as Mr. Buck suggested, many of them believed there were going to be alternatives in the Legislature and these provisions would be delayed and thus they fell asleep at the switch. Mr. Arsenault said as they look at HER

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

testing and finding the resources to do the testing, bidding that out understanding the scope of work involved and then they actually undertake testing, they are looking at how they can tighten up the structures and what are the things they will have to do. He said one of the testing companies suggested that they test after the home is completed and have the carpet in place, weather stripping in place and then they find out the house is not tight enough, then what do they do. Mr. Arsenault said then they try to seal the baseboards, pull of carpet perhaps to try to seal the bottom plate to the slab, they start to try and seal up areas of potential leakage, it would be a process of elimination sealing here and there. He said they could end up having to replace recessed cans; the cans being used may not be adequate and if they are ripping out recessed cans in a finished home that can be a problem and very expensive. Mr. Arsenault stated they are asking for the delay to help them figure out what to do. He said he thinks they recognize that this is happening, it is real and they have to get on board with it. Mr. Arsenault stated the Commission is not hearing an objection from them, and they are not snubbing anything or refusing to do this, but they need some extra time to figure it out.

Mr. Arsenault the other costs they could be ranging if sealing around the bottom plate and pulling carpet could range from \$200 to \$800 for this process depending on what is involved. He said if sealing duct work is required it could range from \$100 to \$200 perhaps, replacing recessed cans could involve a couple of thousand dollars per house basis. Mr. Arsenault stated re-testing bringing back tester to have the home tested again after each measure would be lost time and additional expense. He said then you are left with a customer who does not understand why they cannot move into their house. Mr. Arsenault stated the costs of that in PR is quite extensive when they have stressful process enough for the typical customer and we would just be adding more stress to them. He said that they are looking for relief and he believes the Commission has the authority and would appreciate the consideration.

Mr. Peterson stated he is the VP of Research and Development for Lennar Ventures, a wholly owned subsidiary of Lennar Homes, he is also serving as the Vice Chair of the FHBA Green Building Council, he thanked the Commission for allowing him to speak about fresh air ventilation. He stated that he believes all would agree that having a supply of fresh air to dilute any pollutants inside a home is the best practice, with that being said, taking a national ventilation standard and applying it to the hot humid air in Florida can have some unintended consequences. Mr. Peterson said introducing hot humid air will definitely impact a home's energy efficiency. He said introducing moisture can impact the durability and negatively impact the goal of improving indoor air quality unless that humidity is managed properly 12 months out of the year in this State we can have issues. Mr. Peterson said the way fresh air is introduced into the house needs to be considered when we are dealing with this humid air and if we build a tight house and ventilate using an exhaust fan the most cost effective way to do it, we have to ask ourselves a few questions, number one where is that air going to come from we have no idea

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

how it is going to be filtered, it is not, how is it going to be distributed in the home which are all good questions we need to think about when we talk about fresh air ventilation. He said the National Ventilation Code has proven to work very well in the center of the country but there have been issues in cold climates and in hot humid climates recognizing this there has been a lot of work done by a small group of building scientists who have recognized the potential for the issue and have done a lot of testing and developed some best practices. Mr. Peterson said with that in mind they have reached out to one of the leading building scientist in the Country Joe Steebrook and he is going to be giving seminars in Miami and Orlando in two weeks to raise awareness and hopefully show builders and contractors the right way to ventilate and make sure we do not have any unintended consequences. He further said that FHBA will then take the information and get it out to all members to train them properly in the best practices for ventilation.

Mr. Buck stated that this will conclude their presentation and thanked the Commission for listening to their presentation. He then stated that Robert Fine will be presenting the Fire Service Elevator issue. Mr. Buck said that again they are asking for delays to educate their members. He said one other thing to keep in mind, he wished that all contractors were his members, but they are not and so it takes time to reach out through the industry to those folks who are not part of their cycle to educate and make aware, with the delay on blower door and ventilation, it will give time to look at the issues and for them to be ready to provide the citizens with the home they desire. With that Mr. Buck thanked the Commission.

Chairman Browdy stated he would like to focus on the issues separately and therefore having heard from the petitioners he would like to open the floor to the public to speak on the blower door and ventilation issue. He asked them to come to the speaker table and advised they will be limited to three minutes. Chairman Browdy asked that all speakers introduce themselves for the record and also indicate if they are for or against this petition.

Rachel Doty with the Contractors Institute stated they are against the petition for delaying rule making. Ms. Doty provided reasoning for their decision.

Dennis Stroer, President of Calcs-Plus advised they disagree and are against the petition. He reminded all that there were similar procedures in the 2010 Code and then provided further background on his decision.

Paul Maass, Florida Building Science and SoHo Green advised they are also against the petition. He stated his concerns in this petition passing.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Layla Thomas representing Environment for Living stated they are against the petition. She provided background and reasoning for their decision.

Tommy Spain with Skyetec stated they are also against the petition and provided explanation of their decision.

Lisa Miller, Former Deputy Insurance Commissioner and is against this petition and advised of her thoughts on emergency rule making and why she did not feel this is necessary.

Kari, Hebrank, RUDG, stated that they are in favor of the petition. Ms. Hebrank provided background of Legislative activity and continued with providing explanation of their choice of being in favor of the petition.

Martha Chumbler, Esq. Attorney representing the petitioner stated she is for the delay. She said she wanted to remind the Commissioners of the statement from Ms. Griffith regarding the immediate threat to the welfare and economic impact to the State of Florida and case law that supported this issue in emergency rule filing.

Teresa Spurlingwood, Air conditioning contractor and is speaking for her mom, all parents, low income people etc. She stated she is against this petition and gave supporting information for her decision.

Robert Fine, Esq., Attorney representing the petitioner provided a couple of notes regarding the petition. He advised he is for this petition and provided his legal insight to this issue and suggests allowance of the TAC to evaluate reports.

Chairman Browdy advised that it is now time to allow the Commissioner to speak on the petition before them and the opportunity to ask questions of the petitioners and their Legal Counsel.

Commissioner Schock stated his main question is with the building industry, the homes we have now, are there any records of sick buildings that are being caused by buildings being too tight?

Mr. Peterson stated yes there are some studies that document issues with houses that are too tight with poor building practices.

Commissioner Schiffer asked in the application they are sighting two sections requiring these test, there is a third that is in the Building Code, it is Section 1203.1, he asked if this was to be included also.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Ms. Griffith advised the Commission that the Section Commissioner Schiffer is referencing is not included in the petition before them today for the record.

John Farinelli, FHBA stated that Code Section Building Volume is similar to the one in the Residential Volume it addresses residential structures built under the building code volume.

Mr. Winters addressed the Commissioners advising the important thing to realize is that the petitioners have asked for very specific petition for specific Rules/Items in the Building Code to be delayed and the Commission need to stick to that petition at this time because that is what the public has been noticed would be discussed here today.

Commissioner Schiffer stated then that section referenced will stay as is no matter what happens today. He said the concept of a 90 day delay as pointed out in some cases inspections are done at the end of the job so what is the delay for anything that was permitted within that 90 day period?

Mr. Buck said yes, it tells the industry that there is a delay effective with the beginning of the 5<sup>th</sup> Edition of the Code on June 30, 2015 and then the subsequent rule making and the actions that they anticipated when they were on the dual track of talk with the Legislature. He said they are part in partial otherwise we have this period of time before you can go to rule making that the Code is fully in effect.

Commissioner Compton stated on the additional costs presented for proper sealing, why would it is not possible to do the sealing as a part of the construction as opposed to waiting until you fail the blower door test to start doing the sealing?

Mr. Arsenault said that he understood but part of the point is that we are still trying to understand, he said they already install a sealer underneath the plate, however, they do not know how effective it is until it is tested. He further stated they believe they are building a tight house and most of the builders that he knows would feel the same way, but until it is tested they do not know. Mr. Arsenault said there is a gap in time when between when you start testing, you have a performance measure that you are trying to meet and what are the issues you are going to be dealing with. He further stated at a BOAF meeting recently and it was one of the designers that brought up where do you identify the thermal barrier, so as the Code is implemented and the building officials try to implement this, we come up with a standard on where these measurements are taken in the envelope, who is doing the measuring, how does it relate to what the air condition contractors are currently doing in their manuals and their energy calculations. Mr. Arsenault said he thinks that there is a lot that needs to evolve and they are looking for an

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test”  
Issues (cont.):**

opportunity to work with their building officials, the designers and HVAC contractors to pull all of this together. He said until we really start to focus and work on it we are just kind of guessing where things are going to land.

Commissioner Compton stated his next question was in regards to the additional costs sited, how is the delay going to change the costs, it is going to make it cheaper or more expensive.

Mr. Buck stated the delay will give them the opportunity to conduct additional training, outreach and awareness. He said that they will be recommending to the industry that they get the blower door testing and begin the process of understanding how they failed or passed so there is additional time to comply and receive that education.

Commissioner Compton said that the petitioners stated there were not enough certified people to do the blower door test, how long does the process take to get the certification? He said he understands there is some training.

Mr. Buck stated he would like to clarify a statement, he said the issue is that the industry has not utilized this service, so they really don't know where to turn. He said he believes the industry is gearing up and all the people that spoke against this measure are from that section that wish to perform this service and he said they are supportive of that and at the summer conference will be putting on those tests to train them. Mr. Buck said the training will be occurring in the middle of July and he does not want that it is not available and the industry will get there, but fundamentally as a contractor they are not ready to pass and very costly if they do not pass and causes delay with CO and you couple that you have achieved the tightness which should have been done anyway, and we know that not everything in the Code is complied with. Mr. Buck then stated the ventilation issue which is a real substantive, he said he is not a lawyer and not that cautious sometimes, could cause potential health issues if the air indoor quality is not correct because we have now built our houses tight, we have proven they are tight and know we have to bring outside air, as a layman that seems crazy, but those things together are a package that brings us to the ventilation issue, he said we are asking for the delay only not changes.

Commissioner Compton said he understands, but reading that make up air is not a problem through the return cycle. He said there is a lot of documentation on it, but he said I am not a HVAC contractor/engineer. Commissioner Compton said the majority of the issues you are bringing forward seem to apply to the contractors and the builders in the State of Florida such as the issue of passing the blower door test. Commissioner Compton said that he does not understand how this is going to affect the health, safety and welfare of the citizens of the State of Florida; you seem to be focusing on this specifically on how it is going to affect the contractors and builders.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Buck stated that it has been explained that the welfare can be an economic one and it does have significance economic consequence if you are building homes. He said the other part of that is the ventilation issue and that is a health issue and there is a lot of debate high level, debate on how to do it and that is the health portion of this.

Commissioner Gilson stated his first question is to the legal staff of the Commission, he said earlier a statement was made there were a couple of economic issues that could be an immediate danger.

Ms. Griffith clarified question are there cases related to the economic danger.

Commissioner Gilson stated if the economic portion equates an immediate danger. He said a lady spoke earlier and said that the economic portion would be an immediate danger and he wanted to know if that is the case.

Ms. Griffith stated that this is something the Commission will have to consider and how they can consider this as an immediate danger. She said as far as the economic issues, that is equated to a public welfare issue, there was one found when the State of Florida was going to lose \$64,000 a day in tax revenue without an emergency rule and there was a case when an agency demonstrated that a budget revision via emergency rule making was necessary to keep state benefits program functioning through the end of the fiscal year, these are examples. Ms. Griffith stated it would be up to the Commission to determine if this was immediate.

Commissioner Gilson said his other question was the 90 days and you are representing one group of people, how are you going to disseminate that information.

Mr. Buck stated that they work with the Department and they have the list of all licensed contractors and they advertise to them the training they are doing. He said the training is something the Commission pays for and is free to the licensee, so this is free training that we are out there doing and having more and more demand as this issue becomes more and more aware. Mr. Buck said they are reaching out not only to their members but all licensees in the state. He said the local home builders are leaders and have their methods and so they are reaching out as quickly as possible. Mr. Buck said the 90 days is a method to get enough time to go to regular rulemaking to achieve the length of time they are asking for. He said Chairman Browdy had outlined the way that this will work.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Flanagan asked Mr. Peterson about the 30% of homes he acknowledged being tested, of those 30%, how far back does that figure go, five years still being blower tested five years ago. He said if they were being tested 30% five years ago why were not more tested.

Mr. Peterson stated most of the homes that were tested were energy star rated or HERS to separate them on the energy efficiency basis that sets them apart from regular homes being built. He further said that basically there are a couple of things going on and there are other programs as well that builders can sign up for that would require them to do a blower door test. Mr. Peterson said since the advent of the energy star homes, homes have been blower door tested, but the percentage in Florida is about 30%.

Commissioner Flanagan asked how far back this testing has been going on, how many years.

Mr. Peterson stated he believed about 12 to 15 years. He was corrected and stated 20 years, 1995.

Commissioner Flanagan said that they are not all expensive homes; they are various dollar amount homes.

Mr. Peterson stated that is correct.

Commissioner Bassett advised he had a statement and will add his comments at the end.

Commissioner Calleja stated he understands that they are proposing the 90 day delay to get to the next meeting for permanent rule change. He said the 90 rule is a strategy to get a permanent delay.

Mr. Buck stated that is correct.

Commissioner Calleja said when getting to the permanent rule change is this just for the delay or to change the parameters, the code cannot be changed at this point and time? He said the only avenue is to delay until April or June.

Mr. Buck said they are just asking for the delay, but he believes the ventilation issue is a substantial issue being debated and discussed. He said there is some discussion and that is a standard and something you would have to figure out how to change the Code. Mr. Buck stated the other part of it is are the contractors while they are 30% those are folks who have gone through the training and understand what they have to do to comply. He said with you all

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

working in the industry are the other 70% knowledgeable on how to be successful, if not there will be economic hardship with cost and customer relations.

Commissioner Calleja said if you get the delay you will provide classroom training?

Mr. Buck stated yes, classroom training, which a program administered by the Commission and is free to the licensee.

Commissioner Calleja said if there is no delay and you start blower door testing and there is failure would that not be the best training to see what they need to learn.

Mr. Buck stated he did not feel this is the best way, he felt it is better to conduct classes before you have a failure in full testing. He said there was a tremendous amount of calls during these training courses wanting to know how this got in the code. Mr. Buck stated this is what led them to take action during the session because the Commission was not meeting when those are growing awareness.

Commissioner Calleja said the mechanical ventilation section or part of this, there are some back and forth or different numbers which he happens to be sympathetic to changing. He said Dr. Steebrook have spoken a long time about changing the mechanical ventilation rate, however, we are not supposed to talk about the technical side of this issue.

Chairman Browdy stated correct we do not want to talk about the merits of the technical issues here; we need to speak on the emergency petition.

Commissioner Calleja stated yes, but the point is if just delaying it is going to get us to the same point again in April and June and by that time the Code cannot be changed.

Jeff Blair stated this can be discussed when it comes back to the Commission.

Commissioner Calleja asked for confirmation that the strategy is to delay.

Mr. Buck stated yes, that will give the Commission the opportunity procedurally to make those changes if the Commission so desires to any ventilation standards. He further stated that is what the delay will give them is that blower doors effect and will allow them to proceed with and remedy the ventilation issue which can cause potential indoor air problems.

Chairman Browdy stated that this concludes the Commissioner’s questions. He advised that the Commission will now have by motion find that there is sufficient evidence to establish an

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

immediate danger to the public health, safety or welfare if the requirements blower door testing and mechanical ventilation became enforceable on June 30, 2015. Chairman Browdy advised that the motion must include specific facts; you find that would constitute that immediate danger to the health, safety or welfare of the public. He said in order to dispose of this matter is a motion and the motion would have to say the following:

“I hereby move to find that the following facts establish an immediate danger to the public health, safety or welfare if the requirements for blower door testing and mechanical ventilation contained in the 5<sup>th</sup> Edition of the Florida Building Code were to become effective on June 30, 2015.”

Chairman Browdy advised if there is a motion to that effect and a second we will go into discussion on the motion by members of the Commission and then take a vote. He then asked if there is such a motion.

Commissioner Carlson entered a motion to find that the following facts establish an immediate danger to the public health, safety or welfare if the requirements for blower door testing and mechanical ventilation contained in the 5<sup>th</sup> Edition of the Florida Building Code were to become effective on June 30, 2015. The motion was seconded by Commissioner Schock.

Chairman Browdy then asked Ms. Griffith what else is needed in the motion.

Ms. Griffith stated there needs to be a list of specific reasons for which this finding is being made. She asked them to speak slowly to ensure she can capture the reasons.

Chairman Browdy advised Commissioner Carlson that the reasons would have to be incorporated into his motion.

Ms. Griffith advised the reasons need to specify that it constitutes an immediate danger to the public health, safety and welfare and also why non-emergency rule making will not be effective in this instance.

Commissioner Carlson stated that he would refer the petition itself as holding the proof of the burden for the health, safety and welfare of the public, especially page 15 of the supplement last paragraph. He said the second portion of the request from Ms. Griffith, he is not sure he can provide the language and he asked for her assistance.

Ms. Griffith asked Commissioner Carlson what makes this an emergency and an immediate danger.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Carlson replied that a greater portion of the industry has not been able to receive proper training to meet the code.

Commissioner Schock added that testimony has shown that houses as they exist today do have sick homes and sick environments because houses are too tight. He further added there has been testimony today bringing in humid outside air can cause mold and environmental health issues. Commissioner Schock stated with these in mind there needs to be more time to study and find resolution.

Chairman Browdy stated the next section would be why this would need to be an emergency rule.

Commissioner Schock stated that is because there is an issue now with possible sick buildings and the sooner we can get an answer the safer the public will be.

Mr. Winters stated June 30<sup>th</sup> is the Code effective date, are you stating this is also the reasoning, there would not be time to use the regular rule making procedures.

Commissioner Schock yes.

Chairman Browdy stated the motion has been entered and seconded. He said before the vote there is time for discussion.

Commissioner Calleja stated he would like an amended motion as the basis of the motion is health and he does not feel evidence was given on sick houses all over the state. He said the stronger as economic impact in the industry overall and the consumer buying the home which is the welfare portion of it.

Chairman Browdy stated that would be up to Commissioner Carlson and Schock.

Ms. Griffith stated that more than one reason can be given, this is and/or situation, all three components do not have to be addressed.

Commissioner Bassett stated he has yet to find a building that was sick because it was too tight or did not have ventilation. He said had he been a member when the code was being written he would have done anything he could to not have blower door testing in the code. Commissioner Bassett said the reason he has found sick buildings is because they put in too much air conditioning and it was not running long enough to get rid of humidity, or not enough air-conditioning in to get air cold enough to take out the humidity or they have a ventilated attic and

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

they let the humidity in the attic get in through the non-vapor barrier ceiling. He said the blower door testing will not find a non-vapor barrier ceiling so it will not do any good for this issue.

Chairman Browdy stated he did not want to go into the technical at this time; it is the nature of this emergency rule making. He advised that if this goes into regular rule making all would be given ample opportunity to discuss the technical merits.

Commissioner Bassett stated his next comment is on the need for this emergency rule. He stated all that are involved in the building business know that the next two weeks are going to be the largest permit pulling time of the year for the last three years as everyone tries to get under this building code and not the new one. Commissioner Bassett continued saying that the month of July will probably be the lowest building permit pulling session. He said the question that comes up is how many cases will be postpone if we only approve a 90 day and why is it necessary to do it at this meeting instead of next meeting when we would be afforded more time to discuss and have more time to present it and we could exclude every permit pulled beginning of code and when we passed the emergency rule. Commissioner Bassett moved to table this item until the next meeting in August.

Chairman Browdy stated then he would be voting against the motion.

Commissioner Bassett stated I entered a motion to table and if there is a second it will need to be discussed now.

Ms. Hammonds advised that there is already a motion on the floor.

Commissioner Bassett stated in Roberts Rules if there is motion to table the motion comes up and it has a second, it has to be immediately voted. He further stated no more discussion takes place until the next meeting when the table is lifted.

Mr. Blair asked if there is a second to this table of motion.

Chairman Browdy asked for a second to the motion to table.

Mr. Blair stated the motion to table failed as there was no second on the motion. He further stated the discussion will now go back to the original motion on the floor.

Chairman Browdy acknowledged Commissioner Smith.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Smith stated based on what has been discussed today; he wanted to bring up a couple of points that address the ventilation issue. He said although ventilation is specified as part of, if the home is below calcs, and leakage in the home is tight, there is no specifics in the Code that dictate how the ventilation is going to be brought in, so from a health standpoint if the builder is unclear and he follows the Building Code as it is written there will be an issue with health issues within the structures as it is not defined clearly. Commissioner Smith advised that although there are a couple hundred energy raters in the State of Florida, the Code is also very ambiguous to the other trained professionals that are going to be allowed to do this test which really do not have an accredited professional designation. He further stated that it is his fear that we are going to have people out there from industries that will be handling these tests that don't have the proper training and know how to read the meters and so forth.

Commissioner Flanagan stated the petitioner today is asking for a delay and they are not saying they want the rule to go away but clearly asking for a delay. He said the Lennar gentleman clearly talked about some humidity and other climate issues and he is curious why Lennar would not be onboard in supporting this issue. Commissioner Flanagan further stated he did not feel they by law that we are instructed by our Attorney that the petitioner has met the danger to the public health, safety or welfare and therefore he would not be in support of the motion.

Commissioner Carlson stated that as the maker of the motion, he wished to clarify that last statement and the question from a prior speaking Commissioner regarding public safety, health and welfare. He stated in his motion he referenced page 15 of the amended petition, he then read that page and said he is stating that according to the language of this page, this petition requests does meet the threshold of public health, safety and welfare.

Chairman Browdy stated that there is no need to amend the motion as Commissioner Carlson clarified his motion by reading the page referenced in his original motion.

Commissioner Schiffer stated as a designer, he will be in favor of this motion. He said the small amount of time based upon the mistakes of an improperly designed fresh air mechanical system in Florida is definitely a concern on the welfare of the community.

Commissioner Schock stated he would like to incorporate the comment from Commissioner Calleja regarding the financial impact could certainly be made part of the motion but not take out the health component and he has no problem with a second on that motion.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy read the motion on the floor as follows by Commissioner Carlson:

“I move to find that the following facts establish an immediate danger to the public, health, safety or welfare if the requirement for the blower door testing and mechanical ventilation contained in the Fifth Edition of the Florida Building Code were to become effective on June 30, 2015. The facts were located page 15 of the petition and provided to Ms. Griffith.

Ms. Griffith stated that the petition itself holds the proof of health, safety or welfare danger, particularly the last paragraph on page 15 of the amended petition. She stated the facts that the greater portion of the industry has not had a chance to get the proper training to meet the requirements of the Code. Ms. Griffith stated as testimony shows as it exist today, there are sick environments that houses are too tight, testimony that bringing in humid outside air can cause environmental health issues, there is a need for more time to study the issue and the current issue of sick buildings must be corrected immediately and the new Code will go into effect June 30<sup>th</sup> and there is not sufficient time to correct the issue without emergency rule making.

Mr. Winters asked Ms. Griffith if Commissioner Carlson’s motion you agreed to include that the economic impact to home owners and the implementation of this would be an issue to the public.

Chairman Browdy asked if the other parts need to be added that the Commission would have a tri part motion.

Ms. Griffith stated it may be easier to complete this vote and then move on to the other sections and basically split them into three.

Chairman Browdy called for the vote on the first motion and advised that there will need to be a 75% in favor vote. He said there are 25 Commissioners present with one vote abstaining.

Chairman Browdy then called for the vote. There 18 Commissioners in favor and 6 Commissioners against. The motion passed with majority vote in favor. One vote abstaining.

Ms. Griffith advised Commission of needed language and content for the next consequential motion.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test”  
Issues (cont.):**

Ms. Griffith assisted with the following language for the consequential motion. “To accept the fact that the Commission filed a substantial notice to the public of the emergency rule making, properly noticed its June 19<sup>th</sup> meeting on June 1<sup>st</sup> 2015 in the Florida Administrative Register. The June 1<sup>st</sup> notice included in its description of the meeting that the Commission would consider among other items relief regarding fire service access elevator and blower door test issues. The Commission also listed the petition for emergency rule making the amended petition for emergency rule making and the supplements to the petition on its meeting agenda which was properly and timely posted to the Commissions Website. The online agenda also included a link to these documents. During the June 19, 2015 meeting the Commission accepted further testimony and public comment regarding the proposed emergency rule. The rules limited scope and the circumstances presented to the Commission mitigate any perceived short comings related to notice. The emergency rule is a minimal administration change that does not prohibit anyone from applying the new standard or his or her business model. The emergency rule only has a permissive effect that permits additional activities under the 5<sup>th</sup> Edition of the Florida Building Code. It is necessary to address this issue as an emergency rule because of the implementation timeline of the 5<sup>th</sup> Edition of the Florida Building Code. The Code becomes effective on June 30<sup>th</sup> 2015 which would not allow the Commission to address the issue through traditional rule making. “

Commissioner Carlson entered the motion with the language provided. Commissioner Schock seconded the motion.

Chairman Browdy then called for the vote. The motion passed with 24 votes in favor. One vote abstaining.

Ms. Griffith then advised the Commission will need to by motion approve the language for the emergency rule. She advised this language must be the only language that is necessary to alleviate the immediate danger to the public health, safety or welfare.

Mr. Winters stated that the petitioner has provided the rule language and if the Commissioner Carlson agrees with that information he can simply make a motion to approve only that language necessary for the rule.

Commissioner Carlson entered a motion to approve only that language necessary for the rule as provided in the petition. Commissioner Schock seconded the motion. The motion passed with 24 in favor. One vote abstaining.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy asked if there were any more motions needed.

Ms. Griffith stated emergency rule making is complete, now there is a need for a motion for regular rule making.

Commissioner Carlson entered a motion to notice Rule Making for this issue at the end of the 90 day period. Commissioner Schock seconded. The motion passed with 24 votes in favor. One vote abstaining.

Ms. Griffith advised that if there is passage of the Legislative Bill then the emergency rule would not be needed.

Chairman Browdy advised the language in the motion should be I hereby move to approve the suggested emergency rule language presented by the petitioner as emergency rule number 61G-20 ER15-2 and find that this language is only that language necessary to alleviate the immediate danger to the health safety or welfare, and that the Department shall only file the approved emergency language if a legislative solution is not effective before June 30, 2015.

Commissioner Carlson entered a motion to reconsider this motion, the motion was seconded by Commissioner Schock, the motion passed with 24 votes in favor. One vote abstaining.

Commissioner Carlson I hereby move to approve the suggested emergency rule language presented by the petitioner as emergency rule number 61G-20 ER15-2 and find that this language is only that language necessary to alleviate the immediate danger to the health safety or welfare, and that the Department shall only file the approved emergency language if a legislative solution is not effective before June 30, 2015. Commissioner Schock seconded. The motion passed with 24 votes in favor. One vote abstaining.

Commissioner Brown asked that the unanimous votes on this issue show that he abstained.

The record reflects the corrections to the votes on all motion reflecting this issue.

Mr. Fine stated that because of the unusual circumstance that the Building Code takes effect June 30<sup>th</sup>. He said there will be a one day gap.

Mr. Blair stated it is midnight on June 30<sup>th</sup>.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Fine stated when you read the Florida Administrative Code it does not say that, it simply says June 30<sup>th</sup>.

Chairman Browdy stated that the Commission has a legal opinion that it is midnight June 30<sup>th</sup>.

Mr. Fine asked if that means 12:01 am on June 30<sup>th</sup> or 11:59 pm plus on June 30<sup>th</sup>?

Ms. Hammonds stated if you are awake at 11:59 on June 29<sup>h</sup> when the clock changes at midnight 12:01 am June 30<sup>th</sup> it goes into effect.

Mr. Fine stated then if the Legislation goes into effect there is a risk that there will be a one day gap and if you let the rule stay in effect it does something for one day and otherwise one person in the State is going to file for a building permit on June 30<sup>th</sup> and would be subject to the code provision. Mr. Fine stated he did not know if it was not necessary to have the rule because the Legislature will just supersede it by act of law and will make it mute anyway once you get at that one day. He said this would protect maybe the one person that pulled a permit on the wrong day. Mr. Fine said that maybe the Commission should let the rule not get filed.

Chairman Browdy asked if he wants the Commission to hold the emergency rule.

Mr. Fine stated that the Legislation takes effect on July 1<sup>st</sup>, so June 30<sup>th</sup> if you have a rule in effect it will protect anyone on June 30<sup>th</sup> but if you pull the rule because on July 1<sup>st</sup> there is new Legislation it will not cover anyone on June 30<sup>th</sup>.

Mr. Winters stated the way he understands the Legislation is that once the Governor signs it, that the particular provision itself would go effective upon the signature, it simply makes an end time. He asked Mr. Fine to clarify why he thinks the effective date and time of July 1 is correct.

Mr. Fine stated this is attached to the Budget Bill and that bill always becomes effective July 1 unless there is a special provision.

Chairman Browdy asked what Mr. Fine felt the solution would be.

Mr. Fine stated he felt the Commission should allow the rule to take effect regardless of the Legislation and will cover the one day gap and then the Legislation will overrule the rule.

Commissioner Schock clarified by stating that Mr. Fine would be asking the Commission not to put the additional provision that is under re-consideration and would prefer the original motion

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

for the emergency rule making and not to add in secondary provision that would keep the Department from filing it on June 30<sup>th</sup> should it go effective.

Mr. Fine stated this is for the Commission to decide and if necessary the one person that might pull a permit would be responsible for the dates pulled.

Chairman Browdy stated the motion should be that the Commission shall only file the approved emergency language if a Legislative solution is not effective before June 30<sup>th</sup> 2015. He stated that is the motion and asked for any further discussion, there was no further discussion.

Chairman Browdy asked for the vote. The motion passed with 24 votes in favor. One vote abstaining.

Mr. Buck thanked the Commission for their time and consideration. He said there is another issue coming before the Commission and they are in support of this issue also.

Mr. Winters stated for clarification that the normal rule making process will start now in anticipation that the 90 rule expires and asked for confirmation.

Confirmation was given.

There was a ten minute recess.

Chairman Browdy called the meeting back to order.

Chairman Browdy advised that the Commission will continue the meeting addressing item #5. He stated they will now hear from certain section of the Code on the second emergency elevator requirement in the Florida Building Code 5<sup>th</sup> Edition 2014. Chairman Browdy advised representing the petitioner on this subject is Mr. Robert Fine.

Mr. Fine stated he is representing petitioners in the petition for emergency rule making regarding the delaying of the implementation of second fire service access elevator as required by Section 403.6 of the 2014 5<sup>th</sup> Edition of the Florida Building Code. He said with him today is his Co-Counsel Marty Chumbler and handing out documents is his law student and summer clerk Steven Solosky who they are hopefully turning into a good lawyer. Mr. Fine stated also with him are his clients, Matt Allen, COA, Related Group, Carlos Rosso, President of the Condominium Division, Al Zichella, VP of Development along with their General Counsel Betsy McCoy. He stated that also had some experts and witnesses if needed including Stan Geberer, Economist with Fishkind and Associates, Inc., Sergio Bakas, Architectonica, Michael

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Sheehan, PE, Fire Protection, and a number of people attending showing their interest in this issue.

Mr. Fine stated that several of the petitioners are here today including the Florida Homebuilders Association and its South Florida Chapter of the Builders Association of South Florida. He said he briefly listed parties that wanted to attend the meeting to show their interest and how they are affected. He provided names of a group of supporters and interested parties in attendance today.

Chairman Browdy asked that all people in support of this request to stand.

Mr. Fine stated that the petitioners are seeking an emergency rule to delay the effective date of the requirement for the second fire service access elevator that is in the 2014 5<sup>th</sup> Edition of the Florida Building Code. He said why is this an emergency and why are they just now coming to the Commission for help. Mr. Fine said that it is an emergency because the 2014 Florida Building Code was first officially published in December 2014 and within a few weeks the petitioners architects and consultants found going through the code to see what they had next found the elevator provision and the clients and other petitioners starting analyzing the effect of the provision. He said here we are talking about nothing smaller than about 12 stories, 120 feet and up. Mr. Fine said these buildings could be 12 stories and some very large 40 or 50 stories and when you developing these buildings it takes some time and obtain your entitlements. He said generally on large buildings the construction documents can costs in the millions of dollars, so you do not typically start your working drawings until the entitlements have been received or close, and then when the drawings are sufficient for permit then you apply, but this can take a long period of time.

Mr. Fine advised buildings that may have been designed, the performance done for development process to analyze the economics of the project and the value of marketability and then submit for entitlements that can take from 6 months up to several years if there are complications or challenges. He said then you have the time typically many months that it takes to develop and prepare the construction documents. Mr. Fine said that there are numerous projects that are well in the process where people have invested enormous amounts of money sometimes over a hundred million dollars for the land that started before the new Code was out and just cannot get it done to have appropriate drawings sufficient in time to do that application for permit that would vest them under the 2010 Florida Building Code. He said with the result that these buildings would have to be designed with significantly modified core or cores, as they are adding in a new fire service elevator and if you only have to add the elevator you will be adding a little over 100 square feet by the time you do it. Mr. Fine said if you are building as such and you need a second elevator lobby to make it work you could need up to 300 square feet and that affects every Florida building.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Fine said the cores are fundamentally changed when this happens. He stated depending on the particular building that requires going back a re-doing your entitlements and certainly requires major re-working of the drawings which have already costs hundreds of thousands into the millions of dollars. Mr. Fine continued stating that one really important issue would be a significant loss of market timing. He said market timing being you plan a project to go out for sale and closings, when you think the economy is going to be a certain way, you want to hit that and so if you have a significant delay, and you think the market is softening you may not go forward with the project, because you may not believe the market is going to be good. Mr. Fine said that this leads to a very possible result that a significant percentage of these large building projects may be canceled with tenant economic losses, including job losses.

Mr. Fine said the handout chart itemized things in the record or letters in response, some on the internet and some came later; they speak to what these economic losses and issues are. He said in looking at this the petitioners retained Fishkind and Associates who are very highly regarded economist with extensive study and they analyzed the impact on the State of Florida and what they found was truly astounding. Mr. Fine said some of what Fishkind report documented was approximately 44 of 122 high-rise buildings in planning and development but not yet permitted would be canceled if the incoming building code required a second fire service access elevator that was not included in the project initially and there was no way to be able to get your building permits subject to that requirement. He relayed some of the figures as to the loss to the economy, the tax base what would not get built which would have added to the property appraisers roster would be about 10.2 billion dollars lost taxable value for the State. Mr. Fine further stated that this would translate into cities losing 75.2 million dollars in Ad Valorem tax revenue, counties losing 5.8 million dollars in Ad Valorem tax revenue, and schools losing 79.3 million dollars in tax revenue. He said as stated before by counsel a significant loss of revenue to the State Government has been considered to be a danger to the public health, safety or welfare.

Mr. Fine stated the economist have determined that approximately 58,700 jobs would be lost state wide. He further stated that losing your job means for many not to be able to pay your mortgage, or kid's tuition or worse. Mr. Fine said that if 58,000 people losing their jobs does not constitute a danger to the public health, safety or welfare he does not what is. He added if you take a quick glance at the spreadsheet you will see the impacts as documented by either Fishkind and Associates or some major significant general contractors whose names will recommend for developers statements confirm likely losses. Mr. Fine stated that Fishkind also found that the impact on the State of Florida would be 22.1 billion dollars over this code cycle. He said although very much front loaded because you have a number of these projects well into the development process that would basically be stopped further down the line, people know what is coming up and they adjust to that. Mr. Fine also said that this information shows a direct

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

economic impact of 10.8 billion dollars in indirect impact on the State of 10.2 billion dollars and is in the Fishkind report you have and in the record, he stated he had hard copies if anyone would like to see this report, they would be glad to hand them out.

Mr. Fine said he brought with Mr. Stan Geberer, who worked with Hank Fishkind and was co-author of the analysis report. He said Mr. Fishkind was on travel and could not attend. Mr. Fine advised if you hear from Mr. Geberer he will tell you that his sources from data are not totally comprehensive because several of the development law firms said clients in development was not a case of going to every single corner of the state, so when you see the numbers they are likely under inclusive, the real numbers maybe a lot higher.

Mr. Fine stated he also had Mr. Sergio Bakas, Architectonica who is prepared to give testimony as to the impact on architecture firms who do large buildings which is actually very substantial and the costs to their clients in their work.

Mr. Fine advised Chairman Browdy that with the agenda today, he stated he would leave it with the Commission, if they feel the information is in the record and the Commission has had a opportunity to view, he will not bring witnesses unless they need him to. He said he can bring up Mr. Geberer the economist if needed.

Chairman Browdy advised that he has the opportunity to present and he would need to make the choice in anyone presenting further information. He said the supportive documents that they have received today and prior to this time have been extraordinary in terms of the production of documents. Chairman Browdy said if he asked him to focus primarily on the issue of the emergency the need for the emergency without getting into technical matters relating to the Fire Code, he would suggest that your economist or your representative deal specifically with the emergency need as expressed by the effect on the economy and then as in the previous issue, we will ask members of the public to speak and then go back to the Commission for questions. He then turned the floor back to Mr. Fine.

Mr. Fine stated he would ask Mr. Geberer and then possibly Mr. Bakas to come forward and he will ask questions for them to respond to rather than create a narrative.

Mr. Fine asked Mr. Geberer to give his background with Fishkind, he then did so and stated he had been with the company 30 years and expanded on his function and work completed within the company. Mr. Geberer stated he was asked to produce possible loss on high commercial and residential buildings in the State of Florida and that was the character of the analysis. Mr. Fine asked if he was the co-author of the report and is familiar with the mythology and how the results were reached. Mr. Geberer stated that was correct. Mr. Fine then asked him to describe the

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

methodology and the results of the percent of projects that may not move forward if this Code provision takes effect at the end of June. Mr. Geberer stated they looked throughout the state to identify high rise buildings that were in the planning approval and permitting stage. He said this was done through discussions with clients, builders and developers, realtors, web sites etc and identified 144 buildings in the State of Florida that are in the approval process but not under construction. Mr. Geberer further stated these are in five major counties, Broward, Dade, Palm Beach, Sarasota and Hillsborough Counties. He said that he was provided with additional information from their clients with respect to how many buildings would be impacted or affected by the requirement of the second elevator. Mr. Geberer said that they were able to determine through the engineering analysis they were provided there were consideration of the cost, loss of residential square feet per floor and per unit affected, the loss of required parking as the shaft has to run there, the cost of the structural redesign and the cost of the delay. He said what translated into for the engineers was a threshold analysis that buildings that sell above this threshold can bear that cost of re-design, delay and square footage within the units themselves. He further stated buildings below that threshold will be canceled, not just delayed, but canceled because these buildings are no longer competitive in the market with adjusts and delays. Mr. Geberer said what becomes a concern within the immediate 90 days can be an ongoing crisis for three years. He said of the 122 buildings which represents 41,000 residential units in the State of Florida in these locations, 44 buildings would be canceled or loss representing 18,311 residential units in terms of construction.

Mr. Fine asked for him to describe some of the impact to the economy and to employment if the event the 44 buildings were canceled or delayed. Mr. Geberer said there are three characters of the economic impact of these condition, one loss of building themselves, two the additional spending by adding elevators (\$200,000,000), 18,311 households who have to find another place to live and could be lost to the State of Florida, they may seek homes in other places in the State or elsewhere. He said there are a lot of International buyers there opportunities to buy luxury high rise condos and if they cannot find them in Miami Beach, they will look elsewhere. He said this is a three year window of construction losses and then a permanent household spending loss to those households lost to the State of Florida. Mr. Geberer said that the construction impacts are about 10 billion dollars in construction that is canceled and that translates into about 8.5 billion dollars of construction that does not take place in the State of Florida which accounts for 16,000 construction jobs that do not occur. He said when you calculate the ripple effect of 16,000 jobs and 8.5 billion dollars of spending that translates into 36,000 direct and indirect job losses and 16.6 billion dollars of construction related direct and indirect losses to the State over this rolling three year period when these buildings do not get constructed. Mr. Geberer further stated the effect of the permanent household spending is about 2.3 to 2.4 billion dollars that does not take place from the 9,000 households that goes somewhere else, 18,000 units canceled half of them find homes here and half of them do not spend any money in Florida anymore so it is a 2.3

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

billion dollars a year that is not spent and that economic ripple affect creates another 22,000 jobs that are lost on a permanent basis and another 4.4 billion dollars in direct and indirect and induced economic impacts that are lost every single year thereafter to the State of Florida. He said that over the three year period alone, not considering that the 9,000 lost households keep not spending after three years and just within this three year window alone we look at 58,000 jobs that are lost and a total of 21 billion dollars of construction spending and household spending that is lost in the State of Florida. Mr. Geberer stated this is a very substantial and large portion of the State budget in total. He said with respect to the economic impact with respect to local, State and school board governments, the total taxable value of these lost residential units is 10.2 billion dollars and that creates 75 million dollars in Ad Valorem taxes which go to cities, 58 million dollars in Ad Valorem taxes that goes to counties another 79 million dollars that is every single year from unit construction losses in Ad Valorem taxes which do not go to the State and local school boards. Mr. Geberer said the total Ad Valorem loss each year from taxable value total taxes lost to State and local and city governments is 234 million dollars a year and in addition to that is another 96 almost 100 million dollars in documentary stamp taxes from the documentary stamps lost when units are not sold. He said these numbers do not include the sales tax generated by the household spending which they estimated would exceed 50 million dollars a year. Mr. Geberer said in total you are looking at almost 400 million dollars in tax revenue a year to the State of Florida and over the three year window it is over 1.2 billion dollars tax lost to the State just in the first three years. He said this is a rolling ongoing crisis when these buildings in this process today can't move forward there is a substantial economic impact the impact in fact goes beyond all of this because of the sites of those 44 buildings become financially jeopardized and it could be years before all of the deals are unwound and the sites can be reconstituted to accommodate another project.

Chairman Browdy stated this was summarized in the handout and he stated he was following the numbers.

Mr. Fine said for the moment he thanked the Commission and he and Mr. Geberer will be available for questions.

Chairman Browdy asked that they retire from the table at this time and will allow members of the public to speak on this issue and they will need to sign the sheet to speak with a three minute time limit.

Mr. Fine stated when this issue was before the State Legislature not in special session, the petitioners had a number of meetings with the Florida Fire Marshalls and other major groups and worked with them to modify the proposals and at the end were supportive. He said looking forward it was done with consensus with the fire protection community.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy asked those against this petition be allowed to speak at this time.

Mr. Fine asked for rebuttal time.

Chairman Browdy stated that would occur during Commission time.

Mr. Blair advised there will be a three minute time limit for speaking on this issue.

Mr. Darrell Donatto stated that before he begins, he is representing the entire Fire Service for the State of Florida, and did not bring many people to speak. He asked for patience on the three minute time frame. He then introduced himself and representing the Florida Fire Chiefs Association where he serves on the Board of Directors as the Southeast Regional Representative. Mr. Donatto stated he is not an attorney or developer, he is a public servant and he gets paid to protect the public and protect the firefighters that work for him and that is why he is present today. He said before the Commission today is a request for emergency rule making as well as regular rulemaking to decrease the minimum requirements for fire service access elevators in buildings that are over 120 feet in height. Mr. Donatto said that this is not an emergency, requiring second fire service access elevators in high rise buildings is not a threat or immediate danger to the public, health, safety or welfare. He said in fact if granted this request would jeopardize the safety of high rise building occupants and the fire fighters who protect them. Mr. Donatto further stated this emergency request for rule making applies to the developer community who has just discovered the requirement in the last few months, but the facts would imply otherwise. He said that the requirements for a second fire service access elevator were adopted as part of the 2012 International Building Code which the Florida Building Code is based upon. Mr. Donatto said that in May 2013 the process of adoption of the new Florida Building Code began using the 2012 International Building Code as the starting point and there was a lot of discussion, dialog, debate and reasoning during the code adoption process with ample opportunity to discuss this issue. He further stated that the requirements for this code to become effective July 1, 2015 does not constitute an emergency nor does it create a danger to the public, what it does is solve a danger uncovered by science. Mr. Donatto said nowhere in the emergency petition or in the regular rule making petition does the petitioner tell you why this code exist and what the negative effects of eliminating this code will be. He said that fire access service elevators requirements first appeared in 2009 Edition of the International Building Code following the World Trade Center disaster where NIST and the Government Service Administration undertook a research project to make high rise buildings safer. Mr. Donatto further stated that the report they issued makes a number of recommendations, one of which was to make elevators safe for use by fire fighters during high rise fires. He said that in this study it showed that elevators are really the only effective way to transport equipment and manpower to upper floors. Mr. Donatto said that the weight of a fire fighters protective gear and the tools that

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they carry weigh 75 pounds, this does not take into account the weight of the hose and nozzle that they need to get to the upper floors, so how many floors and stairs could you climb carrying 75 pounds and then be ready to search through smoke for victims. He further stated the evidence was clear that if fire fighters are going to be effective in fighting high rise building fires, they must have access to elevators that are adequately designed and protected for that use. Mr. Donatto said it was this evidence that managed to change the International Building Code in 2009 to require a minimum of at one fire service access elevator, which is also the current requirement in Florida now. He advised that this continued their research and studies of high rise building fires and the number of firefighters that are needed to effectively rescue occupants and combat these fires. Mr. Donatto said that the results of that research showed that a single fire service access elevator was not adequate to move all of the firefighters and equipment to upper floors in a timeframe needed to be effective in rescuing occupants and putting out these fires before they get out of control. He said the longer fires burn in these structures; the more dangerous they are for the occupants and the firefighters. Mr. Donatto said the evidence from the NIST studies was so compelling that it was incorporated into the 2012 Edition of the International Building Code establishing a minimum of two fire service access elevators for buildings over 120 feet in height. He said so this is the opposite of what the petitioner has said and what is stated in the petition, eliminating the requirements for a second fire service access elevator in buildings over 120 feet in height would create a danger to the public health, safety and welfare for both the building occupants and the firefighter who protect them. Mr. Donatto said the why the requirement exist is for public safety and firefighter safety. He said why the petition states that they wanted Florida to be exempt from this International Code Standard is for financial reasoning and financial costs do not constitute an emergency threat to the public health, safety. Mr. Donatto said in looking at the financial reasoning stated in the petition, they cite a study of fiscal impact and that study is based on an internet search of high rise buildings that are planned for construction so in essence the Google search becomes the basis for the foundation of all the numbers that they later cite in their fiscal impacts. He further stated that some of the projects they cite are just ideas for concepts and others have already been cancelled for other reasons and he believes the study is extremely flawed and in addition the requirement for a minimum of two fire service access elevators is not a requirement for additional elevators in these especially tall buildings. Mr. Donatto further advised it is a requirement that among the elevators in the building two of them must be adequately protected so that they can be safely used in a fire. He said that these elevators are not for exclusive use of fire fighting, they are occupant used elevators until there is a fire and again the Code is requiring more elevators, it is just more stringent standards for at least two instead of one fire service access elevator. Mr. Donatto stated in closing he is urged the Commission to do as he is trying to do today protect the public and the firefighters who serve them and reject this petition. He said that most of the residential high rise buildings in this State are occupied by the elderly, these are the people that are least likely and least able to self-evacuate and they need assistance during a high rise fire.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test”  
Issues (cont.):**

Mr. Donatto said two scientifically based studies have shown the need for a minimum of two fire service access elevators to allow firefighters to reach occupants and control high rise fires. He said there is no compelling reason why Florida should be less safe than the rest of the nation that is using this International Building Code Standard and there is no reason why firefighters should be placed at greater risk for developer profits. Mr. Donatto thanked the Commission for their time and attention and advised he would be happy to answer any questions they may have.

Mr. Donatto asked if he will be able to give rebuttal to the legal rebuttal.

Chairman Browdy advised no and explained the petition process and the Commissions responsibility in hearing testimony.

Jon Pasqualone, Executive Director of the Florida Fire Marshals and Inspectors Association representing 1500 people who are home doing permits rather than testifying . He said the Fire Marshals and Inspectors Association is much like the folks that deal with the Building Commission, they vet the process of the Fire Code and they do this early in the process and they look for those opportunities to create change or implement Florida specific amendments to the Florida Fire Prevention Code and this is done prior to the adoption process. Mr. Pasqualone stated they do not have an emergency rule making process in the Fire Prevention Code that he is aware of and that it strikes him as odd that there are some very smart people in this room that were unable to find this provision in the Code before it became an emergency. He stated is not certain that he agrees with the emergency provision, however it is what it is and he asked the Commission to take that into consideration. Mr. Pasqualone advised on behalf of the 1500 members he was the person that went to Tallahassee and met with the Florida Home Builders Association on two occasions and that neither of those two occasions were planned. He stated that the meetings were both impromptu meetings and they had very direct and deliberate conversation about the issue of the elevator access and it was concerning to them that we did not have complete and full information and they pride themselves with wanting to be at the table and this is not a Fire Code Issue it is a fire operational issue as Mr. Donatto testified. Mr. Pasqualone further stated that this is not a Fire Code specific issue, however, if they can have input and influence they want to be at the table at the beginning. He stated they are not economist they are fire code enforcers and they can provide relevant data and relevant information and they can be a contributor and would like to do that and be at the table early but they have not been given that opportunity so they keep playing catch up to this issue. Mr. Pasqualone said what he would like to do is read into the record a letter issued by the Fire Marshals Committee in Miami-Dade County and this letter is in opposition of the position. He then read the position of the Miami-Dade County opposition to this emergency request through the issued letter and listed signed officials.

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Chairman Browdy asked for any other public member in opposition of the petition. There being none, Chairman Browdy brought the discussion back to the Commission.

Chairman Browdy stated he would open the floor back up to the public for those speaking in favor of the issue. He stated there has been time to present the petition, so the time limit will be three minutes.

Kari Hebrank stated the first thing she would like to point out is that the Fire Code that was just adopted by the National Fire Protection Association which is comprised of Fire Officials and fire industry folks did not mandate a second fire service access elevator so the Fire Service itself did not think that the second elevator was necessary for high rise communities and development. She further said as for whether or not you can just take another elevator and make it your second service access elevator that is inaccurate as the new requirement in the Code requires a second fire service access elevator along with 150 square foot area for them to unload the equipment, so you are losing that square footage, which is the issue when you are trying to re-design projects that are already underway and under planning. She stated that this is a new mandate for a second elevator. Mr. Hebrank stated they have a specialist who can talk to the Commission, a fire protection specialist who can tell you that some of the larger cities like Chicago and New York City although they adopted the International Code, they did not adopt this provision for the second fire service access elevator. She said again they are asking for a 90 day delay today and they did work on language during this session and the Fire Marshal’s Association and Fire Chiefs had agreed to the language that they had in the Legislation and they had hoped they could start from that point and move forward in the future. Ms. Hebrank stated she also wanted to speak to the Commission on another aspect of the economic impact of that provision on the related group the Affordable Housing Division, RUDG, Related Urban Development Group known nationally as a preeminent condo developer. She said that they have heard how the delay for implementation of the second fire service access elevator requirement impacts high rise condo developers, but she wanted them to think about the impact of this to affordable housing development. Ms. Hebrank stated that there is an ever increasing demand for affordable and workforce housing in our state and today the Legislature will vote to fund affordable housing programs to the tune of 171 million dollars for local affordable housing programs statewide. She said without this delay very few developers will choose to fund affordable housing projects as they cannot absorb the re-design and costs, the margins for affordable housing developments are just too tight and this provision correlates directly to the continued economic viability of such projects. Mr. Hebrank said that RUDG is a leading state wide developer of affordable housing and RUDG other developers will be forced to cancel projects currently on the drawing board in major urban areas, Tampa, Jacksonville, Miami, Orlando and Ft. Lauderdale, she said cancelation of the affordable projects negatively impact local government in two ways, loss of tax revenues and an increase in unmet needs for affordable and work force housing for our

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teachers, police officers, fire fighters, other first responders. She said they respectfully request you favorable vote for the 90 day delay in support of affordable housing.

Al Zichella, Related Group, Vice President of Development stated he disclosed that his father was a New York fireman for 20 years and would not be there if he thought it would place one fireman’s life in jeopardy and he resents the accusation that developers are on in this for the profit at the expense of the safety of the public. He further stated New York suffered 911 and many firemen lost their lives and they did not adopt the International Code. Mr. Zichella stated this is an important issue, he stated if it is not important enough that it be in the fire code but someone at the ICC thinks it is important, it does not mean we do not deserve relief before we can figure out how to deal with this and we are only asking for a delay, we are not asking to kill people, we are not asking to put firemen’s lives in jeopardy we are asking for a delay from this body. He said he just wanted to make that clear, because some of what was said he found profoundly upsetting.

Mr. Zichella said speaking on the economics very quickly and not repeating numbers that have already been given. He said if they lose this kind of square footage especially if a second stair is involved they will lose 15 to 20% of the units in the building and with the landing construction costs in Miami-Dade County and other places in Florida would be impossible to turn that around and you can go only so high, and when you go high you lengthen the duration of your construction and you lengthen the duration of the time you are bringing your product to market, you miss your market window you have all kinds of issues as a developer that frankly who would undertake some of these thing when you are going to add a year or two especially if you go back for entitlements and a redesign. Mr. Zichella said that he is telling the Commission that this an emergency issue for the State of Florida you have heard the numbers and they are shocking and they are accurate and anybody that would challenge Fishkind’s veracity you would think you could convince him to say something he would not say otherwise do not know Frank Fishkind. He said anyone that may think the numbers are or his ability to analyze the economic should not be in questions especially in Florida knowing how he has served the State. Mr. Zichella said a lot of this is about the fact they are gambling that the market will be there when we deliver our project, they are evaluating what the competition is doing, if people can afford it and in some cases like South Florida with what the World Wide Economics conditions are. He further stated that they have learned that in the recent future they can be a fickle animal. Mr. Zichella stated anything that pushes them out two years will put us in danger and the risk more unacceptable and we need to keep in mind that we have lenders and other people of value waiting in underwriting those risk and the market timing issue is not insignificant and just compounds he thinks the risk, he said he would not go back and quote the economics but it is some of the background relief and they are asking for the extension.

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Michael Sheehan, SLS Consulting, Inc. and a State of Florida Fire Protection Engineer and he said they evaluated and clarify some points, one is that IBC is not a perfect process and it is a continually evolving changing process and the first time they saw the service access elevator requirement was in 2009 and there were based on the NIST recommendations after the 911 World Trade Center study. He said to say it was a scientific study is a little bit inaccurate, it was a study based on the reaction of the response in an office building and did not consider all different types of buildings such as residential buildings and other types of occupancies. Mr. Sheehan also said that the IBC in 2009 was adopted into our 2010 Code and we probably have a hand full of buildings right now that even have a fire service access elevator or associated lobby. He said they have been building buildings for a long period of time successfully and safely without even having a fire service access elevator, and now we are just seeing the first round of these coming up. Mr. Sheehan said to clarify this is national practice and they did a study and looked around the rest of the states and NY City found a major problem with this and amended the number of elevators and also the configuration of the elevators so that it was not such a burden to the development community and also done in a manner that was safe for firefighters similarly Los Angeles, Boston, San Francisco, Las Vegas, and Chicago has done this. He said unfortunately IBC has fallen down and they have even modified the code to change the configuration of the fire service access elevator lobby to be more favorable to development. Mr. Sheehan stated above all life safety is paramount and the code development is not perfect, they are simply asking for more time to work with the Building Department, the Fire Department, the Florida Fire Marshal Association to do what is right for the State of Florida.

Chairman Browdy thanked all that spoke and turned the floor over to the Commission for discussion and ask questions. He completed a list of Commissioners wishing to speak.

Commissioner Compton stated that he was confused about the delay time would it be a three month delay or one year delay.

Mr. Fine stated they are asking initially for the three month delay because of the process of emergency rule making. He further advised then with other issues with the requirements they are requesting the second amount of time of one year.

Commissioner Compton asked under the economic impact information given was this based having to add a second fire service elevator.

Mr. Fine stated adding a second elevator and possibly a second lobby depending on the building and the requirement of each.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Compton stated he had heard conflicting statements saying the gentlemen from the fire service stated that it did not require a new elevator that one of the existing elevators or one of the new elevators being installed could be converted to fire service. He then said that a lady spoke stating that this is not possible and he would like clarification and what the truth is between the two.

Mr. Fine stated that the truth is an elevator can be a multipurpose elevator and one of the major requirements in terms of size issues is that it would need to be a 3500 pound elevator. He said that the problem is when you have the configuration of can I add it to that lobby it becomes a bigger scenario. Mr. Fine said that is why you get the elevator and you say ok and then you have added 70 or 80 feet that is when configurations start running and the Architect will tell you at the bare minimum there is 150 square feet up to 300 square feet per floor to do this, so it is an issue of the like anything else in the building it does not exist by itself. He further stated that it has to have that lobby and the lobby tight of the fire stairs and some of the solutions that have been talked about during the Legislative Session that were referred to before included the issue of the lobby so when you look at 403.6 it ties you to 3007 which is a lobby and he said he would not go into more detail as there are better people for that. Mr. Fine continued by saying it is the whole that creates the problem, not the individual component itself.

Commissioner Compton the asked if numbers represented in the economic impact statement would go away if they are granted the three month extension or are we just pushing them out three months.

Mr. Fine said that buildings that are in process have entitlements and can get in there and secure a permit before the three months are up and for those buildings the problems go away. He said however, for buildings that cannot make it into that time period, the problem would not go away.

Commissioner Gilson stated his questions were for the fire officials that spoke previously. He asked going forward it is safe to say all 120 feet 12 stories would be with sprinklers would that be correct.

The Fire Chief response was yes.

Commissioner Gilson asked if they had any data on the number of deaths that have occurred on sprinkler system failures.

The Fire Chief response was yes there is a lot of data out there on fire sprinkler system failures and the failure rate right now is 14% not necessarily with fatalities but a total rate of 14% where they do not meet their objective.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Gilson asked if this was a guess or actually failures.

Fire Chief responded that is from NEST and that is from their study on high rise building fires and amount of firefighters needed to combat the fires. He said these studies are available online.

Commissioner Gilson asked if there is a death toll.

Fire Chief stated he did not bring with him today however is available through National Fire Protection Association.

Commissioner Brown stated if possible he has a specific question for Mr. Geberer with Fishkind and Associates. He asked Mr. Geberer would you characterize your study as a scientific study.

Mr. Geberer stated yes with respect to calculation of economic impact and the estimation of fiscal impact and revenue losses.

Commissioner Brown then stated based upon current economic science did he make any significant assumptions as you started your work on the analysis any base assumptions not originated on their part.

Mr. Geberer stated there are always assumptions and probably the most important assumption they made was they were provided with engineering data which told them what the effect and threshold effect is on specific high-rise buildings and whether or not these buildings would be canceled. He further stated that there were engineering reports and data that were provided to us which gave them a threshold amount, he said the assumption they made was well when you have 41,000 units and you cancel half of them the remaining half you reduce the supply and the price goes up and there were certain buildings that were near the threshold which might have been canceled and if you canceled almost 20,000 other ones, then the ones that are near with lower prices, then maybe they will go up. Mr. Geberer stated they lowered the threshold and allowed those buildings that otherwise based on the engineering would have been canceled; they actually calculated they would be built.

Commissioner Brown stated that these assumptions you made, this engineering information provided to you, you made no detailed effort to certify or establish the accuracy or correctness of the assumption, you just accepted assumption as fact.

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Mr. Geberer stated they did two things with those, they are not engineers they are economists so when the engineer says this is number, they like to believe them but they also like to double check and they also like to sit back and say to themselves does this make any sense at all is this rational. He further stated they do a lot of work with developmental industry and a lot of work examining construction and infrastructure costs and prices so they have a good sense as to whether or not any of this stuff is rational or reasonable. Mr. Geberer said they felt like the numbers they were given suggested that many more buildings would be canceled than they thought would be canceled so they made it more conservative and estimated that more of those buildings would be built so in total of the 122 buildings that they examined they estimated that about 36% would be canceled.

Commissioner Brown said as a final question it is safe to assume based on what you are telling us that if the assumptions that you used in these engineering reports were found to be not accurate that it could have a significant impact on the outcome of your analysis. He asked if that was a fair assumption.

Mr. Geberer stated he felt that would be a fair assumption, but wanted to point out that is a reasonable assumption when you look at these kinds of studies, you say this is sort of the magnitude and the direction that the study leads us in. He said did we get the dollar amount roughly correct and did we get the direction of the change roughly correct, when you are dealing with seeing the future these are the things you are looking at most closely, are we going in the right direction and did we miss by a factor of 10 or by a factor of 100. Mr. Geberer said when they calculated the economic impact they did find it is a 21 billion dollar impact and if they are off by 50% or a factor of two then the 20 billion goes to 10 billion dollars, he said the engineering data might be able to be changed or might prove to be different in a different type of study and does the impact represent a very large number with even a gross error he said he believes it does.

Commissioner Brown asked who provided you with that engineering data that was relied upon when you did your analysis.

Mr. Geberer stated he got the information through Mr. Fine and his clients.

Mr. Fine asked to respond to Commissioner Brown’s question. He stated that the data provided was for example architects working on these, the square foot you lose on per floor, those are the types of information that came from architects who are present to testify and have worked on a large number of buildings, that is the nature of the information. Mr. Fine said giving the names of other developers out there in the community in case you did not know, they also went to other parts of the State that we do not have relationships with, but it is not like we are saying this is our

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

business model make and match, that is not type thing that had to do with this. He said it has more to do with what happens architecturally to the building. Mr. Fine stated that came to them from people like Mr. Sheehan and Mr. Bakas from Architectonica who have designed dozens of these buildings and that data came straight from them and they forwarded it on.

Commissioner Flanagan stated he was going to follow part of what Commissioner Compton talked about and wanted to speak to the petitioners. He said if you have a 30 or 40 story high rise he was going to assume that you would have 6 to 10 elevators would that be safe to say on a high rise.

Mr. Fine stated it would depend on where the question is going, he stated he had experts in that field, but yes it would be possible.

Commissioner Flanagan said his question is why it is so hard to make a second fire access safety elevator. He said if you have 10 elevators or even 6 and he said he was disappointed that they did not bring any elevator contractors to the meeting, but again why is it so difficult other than what you said about giving up some square footage if you have an elevator that is existing why can't you make that a building fire service access safety elevator.

Mr. Fine stated if his answer is not complete enough he would bring up the architect to answer. He said the issue is 403.6 you will do this elevator and have it conform to and have the lobby in Section 3007 so when start adding that 150 square foot lobby that has to have minimum dimensions that you cannot have egress through the lobby, you have to have direct runs for fire hoses and other technical issues it is the whole that creates the problem. Mr. Fine said there have been issues where people have worked on projects with equal alternates and have actually put in larger size elevators to do things like that. He said he wanted to bring up Mr. Bakas, with Architectonica as he could really answer your question as he does this every day.

Mr. Bakas said that the issue is not really just taking one of the existing elevators and turning it into fire fighter elevator, there are a lot of things that go with it. He said for example you are right a building that tall is going to have multiple elevators but this fire access elevator would have to service all of the floors from the very bottom to the very top and a fire fighter will not be allowed to go to a sky lobby and transfer to another elevator and go up that one which usually happens in high rise buildings. Mr. Bakas stated that usually the only elevators that go all the way up front top to bottom are service elevators that do not have those sky lobbies and usually you may not necessarily have more than one, you may only have one. He further stated that also they have to have that 150 square foot access lobby and has to be associated with a fire stairs so usually you have two fire stairs one on each end, because they have to be a certain distance apart from each other and that means you would have to have two elevators with that fire stair and the

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

150 square foot access lobby that you may otherwise not have, he said you can put it in the passenger core in the center where you may have 6, 8 10 elevators because you do not have the other rules working out these things are essential to the stability of the building because they create the shear walls that enable the building to stay stable and erect during wind loads that have to be met in their county. Mr. Bakas stated usually the architects will need to take a stab at it and try to work that in using the most economical way as well as not impinging on the entitlements and try to stay within the same envelope and not impact the square footage that would cause you start over again with the entitlements and then after your background is done take it back to the engineer who would have to run the calcs all the way from the beginning and send it the wind tunnel again which sometimes can take 4 to 6 months to get back to their queue for it to be sent through the tunnel again because they are not waiting for us to just come in and bring our new project back into the tunnel. He said there are only two or three companies that have this kind of technology and a 50 story building certainly go through a wind tunnel. Mr. Bakas said besides the re-drafting you certainly will have major delays especially if you are toward the middle of design development or working drawings where you have done most of that work already.

Commissioner Flanagan said to clarify he heard a comment from the other gentleman that NY, San Francisco, Boston and Chicago does not require the second fire access safety elevator, is that correct.

Mr. Sheehan said he wanted to clarify everyone has adopted this and applied different provisions. He said New York City and Boston have one access elevator and they modified the lobby language Las Vegas gave an option to eliminate the fire access elevator and lobby and opted to have more stretcher capable elevators, California varies from city to city but they have eliminated the fire access elevator lobby requirements and they have allowed the use of a common corridor, he said everyone has done it a little differently to suit the needs of whatever the development is. Mr. Sheehan further stated any elevator in a high rise building provided with phase one and two elevator operations per elevator code ASME A17.1, phase one gives the Fire Department the ability to use every single elevator that is in the building and in a high rise building they have to supply emergency power to each one of those elevators, they may not all run at the same time, but they can use every elevator in the building, so they are clearly complying with the Fire Code and the access provisions of the Fire Code.

Commissioner Schilling stated during the study presented it sounded to him like the impact of this is the result of having to build standalone elevator shafts and additional elevators and then when we hear from the Fire Chief now he believes we are just talking about modifying an elevator that is going to be there anyway. He asked if this was not the case and if that is the case he has a hard time understanding of just how the modification of some elevators that were going to be built anyway takes away from a unit on every floor and adds such a dramatic expense to a

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

building that is over 42 stories. Commissioner Schilling said he does not see how this all comes together and he said he is not an Architect, but he said it does not seem like the impact a couple of existing elevators as Commissioner Flanagan indicated would have that much of an impact on a high rise building or cancel the building based on that. He said another point he would like to make is that wouldn't there be some type of sales benefit in having this is a high rise building, something similar to a building with sprinkler systems, would that not be a positive sales element for safety and firemen have safe access to get to the higher floors. Commissioner Schilling asked for explanation of the gigantic financial impact and loss of jobs in all of these buildings that are not going to be built are not carving additional elevator shafts into the building we are just additional fire proofing to the existing elevators as he does not see how doing this will discontinue the construction of these buildings. He continued by asking for someone to explain number one how modifying existing elevators to make them more fire resilient and he thinks there is space in the lobby anyway to satisfy this requirement.

Mr. Fine said he would start and then hand it over to Mr. Bakas. He said these elevators never travel alone they have a specific lobby and lobby requirements, it is not a regular lobby like when you enter a building and you get off on your floor, it has to be a certain fire rated lobby of a certain size and you cannot egress through it. Mr. Fine said the way the Code is now if you put that in front of your regular elevators you can't go through that area as your means of egress, so that is why these lobbies become a separate volume to themselves as opposed to being part of the main building. He further stated that in a number of cities more and more with the City of Miami being one of them are moving to what is called a form based zoning codes, and that is they really don't control you so much by how many square feet you can build, but they say for your size lot here is a rectangular void this size and after eight stories it sets back and goes up so basically you build to sort of a wire frame and it has to be inside of it and your building can expand beyond it, so if lose that space you cannot make it better by just widening out your floor plate because you cannot widen your floor plate under the way modern zoning is in some places and which is the trend so basically the elevator cannibalized the space from the inside out but why it is just not an elevator and what it goes with, it may be its own shaft, he will ask Mr. Bakas to speak to that.

Mr. Bakas stated that a second elevator that does everything that this provision talks about can be done if it is known to the designer in the beginning that this is one of the goals to do. He said after one has already designed a floor plate that works and you have gotten the entitlements for the envelope of the building and now you have to come back and add a second elevator, it isn't just designating one of the existing elevators as another fire fighters elevator as all of them are available for firefighting it is the addition of the access lobby and stair which is not the case in the passenger elevators in the center where your groupings are because as he said before you do not have sky lobbies, so they are not going to go to the garage levels, they are not going to go to

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

all the floors where the apartments, hotel rooms, or offices they are going to have sky lobbies that keep any of those elevators from being one of the two. He said this is probably an additional elevator that would have to be added to the plans new backgrounds done while the structural engineer re-calculates the entire building, takes it through his programming and does enough work so that it can go through the wind tunnel again which gives you the calculations that allow them to further design the moment connections for the steel members in a building that tall concrete members enforcing, so it is not as simple as changing a label or adding some extra insulation or some other kind of security around another shaft. Mr. Bakas stated that this could be a complete layout as you do not want to add this access elevator just anywhere; you want to add it in a spot where it does not eat up your leasable square footage and lose a unit on every floor, so you may have to reconsider the entire layout for it to work and if you knew this in the beginning it could be worked out, however, if you do not know and you have to retro fit it, it will usually always not be as simple as changing one of the existing in the design switch because you will not have had two elevators in front of that access lobby, you would have to create that, so you are starting with a concept design all over again which is the initial layout of the entire building. He said this is going to affect your leasing documents, your condo docs which are probably out and being shown to prospective buyers will have to be retracted as the numbers will be entirely different, the entitlements package which shows how many square feet of the building and how many units there are will all have to be changed. Mr. Bakas said it is like starting from the beginning there is a lot of impact.

Commissioner Schilling stated if we were building a 50 story building that had 8 elevators shafts and that was the design that we have in place prior to construction are you stating that now we are going to have to have 10 elevator shafts or could we remain with 8 existing elevators shafts and two of those would be slight modified to satisfy the Code.

Mr. Bakas stated it is not the shafts it is the area in front, he said if you had 8 elevators you may six in two shafts, you could have three elevators in one shaft right there across the passenger lobby where there is three more for a total of six and you cannot use any of those for what we are saying because that lobby that is in between those three sides cannot be used, it would have to be the remaining two off in another service elevator elsewhere that may not have a stair associated with it so it may mean you have to add a third stair as well as the lobby, so it is not the shaft itself, it is everything that goes along with it.

Mr. Fine said there is already one fire access elevator under the 2010. This is an additional elevator.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Goff stated he had a question of the Fire Marshall. He said there was a comment made on the failure of sprinkler systems, are there any statistics on the failure rate of the fire access elevators.

Mr. Pasqualone stated there is not data, these are relatively new devices put in since 2009 and there has been no data or experiences that he has heard on those. He said the data that exist has all been based on studies of not whether they fail or not but how many of them are needed to get enough people up to the top to get the job done within a period of time that is reasonable.

Commissioner Goff stated that they are evidently constructed to be a little safer in a closed manner than a passenger elevator so typically them falling short of providing the service is minimal is that correct.

Mr. Pasqualone stated yes, in fact historically he has been in the business for 34 years now and he was taught that you do not use elevators in a fire; you just do not do it. He said he worked in a community with a 42 story building and it is kind of unrealistic when you go over there and climb those stairs with their gear and boy if you make it to the top you are riding down. Mr. Pasqualone further stated that historically they were told not to use elevators because there are deaths due to people getting into elevators and them failing due to fires. He said a lot has changed and codes have improved and that does not happen near as often today, but it is still a risk with water intrusion in the shafts and the new fire access elevators are required to be protected from the water, smoke cabling more substantial so that heat does not damage them, and during fire conditions you can still move fire fighters up and down with their equipment.

Mr. Donatto said when you are talking about the fire access elevator the terminology is assembly much like a door it is no good without the frame. He further stated that you have to have the entire package what we are talking about is that the landing area has to be a one hour rated bubble if you can picture that, Mr. Donatto said that is a one hour rated corridor and a place of refuge that residents can go and get out of a smoke environment until the fire fighters can access that floor level on the fire floor without being introduced into a smoke environment even though we are talking about sprinklered building and we also talked about failure rates, but he wanted to clarify that we are talking assembly includes the shaft and the landing area.

Commissioner Hamberger asked if the lobby is not a dedicated space.

Mr. Donatto stated the elevator lobby is a protective envelope. He said he cannot speak on behalf of the petitioners, but he believes the elevator lobby is more of a concern than the elevator itself which raises the question of whether or not this would meet the qualifications of emergency rule making relief or is there some other measure of relief if there could be

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test”  
Issues (cont.):**

modifications to the lobby as opposed to eliminating the need for a second elevator. Mr. Donatto said that elevator lobby is a rated component that allows fire fighters who get out of that elevator to exit in to a safe place.

Chairman Browdy stated that the Commission is trying to focus on the issue specific to the emergency rule petition. He said he knows this is difficult because it is hard to define emergency unless you define the essence of what someone is trying to get away from doing. Chairman Browdy further stated that they need to try and stick to the issue of the emergency and the consequences of the implementation of this rule and implementation of the Code if it were to go through. He said that it needs to be kept to a narrower scope as there will be ample time to discuss compliance and other issues later if we move into regular rule making.

Commissioner Hamberger stated his question was answered by the Fire Chief.

Commissioner Bassett stated that he has been involved in the construction industry in South Florida since he moved there 39 years ago. He said he has been involved in big business as well as small business and understands on the first discussion on blower doors that we may have small builders that would be building houses one at a time, but now we are talking about Architectonica that builds high rise buildings, Related builds high rise buildings and his question is how come ICC issued this change in 2009 and all of a sudden they do not know about it today to have already put it in their design. Commissioner Bassett said these big companies need to know because they are designing something that could go past the current code that is in effect when they start to design, they need to know when they are going to submit for a permit and they should be following what the changes in the permit are and he does not see how all of a sudden this has become a big problem that needs a 90 day delay.

Mr. Fine explained that on this issue the IBC is in a state of turmoil right now and he is going to let Mr. Sheehan speak, it also responds back to what he said before the nature of that elevator lobby. He said the elevator lobby, where people cannot egress through and cannot use as a refuge, it is not allowed in a fire situation that is in the letter of the Code. Mr. Fine said that if you look at the 2015 IBC you are going to see changes already in Code, fundamental changes on how it works. He said as the Fire Officials stated these are things that act as a system that is why it takes so much space and why it is an issue. Mr. Fine said that as a system a major component is going to have a major change again in the 2015 Code so they will look and try to catch things in the Code and things change in your process. He said the official code became effective in December and things with IBC do not always stay the same through the process and there are people who watch the Code changes and they try unfortunately they do not catch everything. Mr. Fine stated he has been here with a group of clients like this a long time on an issue ever like

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this and this is not unfortunately something that got like that, buildings could have started two or three years ago and he is not saying an earlier version of IBC could have not just been coming out, but we are here at these particular buildings that are in process and in many cases with millions of dollars on properties that are 60 or 100 million dollars for the property that somebody has to pay back based on the profomos and we are available and have already met with the homebuilders about creating a group to look at these Codes in advance which they did not have before because there is a realization that this kind of big thing can slip through the cracks. Mr. Fine said that he thinks they will see much more participation from his clients and homebuilders especially in the world of high rise which has not had a lot happen with the Commission yet, it probably should have but unfortunately it takes an emergency before people realize things and he thinks they will be interacting with staff and sharing and asking about people involved in high rise buildings to start participating on TACs and other aspects so they are actually in the middle of this and can foresee it happening and deal with it. Mr. Fine said unfortunately now there are a large number of projects with an enormous amount of money in process and we are at where we are at and at the same time they are working and try to have a substantive fix that will make the Code better at the same time and get it done. He said all of his constituents and clients here today, nobody feels worse about this situation as they want their projects to move, they have people investing in these projects and the land is bought and these projects are well into drawings and entitlements and everything else and they are trying to A stop a financial catastrophe including for thousands of construction workers who would be out of work and B while we are in the process actually come up with something that works better for his clients and for the Fire Officials and work with this Commission on the appropriate TACs and Committees and the Fire Departments and will have their Fire Consultant work with them, and he can tell that going forward they will work more closely with the groups, however need their help today.

Commissioner Bassett wanted to know how many buildings will this effect in 90 days. He said they have not told him that any building is ready to go and apply for a permit in July or any buildings ready to apply in August and if you get past September it does not count. Commissioner Bassett further stated that they are asking the Commission to bail out someone that really messed up in business and he said he is not ready to do that.

Ms. Chumbler stated that it is not only Mr. Fine’s clients that are impacted by this there are buildings like school administration buildings that are in the design phase right now as well and they are going to get caught up in this, Community College buildings so it is not just Condo Developers that are going to be impacted by this it also impacts other groups as well.

Chairman Browdy advised that this issue needed to be moved on and after Commissioner Calleja asked his questions, the process will them move back to the Commission look for a motion and then move to discussion and then a vote. He said after that there will be a short recess of 15 minutes

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

And will not be able to give time for lunch as we have not even started the formal agenda as of yet.

Commissioner Calleja stated as a follow up on the need for this emergency rule. He said the Code was posted in December so that gives you 60 day’s emergency time to look at it. Commissioner Calleja asked if their clients are also aware of the Energy changes where the amount of glass percentage in the buildings has been drastically reduced and are they going to come for an emergency rule on that too. Commissioner Calleja stated there are a numbers of issues in the Code that could argue the same thing that they did not see it there we just found out. He said the point is he knows this is an economic impact which is the basis for everything but there are other issues in the Code that could apply for the same argument so his point is are the clients aware of the whole Code, have they read the Code.

Mr. Fine stated his clients have been through the Code and he can assure you that they have had their consultants go back through it again and again. He said this issue of this elevator is a little different that those kind of things, you can change the glazing on a building, get the product approved and change it, here what I am talking about is basically taking the entire supporting guts of the building re-doing it and making it work by carving out large areas and that is what makes the project economically feasible to begin with. Mr. Fine said this issue is much bigger magnitude of issue than many of the other things. He said his clients are very energy conscious they have consultants that work on those things so you will not see him here on energy or these other items and again everyone makes mistakes and there is no perfect drawings or perfect buildings and builders whether you are dealing with single family homes or us you and you absorb them because of the nature of what it is and fundamental as it is it is basically holding up the building and how much it takes, that is why this is different.

Chairman Browdy acknowledged Commissioner Compton.

Commissioner Compton said you made statements earlier as part of the economic impact status that your clients are looking are they going to be able to build a building the future, with projecting into the future what in the market will be going on, is that correct.

Mr. Fine stated yes.

Commissioner Compton then if they the ability to look into the future to see if there is going to be a market when the building is completed, they do not have the ability to look into the future to anticipate what the Code is going say before they begin the design. He said that he is struggling with this issue.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Fine stated the answer is that if they could turn back the clock he could assure them they would people looking at the codes and looking for this and this is the State of Florida, and people for a long time have said we have a Florida Building Code and most architects do not look beyond it for them IBC does not exist, there is a Florida Building Code and they live and die by that, that is what they understand and that is what they know. He said he has group of people a lot of big developers who have learned a lesson, the baby is born at ICC and you have to start there and he said he can assure us that they are going to be having as groups code symposiums with the local homebuilders to get very early and look at them along with consultants who have already ordered the IBC books for the next Code change and are already going into the because this was a lesson learned. It is unfortunate that they are here, but they have learned and do not want to pay him to be there, they would rather be building homes and buildings.

Chairman Browdy stated the issue is now at the Commission level and there will need to be a motion stating they find that there was sufficient evidence to establish an immediate danger to the public health, safety, or welfare if the requirement for a second fire service access elevator contained in the 5<sup>th</sup> Edition of the Florida Building Code were to become enforceable on June 30, 2015. He said your motion must include specific facts that find constitute an immediate danger to the public health safety or welfare. He then entertained a motion from the Commission.

Chairman Browdy stated the motion should state “I hereby move to find the following facts establish an immediate danger to the public health, safety or welfare in the event the elevator access requirement contained in the 5<sup>th</sup> Edition of the Florida Building Code becomes enforceable on June 30, 2015.” He then asked if there was such a motion.

Commissioner Carlson entered the motion. The motion was seconded by Commissioner Schiffer.

Chairman Browdy asked for legal assistance from the Rules Attorney to complete the language.

Ms. Griffith stated the specific reasons why this is a threat to the public health, safety or welfare and address why this needs to be handled as an emergency rule and not under regular rule making. She stated this information must also be included in the motion.

Commissioner Carlson stated the threat to public health, safety or welfare was outlined in the petition and brought before the Commission by testimony heard today including the economic data provided. Commissioner Carlson agreed to the language as provided by Mr. Winters as a loss of economic revenue to City and County Schools in loss tax values as well as a loss of jobs to the citizens in the State of Florida based on the information provided by the petitioner

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

indicates that a substantial harm to the public health, safety and welfare will occur and if the Code goes into effect June 30, 2015. He said also he may want to add because of the effective date of June 30<sup>th</sup> other provisions allow to change such issues would not be able to be effective and therefore we would need to take immediate action. Commissioner Schiffer seconded with additional language.

Chairman Browdy stated there had been a motion and a second and then opened the floor for discussion.

Commissioner Schiffer stated that this section of the Code is something he follows closely at the ICC level and he stated he actually has an amendment for this cycle. He further stated that the fire service access elevator is an important new component in firefighting in high rise buildings but when they brought this one in their explanation was for redundancy. Commissioner Schiffer advised the point is that the short amount of time to let these projects that have big momentum and it is difficult to plan these things in years so we can give them a little overrun is not a problem.

Commissioner Schock stated along the lines of Commissioner Schiffer it is hard to talk about creating safety and dollars no matter the amount. He said that based on this emergency being only 30 days.

Ms. Griffith stated the emergency rule is for 90 days effective June 30, 2015.

Mr. Winters stated that it is important that we look at this as we have the emergency petition and we will also have the petition for rule making and that does not tell us what we will do in the regular rule making process. He further stated that what we are doing right now is an emergency rule which will give you 90 days and then it will open up the process should you agree to go through standard rulemaking to address the issue.

Commissioner Schock said his mistake it would be 90 days instead of 30 but the point he is trying to make is that he does not feel there is a large amount of harm done in 90 days and if it goes to permanent rule making we can get have discussion on alternate means and other possibilities so he supports the motion.

Chairman Browdy asked for further comment, there being none he asked for a vote on the motion. There were 16 Commissioners in favor and 9 against. The motion failed.

Chairman Browdy then asked for a motion for the request for regular rule making.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Ms. Hammonds stated that there were two issues before the Commission the blower door issue and the fire access elevator issue. She said that on each issue there was a petition for emergency rule making and a petition for regular rule making. Ms. Hammonds advised that on this petition, the Commissioner denied the emergency rule making and now they need to decide if they want to go through the regular course channels to go through regular rulemaking to address this issue.

Chairman Browdy asked if the regular rule making process would take the regular amount of time, approximately six months.

Ms. Hammonds stated that can vary.

Mr. Winters stated the first vote failed to pass on the petition for emergency rule and now there needs to be a motion to specifically deny the petition for emergency and provide reason why it did not meet the criteria for an emergency so we will have it for the record on that part of the petition. Mr. Winters stated then you will need a motion for the petition for regular rule making.

Chairman Browdy then asked for a motion for the denial of the petition of the emergency rule from a Commissioner who did not vote in favor with specific reason as to why it did not meet the criteria.

Commissioner Bassett asked for clarification on percentage to pass will it still be 75% to deny and if we don't we would be at a stalemate. He said his concern is we don't become a stalemate.

Mr. Winters stated that this is a course of procedure and what we are concerned about is that we do not have on record the reasons why there was no emergency. He said from that you found is that the economic impact does not justify taking the action but you still need to have on the record the specific reason.

Commissioner Bassett asked if the comments and discussion were not sufficient reason.

Mr. Winters stated if he could provide a comment with the motion that would suffice.

Chairman Browdy asked if they were asking for a motion that won't pass or in the form of a resolution or what.

Ms. Griffith stated that the Commission is required to provide a written statement with reasons of denial for the petition and she is looking for some clarification for the record of why this petition is being denied.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Chairman Browdy asked if the public record is not sufficient for that.

Ms. Griffith stated no.

Chairman Browdy asked for a statement from each member that voted against the petition for emergency rule make on fire service access elevators to provide reason for denial.

Commissioner Swope stated he personally did not see where the extra 90 days would be beneficial. He said obviously there is a project that is not going to meet the deadline for permit date, however, he finds it hard to believe that as much scrutiny has been placed on whether we follow the ICC and the Code process that we go through that these corporations did not know of the changes coming down the line.

Commissioner Compton stated he echoed that as this provision has been in the base Code for quite some time now and it has been available in our Code since at least December or January whenever it was posted and was available prior to that in draft form. He said they stated that they said at the end of the 90 days per his prior question it would only relieve some of the financial burden. He said the true dollar figure presented will not be relieved in 90 days and the economic impact he does not feel outweighs the health, safety and welfare of the public.

Chairman Browdy stated that he felt it would be correct to assume that you did not vote in the affirmative because you were not convinced by the evidence that was presented to you that it was an emergency. He stated would each of the descending votes echo that statement.

Commissioner Phillips, stated yes that would be basically why he voted against.

Commissioner Frank, stated yes he agreed with the Chairman’s statement.

Commissioner Hamberger stated he as well agreed.

Commissioner Meyer yes.

Commissioner Bassett stated he agreed also.

Commissioner Brown stated he agreed but had a procedural question. He said it seemed to him that the burden to convince this Commission of the merit of their petition is on the petitioner and he finds it interesting that the Commission is now being asked to tell why we were not convinced when we had a vote that was duly called for. Commissioner Brown stated he does not disagree with the justification but he has serious questions about this part of the procedure.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Mr. Winters stated this is a very unique circumstance where the emergency petition is there and the law provides that we need to have at least some semblance of a reason for denial. He said he feels the comments are there for Ms. Griffith to have the opportunity to put that forward, Mr. Winters said as they stated the Commission did not pass the motion as they were not convinced of the emergency, it helps in the crafting of the order to have those comments available. He said there is no disrespect or otherwise to try and say that you have to justify more than what we have, we just want to have it for the order.

Commissioner Brown asked if this will be called for a vote.

Chairman Browdy stated no, this is just for the record.

Mr. Blair asked for the name of the 9<sup>th</sup> member that voted against the petition and asked for confirmation that Commissioner Calleja was the ninth member who voted against the petition.

Commissioner Stone stated he voted on the prevailing side but he wanted everyone to know that this is such an important issue and we need to study it, so if there is going to be a motion for regular rulemaking he will be supportive of that.

Mr. Blair said yes the Commission will be taking that item up on the agenda.

Chairman Browdy asked for this in the form of a motion.

Chairman Browdy stated the motion language should read “I hereby move to initiate non-emergency rule development to promulgate the appropriate rules to address the second fire service access elevator requirement contained within the 5<sup>th</sup> Edition of the Florida Building Code.”

Commissioner Stone so moved to include the language provided above in his full motion. Commissioner Schiffer seconded the motion. Commissioner Stone stated that he hope that Commissioner Schiffer who has submitted a proposed Code change with ICC will provide insight and input on this.

Commissioner Compton stated he is trying to understand what is entailed in this motion.

Chairman Browdy said we are going through a process now where prior to rule making on a specific issue this would be referred to the appropriate TACs and then come back before the Commission for regular rulemaking with recommendations there would be discussion and there would be research into this specific issue.

**Consideration of Relief Regarding “Fire Service Access Elevator and Blower Door Test” Issues (cont.):**

Commissioner Compton asked as part of that the Commission will delay the implementation of this.

Chairman Browdy stated no, the Commission has already voted against the delay.

Commissioner Compton stated then we involved in studying it and coming up with recommendations for the rule.

Chairman Browdy stated it would be consistent with what is happening in the Legislature today which should occur possibly after adjournment today.

Mr. Winters advised Commissioner Compton in answer to his question is June 30<sup>th</sup> this provision will now go into effect for the second fire service access elevator based on your vote today, there will not be a delay. He said rulemaking can be noticed for development but no specific language or action has been delineated at this time, the Commission will be able to take whatever action it deems necessary and determines appropriate under the law. Mr. Winters stated at this point and time we will be able to look at that and all you are telling us is that you want us to look at noticing that for development and then work through the process.

Chairman Browdy then called for a vote on the motion. The motion passed unanimously.

The Chairman called for a 15 minute break.

Chairman Browdy called the meeting back to order after the break and opened with agenda item #6.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update:**

Chairman Browdy noted that at the April 14, 2015 meeting the Commission approved a Workplan for the 2017 Code Update Process for development of the Florida Building Code, 6th Edition (2017). He then asked Mr. Madani to give an update on the Workplan for the 2017 Code Update Process.

Mr. Madani provided a detailed report and presentation of the Workplan for the 2017 Code 6<sup>th</sup> Edition as shown in the links below:

[Work Plan \(Presentation \)](#)

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Chairman Browdy thanked Mr. Madani and then opened the floor for public comment, he stated once public comments were heard the Commission will then be given a chance to speak on the work plan.

Doug Buck representing the Home Builders Association stated that a new code process is going to begin July 1<sup>st</sup> and sort of one day after we receive a new code. He said that he feels it would be better for everyone if there was real on the ground experience with the new code for some period of time before he is asked to submit code changes for a new Code. Mr. Buck said that the staff is excellent in laying out this long process and he gets six weeks out of that to submit code changes along with everyone else, anyone who has an interest in it. He said in his presentation yesterday in which those folks are looking at the future of cutting times and trying to shorten this time period. Mr. Buck further stated that he is asking for consideration of his recommendation of six months before this process starts. He said if you want to start them now and allow six months to figure out what code changes he wants to do, technically you take those dates and slide them back. Mr. Buck said he understand there will be implications on this two year journey we are all trying to get to, but he thinks people's heads will explode if we ask them to do this, so what do we need to change in the code because they have to submit, justify and they are just getting to know the code. He said from this morning's meeting you have gotten a taste of some of the big things second elevator issues, blower doors to ventilation. Mr. Buck said there are hundreds of small things that are in this code and the Commissioners know that better than anybody in the profession so he is asking the Commission if they will grant additional time on this process to experience the code before we jump into the next code cycle.

Jennifer Hatfield representing the Florida Swimming Pool Association said that she echoes Mr. Buck's comments and just last weekend their board had a meeting and they explained to them about the new code going into effect and advised them now they have to submit new proposals by August third and they were not prepared for that quick turnaround. She said that as Mr. Buck stated they need time to use the code before they can figure out what proposals are needed and they are asking the Commission to look at what they can do, they understand that it is complicated, but they are asking them to look at possibilities to give them more time.

Joe Belcher with JDB Codes services said for all the time the code has been available and for all the time people can review it, we do not start seeing the problems until people start using it and the enforcers start reviewing plans and the contractors have to look at it. He said this is what you saw this morning you saw two cases and he knows of at least three other items that he is going to try and slip into the rule you are going to do on this one, he is not sure if they will let him do that, but he is going to try anyway as there are other issues. Mr. Belcher said that Mr. Buck's suggestion is an excellent suggestion to give them some time to actually use the code and not just

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

read the code and try to apply the code. He said six months may not be enough, but six months will be a lot better than implementing or submitting changes July 1.

Linda Patrick representing the Building Officials Association of Florida said that Building Officials Association of Florida and their Board of Directors did create a position statement that was handed out earlier. Mr. Patrick read the letter regarding the time line, in the letter they are asking for more time also to allow usage of the new code in the industry to make proposals for changes to the 6<sup>th</sup> Edition Code. She stated they are also requesting some changes to the BCIS to make it an easier site to use.

Mark Zehnal representing FRSA, said as most of them knew, they put in 220 Code modifications last code cycle to keep the Code the same as it was the time before. He said that was a large task and included only Chapters 15, 9 and 7. Mr. Zehnal further stated that his issue is doing this properly and only having thirty days to do that is tuff and he is going along with the prior speakers and asking for more time to be given to them at least 30 more days to be able to submit the code modifications. He said that the ICC Code for 2015 has changed dramatically and he is just talking from the roofing standpoint and also the Energy Code has changed dramatically so there will be differences there as well which the roofing industry is really interested in this time. Mr. Zehnal stated that it would be a benefit to everyone and from what he has heard and seen today and heard yesterday, really shows the impact that Florida has on what the base code is and what we need to put into it to make it affective for the citizens, contractors, design professionals, and inspectors in the State of Florida. He said he respectfully requests that they be allowed more time and in the future that they be given a little more time and referenced Mr. Madani's comments from the prior day that given more time, it seems that even more is asked for and then they wait until the last minute. Mr. Zehnal said that some people will wait, but he has been looking every day to see when this process was going to start and saw it just before it went out to everyone and he had a little jump on it and the other suggestion is to make the tools available to do the job. He said he went to the website as Mo explained and clicked on the ICC information and they could go to it but they could not access it, they could not copy and paste, so he had to spend an extra \$300.00 to buy the Code Books electronically so they could use that process. Mr. Zehnal said he thinks that those tools should be given to them to allow them to do those things that are necessary for the Code process. He said they have spent \$1,300 in the last couple of months to be able to get the Florida Building Codes and the I-Codes to be able to make sure the process is done properly from their end. Mr. Zehnal said he is not sure something can be done about that, or if it something they are supposed to have or if it should be available to those of us working with the Code process, maybe it is something that they could have and at least two months' time to at least be notified that this is going to happen and if people do not listen, then it will be their problem and we will be doing what happened earlier this morning.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Jamie Gascon, Miami-Dade County said he is speaking in support of opening the window of time to submit code changes and it is definitely something that needs to be analyzed carefully and justified accordingly. He said he would like to ask if what you are looking for on the costs analysis of the Code modifications is going to need to go as far as being quantitative as well opposed to just qualitative, he said in the past the costs analysis have been very simple and just indicating yes or no in the cost and he wants to make sure that everyone is aware of the rules going forward will be when these modifications are being filed. Mr. Gascon also asked how extensive of a cost analysis is going to be required or will we be following on previously established rules for that specific item.

Chairman Browdy stated that his understanding is that the fiscal impact statement would not just be qualitative but quantitative; we would be looking for some change in the cost and then of course some statement of the benefit. He said he thought that we were getting that actually in the past Mo.

Mr. Madani stated that previously we were taking the qualitative and now the idea behind it is that the issue came up is more the need for clearer costs. He said he is trying to see if the Commission will see if we need the additional cost analysis and is something we need to look at.

Chairman Browdy stated now that we have heard from the public, we will now hear from the Commission and expressing their desire to work with the work plan and extend the period of time specifically for the public to practice the code and propose their modifications and currently if you look at the time on schedule now it is from July 1, 2015 through August 3, 2015 and clearly that is not a great deal of experience in a short period of time. Chairman Browdy said Mr. Buck is looking for six months, the Building Officials Association is looking for thirty days and he is going to look to the Commission.

Commissioner Gross said that yesterday at the Work Group Meeting they had a long discussion about the delay of the Code and the need to stay in synch with the Fire Code and the next Fire Code will come out December 31, 2017 which is right now our projected time. He said that while he did get phone calls regarding starting the new code and limited time, he said he hears them and would like to give them the time but does not want to miss the time window and the majority of people in the Workgroup did state they wanted to stay in sync with the Fire Code. Commissioner Gross further stated that if there is any way to stay with the date of December 21, 2017 but still give a little more time to submit modifications the he would be for it.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Commissioner Schock said that he heard two proposals one to delay the start of submission of modifications and the other was just to extend the length of time you have to submit the modifications. He asked if there is a preference among those who spoke as to what they would rather see.

Mr. Zehnal stated he would like to see a 30 day extension keeping the July 1<sup>st</sup> date giving an extra month to September 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup>.

Mr. Buck stated it does not matter if you start on July 1<sup>st</sup> he does not believe 30 days is enough; he would like to see 6 months.

Ms. Patrick stated BOAF is looking for an extension, 30 days.

Mr. Belcher stated he can live with 30 days to submit at any time, but they need more time before they have to submit to see what the code actually says.

Ms. Hebrank stated that not all of the groups she works with have a full time Code person, so 6 months is a much better provision for them to be ready and know what is in the existing Code before they start working on the next version.

Ms. Hatfield stated that her group would prefer the 6 month delay but will take what they can get.

Commissioner Schock stated his follow-up question was for staff as to what the impact will be with 30 or 60 days.

Mr. Madani stated the way we figure out the timeline in the work plan as you see it now is the need to be consistent with the Fire Code to go into effect December 31, 2017. He said what we are looking at now is work plan that we are comfortable with to be able to accomplish what needs to be accomplished. Mr. Madani further stated that the Commission can adjust or move the dates, however, as staff he cannot assure at the end of the day that we can reach the dates. He said if you want to add a month or two months he can go back and look at the dates again and really see if it could be adjusted but six months is a really big gap to get to the 12/31/17 date. Mr. Madani said the other thing is that we need to consider the fact that in order to get this process going there is a plan and hotel reservations, meeting room reservations up front. He said that we already have the plan for the October meeting to have a week of meetings including meetings of the TACs. Mr. Madani said to have a solid timeline helps us in terms of the planning and contractual engagements with hotels. He said he is there as staff and whatever the Commission

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

tells him to do he will do it, however, at the end of the day, you cannot ask why we did not reach the dates. Mr. Madani said they need to think of what they want to do and let him know.

Commissioner Schilling stated that it sounds like 30 days would not have much of a negative impact moving from 30 to 60 days and asked if that were the case.

Mr. Madani stated actually if you add another 30 days that would be a total of 60 days and he would need to go back, because that is going to put us off in regards to the TAC meetings in October. He said he will have to go back and refigure the timeline and he would have to look at it and come back to the Commission next meeting although it will be two options as we are talking about August. Mr. Madani stated if you decide to extend it 60 days go ahead and he will come back with at least a different timeline to show you where we are if that is what you want to do.

Chairman Browdy stated he would like to get the consensus of the Commission and then instruct Mo to speak to the staff make whatever adjustments if feasible to the date keeping in mind that we want to keep the date of December 31, 2017 if possible.

Commissioner Schiffer asked Mr. Madani if he thought they could work out a way to have other opportunities to make changes for example we do have a glitch cycle, but could we maybe next year people that work with the code and see things that need to be changed not glitches would that be too late to bring in proposals.

Mr. Madani stated without changing the Statute you are stuck with the 45 days, 45 days process and that is why it takes 25 months to go through this because we are talking about a very time consuming process. He said he does not believe you can start again because those modifications would have to go through the 45 day cycle.

Commissioner Hamberger stated he does not think 30 days is unreasonable especially if it helps the design side of the equation.

Commissioner Phillips stated he agreed if the 30 days is allowed he feels that would be helpful.

Ms. Hammonds stated the Commission did approve this work plan in the last meeting or the one prior and we have just sent the final contract to a hotel in Tampa for the October meeting that included an entire week of rooms and meeting space. She said that would be one thing if the hotels have accepted that contract we will have to try to cancel the contract without incurring any penalties. Ms. Hammonds stated also the process has been opened and is arguable regarding adding extra time would not be as bad as taking away time but from a pragmatic perspective if

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

the contract has been accepted by the hotel it will be already reserved for October to go through all of the TAC processes.

Chairman Browdy stated he wanted to complete the consensus of the Commission and then they will address the consequences.

Commissioner Compton stated he is not sure if the 30 day extension is going to be enough, as you usually do not start seeing stuff that quick, but he is definitely in favor of the extension but unsure of the actual time frame.

Commissioner Swope said that he opposes the six months from the effective date until this next process starts; however, he is in favor of a 30 day extension.

Mr. Madani stated there is a 45 days in that which is a comment period. He said the 45 days is factored in between October and August because after the August Meeting we will have to open for comments.

Commissioner Swope stated he misread the calendar.

Commissioner Boyer said he would also like to see more time as the public has stated until you work with the code you do not see a lot of these things and even though we may be behind the eight ball this time, we definitely need more time. He said he would support the 30 days but also would support additional time as we need to get this right.

Commissioner Smith stated don't we have three years from one cycle to the next to publish the Code. He further stated that he understands that we are trying to line ourselves up with the Fire Code, but he wanted to know if he was missing something that there is 6 months for fluff in this process and if we ran it the full three years we would end of in June of 2018.

Chairman Browdy stated that he thinks the concern in the industry is the experiential aspect of it from the time this Code goes into effect and the time they need to examine the effect on the industry for this Code. He said given the delayed date of implementation of this Code it has created a compact issue our work program for the next code.

Commissioner Smith stated he understood as we were trying to align with the Fire Code correct.

Chairman Browdy stated there was no alternative there.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Ms. Hammonds stated she wanted to remind everyone that this work plan was approved by this Commission for the record at the last meeting. She said it was put forth the dates have not changed we knew the effective date with no disrespect meant that is why we went forth with contractual arrangements and she thinks all of the Commissioners as experts recognize the short duration in between, however this is the work plan you approved and that does not mean you cannot change it, but there can be contractual ramifications but we went by what was approved by this Commission when it was presented as a suggested and then approved plan.

Commissioner Smith stated he would support any extension we can possibly work out.

Commissioner Langille stated he would support a 30 day extension.

Commissioner Calleja stated there are two possible solutions to this one is extending the effective date of the Code to June 30<sup>th</sup> instead of December 30<sup>th</sup> because the Fire Code could be late like they were before so we could extend it six months and still have fluff. He said number two asking Mr. Buck for his help and using his Legislative powers to reduce the six month waiting which they put into the law and have the Legislature and reduce it to 30 days or 60 days that would give us time at the end.

Mr. Buck stated in the workgroup that is going on they have made some suggestions and they are working to look at those issues. He further stated that the Homebuilders have put most of these deadlines and have advocated to put them in the Statutes. Mr. Buck said remember the six months in the lead time for the industry to see what is in it is one of the things that has caused this problem that we just had to go through. He said that he would be remiss if he did not say that everyone agrees there needs to be more time, the staff and everyone does a really good job but it drives him a little nuts to hear that it is going to throw our plan out of place. Mr. Buck asked if they believed from a policy perspective that it is good to require Code changes from the industry without any experience and thirty days delay does not even get him a homebuilder who has pulled a permit on June 29<sup>th</sup> and that is what they will do. He said that lead time of six months is imperative and he gets that it throws everything out of whack and it may cause issues with the contracts. Mr. Buck said should the contracts signed trump good public policy that you want to achieve. He stated he would leave it at that.

Ms. Hammonds stated that she agrees with Mr. Buck in some respects. She said that the point is that this is an issue that has been before this Commission for quite some time as to what kind of work plan they were looking for and this is what they voted on. Ms. Hammonds stated it is not a matter of what staff can or cannot do we serve at the pleasure of the Commission, we serve at the pleasure of the Executive Office.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Mr. Buck asked if they have ever known of a time when the industry caught it the first time, you adopted it last meeting and now it is getting circulated.

Ms. Hammonds said yes but that is due diligence on everyone's part to attend.

Chairman Browdy stated they would now move on to the next Commissioner to speak.

Remarks from Mr. Buck could not be determined as he was not using the microphone.

Commissioner Bassett stated he was confused because we are talking about the 45 days 45 days and there are three 45 day periods. He asked when we go from when the changes are proposed to when the first TAC meets to when the TAC meets the second time to when it gets to the Commission are all three of these prescribed by Statute or where does the 45 days fall in, he said the chart is not clear.

Mr. Madani stated if you start at July 1<sup>st</sup> when the code change process opens there is one month which is August 3<sup>rd</sup> which is equivalent to one month. He said then after the month we open the system up for public comment for 45 days by statute. Mr. Madani said normally we take two weeks to clear all the modifications that have come in by the end of July and as you know a lot of the proponents wait until the last 10 days to submit their code changes. He said so if you add that to the 45 days it will bring you to October and by the time we notice the meetings for the TACs and everything it takes time, so taking that time puts you in October where you have your TAC meetings. Mr. Madani then stated then when the TACs submit their recommendations you also have to subject these recommendations to another 45 days review which is required by Statute. He said then they prepare the work and after the 45 day comment period they compile the comments with the code changes and it goes back again to the TACs to review the comments. Mr. Madani stated after that the staff works on combining everything for the Commission and they have to account for the fact that we have to make the materials available to interested groups for the meetings and this all takes time and that is all built into that and we end having Commission Meeting in February 2016 for Code Modifications. He said that we are accounting for time that it takes to do the work too along with the 45 days and that is why you see this is a lengthy process and it demands time.

Commissioner Bassett asked if all three 45 day periods are mandated by the Statute.

Ms. Hammonds stated that this is what Mr. Madani is speaking to. She stated she has been through a triennial and the TACs make many recommendations and somebody has to take the comments capture them and allow 45 days for more comments. Ms. Hammonds stated it is a

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

matter of logistics. She said people make their comments and those comments have to presents and put back up and then the 45 days start again.

Mr. Winters stated he wanted to point out that one of the things that we worry about and what we are looking at is that from a consensus stand point we need some time to push this out. He said we have heard from the industry is that they need six months from the building enforcement area that we need 30 days at least and what we look at is our schedule is going to be affected by that and what we will need here is a directive from the Commission is to say yes we believe more time is needed and for us to have the opportunity to come back and give you a plan that would take that into account. Mr. Winters further stated that not only are there statutory time frames but there are time frames we need for staff to do it right and get it back to you correctly we do not want to come back with some done in error or not have time to find places to meet. He said if we need to cancel a contract we will cancel the contract that is not an issue, we will address that at the time and come back with better plan but we would like to see is a consensus of this do you want 30 days, 60 days or whatever time and come back and bring you a better plan.

Chairman Browdy stated that is the better plan and would like to hear the comments of the rest of the Commissioners.

Commissioner Bassett stated from the meeting yesterday that Ms. Hammonds had told them they had to adopt the ICC in its total and that we could not change ICC base code says.

Ms. Hammonds stated no sir, she never said that. She said she stated in fact you could if you could find a Florida specific reason; in fact that is our whole process.

Commissioner Brown stated he wanted to bring to the attention of the Commission that there was a very complimentary article written in a major news publication two or three weeks ago that really talked a lot about the value of The Florida Building Code, the value it adds not only to the Florida economy but life safety issues. He further stated that it was a very good article and he takes some exception to some of the conclusions they drew from their evaluation of positive impacts of the Florida Building Code but it makes this point, the building code is a very big deal and high deal in Florida both economically and life safety and purely to the question of how much time is needed without regard to the logistics or coordination with the Fire Code or any of the other issues which very compelling issues themselves, he happens to agree whole heartily with Mr. Buck. Commissioner Brown stated that when it comes to good public policy he thinks this raises to the level of a conversation about changing the structure significantly maybe and maybe we cannot do it this cycle, maybe we need to have conversations with the Fire Code people and see if there is a way to work it out. He further stated maybe we need to have a conversation with the Legislature and get some statutory changes so that there can be enough

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

time for people to practice within the area of the Code to identify and he actually agrees that should be a part of good public policy. Commissioner Brown said that in view of the fact that there are certain members of the Legislature and he will not call their names, but who are actually advocating that the Legislature take back the final ratification authority of the Code because they think the process is not open enough and not deliberate enough and they do not think there is justifications for some of the things that we do. He said that is what they think, he does not agree with that but the point he is making is that we need to be careful to always air on the side of being as transparent and deliberative as possible or someone in the Legislature that really does not understand the complex nature of this whole thing may just decide they want to do this themselves and he thinks that would be tragic and boneheaded for them to do that but that is something that is out there that we need to be aware of. Commissioner Flanagan stated he would like to see 60 additional days.

Commissioner Gilson stated he would support 6 months.

Commissioner Carlson stated he is favor of 6 months.

Commissioner Goff says he supports a minimum of 2 months.

Commissioner Swope stated that in the diagram that the Fire Code will come out December 31, 2017.

Mr. Madani stated yes.

Commissioner Swope then stated if that is the date we have as a target date to have our code so we turn in both documents to JAPC is that correct.

Chairman Browdy stated by then they would both be adopted.

Commissioner Swope stated if the Fire Code is not ready for us to submit to JAPC until December 30, 2017 how are we going to have an effective date of December 30, 2017.

Mr. Madani stated the plan is to coordinate closely with the Florida Fire Prevention Code staff and the idea behind it is for them to start a littler earlier than normal so by the time we start our rule making the Florida Fire Prevention Code will be available in complete fashion so that we can adopt it by reference and move our Code forward.

Commissioner Swope stated he is totally in agreement with that but his question is if we have our document ready tomorrow and the Florida Fire Prevention Code is not ready to publish until

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

December 30, 2017 we then have to submit it to JAPC which they can take as much time as they want for our effective date. He said that is in essence to what Ms. Hammonds advised happened this last Code cycle when both documents were ready to go and JAPC had their delay and that is what held the process up.

Ms. Hammonds stated actually the Fire Prevention Code was not quite ready due to their delay and our Code was ready.

Commissioner Swope said he understood, but for a year and a half he thought the holdup was the Fire Prevention Code and he found out yesterday it was JAPC. He said if we back the process up six months, whenever we our document is ready, the Fire Prevention Code will have a publish date of December 30, 2017 which will make our dates up to be right in line there so the whole document will go to JAPC together, he asked if he was correct.

Ms. Hammonds said what happened last time is that we had all of our work done and we submitted to quote by reference the Fire Code and they would not let us move forward until they had the final language from the Fire Prevention Code which was the information provided by the previous rules attorney. She said they would not let us move forward on our Code and we had already gone through the Commission approving, the development, gone through workshop and everything.

Commissioner Swope stated exactly, we completed our Code in eighteen months so for us to say we are going to have an effective date of December 30, 2017 when the Florida Prevention Fire Code's publish date is December 30, 2107 we are putting the cart in front of the horse say that JAPC is going to approve it on December 30, 2017 where it is ready to go.

Ms. Hammond stated if she understood Ms. Belk from the Fire Marshall's office that is when they anticipated theirs going into effect.

Commissioner Frank said the effective date of the Fire Prevention Code not the adoption date but effective date will be 12/31/2017. He said their tentative draft their final draft on schedule is showing 5/31/2017 and they will have their draft available for that Code.

Mr. Madani stated that is what we have been talking about, the idea is to have that complete Code available to us to initiate our rulemaking and that is something we have to closely coordinate. He said he does not believe the issue with the Fire Code will be repeated under this process if we go over closely and make sure the document is available.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Commissioner Swope stated that he is in agreement with working closely with the Fire Code and making sure the two documents come out together. He said what he is thinking is we are shooting for a target date of 12/31/17 to go into effect and will save six months for the effective date of this code now.

Mr. Winters stated these are great points and points that were made at the workgroup yesterday but he wants to focus us back to what we are looking at which is do we need extra time.

Commissioner Swope stated that is what he is getting at we have an effective date of June 30, 2015 for this Building Code so 36 months from that would put us at June 30, 2018. He said if we back up and give three to six months of real work experience with the 5<sup>th</sup> Edition we will still beat the 36 month triennial update of the 6<sup>th</sup> Edition. Commissioner Swope stated you can back up two months and give some real world application.

Mr. Winters said he understands and as the Chairman has stated we need to come to a determination is additional time is needed. He further stated that from consensus it seems we do and now need to bring the focus on the extra time needed and what amount of time will be more beneficial.

Mr. Madani said he will go ahead and open the line for Code Modifications on July 1 and at the August Meeting we can bring the Commission a new work plan one for 60 days and one for 6 months delay and have the Commission decide which one.

Chairman Browdy stated he would also like to know the consequences to using 60 days and 6 months.

Mr. Madani said he will go ahead and open the line for Code Modifications on July 1 and send an e-mail with explanation.

Mr. Winter stated the dates would end before the next meeting, so there needs to be at least 30 days to allow us to come back together in August on a final decision with the consequences of both.

Ms. Hammonds stated we need to at least have the number of meeting dates in October because if we do not have number of days and dates we may be left with no meeting facility.

Commissioner Bassett said that if we get a 6 month extension that will give the Work Group a chance to work on getting the process changed in the Legislature with the help of the Home Builders Association.

**Review and Discussion of the Workplan for the 6<sup>th</sup> Edition (2017) Florida Building Code Update (cont.):**

Commissioner Bassett entered a motion to allow a 6 month delay in the start of the modification cycle. The motion was seconded by Commissioner Brown.

Mr. Blair asked to allow him to put in a clarification on this motion. He asked if this motion is to extend the public comments submittal dates still starting July 1 but extending to February 3, 2016.

Commissioner Bassett said if that is more acceptable he will agree with the language as his motion but added he wants it to read a 6 month delay. Commissioner Calleja seconded.

Discussion followed on exact timing.

Commissioner Gilson stated the confusion is that we are adding six months to rather than extending.

The actual time would be July 1 through January 3, 2016.

Commissioner Bassett stated he did not mind.

Commissioner Brown entered an amended motion to extend the period of time for the public to propose modifications to the 2015 I Codes and the Preliminary Supplement to six months, by providing a window for submitting modifications of from July 1, 2015 – January 1, 2016, and adjusting the schedule for development of the Florida Building Code, 6th Edition (2017) accordingly. Staff was charged with revision the Code development schedule for Commission review at the August 18, 2015 meeting. Second to the amended motion was inaudible. The motion passed with 22 Commissioners in favor and 3 Commissioners against.

Chairman Browdy asked for the Commissioner that voted against this issue.

Mr. Blair stated the three Commissioners were Mr. Frank, Mr. Schiffer and Mr. Gross.

Mr. Winters asked that the Commission be mindful that the time allotted for this meeting room will end at 5 pm and the time is now 2:30 pm any item that does not get addressed today will have to be moved to the agenda for the next meeting in August.

**Consideration of Accessibility Waiver Applications:**

Chairman Browdy stated the Commission will now consider this month's requests for accessibility waivers. April Hammonds will serve as legal counsel and present the Accessibility Advisory Council's recommendations. He then asked Ms. Hammonds to present the Councils' recommendations regarding waiver requests in turn.

Ms. Hammonds noted for the record that there was a quorum for the Council Meeting.

**CrossFit PSI** -- Council recommended granting based on disproportionate cost.

Commissioner Gross entered a motion to accept the recommendation of approval.  
Commissioner Meyer seconded the motion. The motion passed unanimously.

**The Fickled Fin** – Council recommended deferral to receive additional information.

Commissioner Schilling entered a motion to accept the recommendation of deferral.  
Commissioner Schiffer seconded the motion. The motion passed unanimously.

**Cavalier Hotel** - Council recommended granting based on historical significance.

Commissioner Schilling entered a motion to accept the recommendation of approval.  
Commissioner Schiffer seconded the motion. The motion passed unanimously.

**801 Tamiami Trail** - Council recommended granting based on technical infeasibility and historical significance.

Commissioner Meyer entered a motion to accept the recommendation of approval.  
Commissioner Schilling seconded the motion. The motion passed with 18 Commissioners in favor and 5 Commissioners against.

**Miami Lakes Automall** - Council recommended granting to the extent a waiver is needed based on technical infeasibility.

Commissioner Gross entered a motion to accept the recommendation of approval.  
Commissioner Schiffer seconded the motion. The motion passed unanimously

**Consideration of Accessibility Waiver Applications (cont.):**

[Community Leadership Academy](#) - Council recommended granting based on disproportionate cost.

Commissioner Gross entered a motion to accept the recommendation of approval. Commissioner Hamberger seconded the motion. The motion passed with 24 Commissioners in favor and one Commissioner against.

[Spruce Creek HS](#) - Council recommended deferral to receive additional information.

Commissioner Meyer entered a motion to accept the recommendation of deferral. Commissioner Gross seconded the motion. The motion passed unanimously.

[336 Collins Av](#) - Council recommended deferral to receive additional information.

Commissioner Brown entered a motion to accept the recommendation of deferral. Commissioner Flanagan seconded the motion. The motion passed unanimously.

**Product and Entity Approval:**

Chairman Browdy advised Commissioner Stone will present the POC's recommendations for entity approvals and the consent agenda for products recommended for approval, and Jeff Blair will present the POC's recommendations for product approvals with discussion and/or comments. He stated we will start with entity approval applications, followed by the consent agenda of product approval applications recommended for approval, and conclude with product approval discussion items.

Commissioner Stone stated there were seven entities approved by consent agenda.

Commissioner Stone entered a motion to approve the consent agenda for seven entities. Commissioner Compton seconded the motion, the motion passed unanimously.

Commissioner Stone stated there were seven products approved under the 2010 Code on the consent agenda as posted.

Commissioner Stone entered a motion to approve the consent agenda for seven products approved under the 2010 Code. Commissioner Compton seconded the motion, the motion passed unanimously.

**Product and Entity Approval (cont.):**

Commissioner Stone stated there were eight hundred thirteen products approved under the 2014 Code on the consent agenda as posted.

Commissioner Stone entered a motion to approve the consent agenda eight hundred thirteen products approved under the 2014 Code. Commissioner Compton seconded the motion, the motion passed unanimously.

Commissioner Stone advised there were thirteen products for discussion that will be introduced by Jeff Blair.

Mr. Blair presented the following products for discussion:

**8363 R-5** – Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**11217-R-2** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**15214-R-1** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**15334-R-2** - Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**16326-R-1** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**17632**- Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**17633** - Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**17678** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**17679** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**Product and Entity Approval (cont.):**

**17733** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**17734** - Commissioner Stone entered a motion to approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**9190-R-3** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

**9103-R-3** - Commissioner Stone entered a motion to conditionally approve as recommended by the POC, Commissioner Compton seconded the motion passed unanimously.

Mr. Blair advised that the POC recommended deferral of product FL 12875-R2 to provide time for the applicant to comply with the relevant conditions required for approval of the product.

Commissioner Stone entered a motion to defer product FL 12875-R-2. Commissioner Compton seconded the motion the motion passed unanimously.

**Applications for Accreditor and Course Approval:**

Chairman Browdy stated the Education POC did not achieve a quorum for their June 11, 2015 meeting and as a result were not able to provide recommendations to the Commission regarding the approval of education courses. Since the POC is made up entirely of Commissioners they will convene now, develop their recommendations and then adjourn. Once the POC adjourns the Commission will consider the POC's recommendations using the same procedures we do at each meeting. Chairman Browdy advised that Chairman Nan Dean will call her POC to order and move through her agenda accordingly and then the Commission will listen to the recommendations and make their decisions to validate them.

Chairman Dean called the Education POC to order and asked that Michael Clark call role.

Mr. Clark performed roll call with the following Commissioners Present:  
Commissioner Dean, Commissioner Smith, Commissioner Stone, Commissioner Phillips,  
Commissioner Flanagan and Commissioner Langille. Mr. Clark announced there was a quorum.

**Applications for Accreditor and Course Approval (cont.):**

Chairman Dean asked for staff identification.

Michael Clark, Education Administrator, working with the Education POC.  
April Hammonds as Legal Counsel to the Florida Education POC.

Chairman Dean asked for a motion to approve the agenda.

Commissioner Flanagan moved to approve the agenda, Commissioner Stone seconded and the motion passed unanimously.

Chairman Dean asked for a motion to approve the meeting minutes from April 9, 2015.

Commissioner Stone moved to approve the meeting minutes from April 9, 2015. Commissioner Flanagan seconded and the motion passed unanimously.

Chairman Dean stated there were no accreditor applications to be reviewed.

Chairman Dean stated there are thirteen new courses that she would like to move them forward as one consent agenda and ask if there was anyone in the public that would like to have any of them pulled for individual consideration. She then asked if any POC member would like to pull any courses.

Commissioner Stone entered a motion to approve the consent agenda. The motion was seconded by Commissioner Phillips and the motion passed unanimously.

Chairman Dean stated there are three administratively approved courses and she will need to make note of some changes, so there will be a need to review each one individually.

**281.2** – The Provider of that course is FRSA not shown on the agenda.

A motion to approve was entered by Commissioner Smith and seconded by Commissioner Langille. Commissioner Flanagan said that it was a very nice presentation but on their learning objectives they stated it was a one hour when it is a two hour and they will need to change that please. Commissioner Dean stated this will now be conditional. Commissioner Smith changed motion to conditional approval and Commissioner Langille seconded. The motion passed unanimously.

**588.1** – The Provider of that course is FRSA not shown on the agenda.

A motion to approve was entered by Commissioner Smith and seconded by Commissioner Langille the motion passed unanimously.

**Applications for Accreditor and Course Approval (cont.):**

**349.3** – No changes entered.

A motion to approve was entered by Commissioner and seconded by Commissioner Langille the motion passed unanimously.

Commissioner Dean asked for any public comment. There being none she asked for comments from the POC. There being none she asked for a motion to adjourn the POC meeting.

Commissioner Flanagan enter a motion to adjourn the Education POC meeting, the motion was seconded by Commissioner Stone and passed unanimously.

Chairman Browdy thanked Commissioner Dean and then asked if she would provide the full Commission with the Courses to be approved today.

Commissioner Dean entered a motion to approve the 13 new courses being presented by consent agenda. Commissioner Gross seconded the motion. The course numbers on the consent agenda for the record were 712.0, 713.0, 708.0, 711.0, 710.0, 709.0, 715.0, 718.0, 717.0, 720.0, 719.0, 716.0, and 714.0. The motion passed unanimously.

Commissioner Dean stated she had three administratively approved courses 281.2, 588.1 and 349.3 and entered a motion for approval from the Commission.

Chairman Browdy stated that he heard from the POC meeting that 281.2 was conditionally approved.

Commissioner Dean stated he was correct and corrected her motion as follows.

Commissioner Dean entered a motion to approve administratively approved courses 588.1 and 349.3. The motion was seconded by Commissioner Flanagan and passed unanimously.

Commissioner Dean entered a motion to conditionally approve administratively approved course 281.2. The motion was seconded by Commissioner Flanagan and passed unanimously.

Commissioner Dean stated that concluded all of the Education POC course approvals.

**Petitions for Declaratory Statement and Legal Report:**

Chairman Browdy asked Ms. Hammonds if there Legal Matters to report.

Ms. Hammonds stated one item briefly reported that she said she has made numerous attempts to contact the DOJ regarding the status of the DOJ's certification of the Florida Accessibility Code for Building Construction and has not received a response to date. April indicated that she would continue to contact the DOJ for a response.

**Legal Report**

**DS 2015-048** by Clinton Arsenault of Monroe County Building Department

Ms. Hammonds read the petition from Mr. Arsenault with response.

Rachel Doty with the Contractors Institute and they are of the position that they are against the granting of this petition as it would be detrimental to the people of the State. She said the cargo lifts in question provide a very good method for people to transport goods and equipment on multi story residential homes and by allowing that to be classified as an elevator would cause undue burden on the homeowners of the State and that would effectively squash any of the sales or installation of this. Ms. Doty further stated that this installation of this type of a lift would provide a better method to transport goods and equipment and would evidentially reduce the issue of safety, health and welfare issues so for lack of a better way to carry goods on multi story residential homes for elderly and such it could be a far worse safety concern than having this cargo lift installed is their position.

Commissioner Schiffer entered a motion to accept the staff and Fire TAC recommendation.  
Commissioner Schock seconded the motion.

Commissioner Schiffer stated while the applicant mentioned that it would be a motorized device, the drawings and all of the documents presented showed nothing of that therefore it could be a dumb waiter if hand operated would be allowed. He stated what he would like to do is to add the words "the motorized device in question" to avoid confusion of the drawings they are discussing.

Commissioner Schiffer amended his motion to include the language "the motorized device in question" to the original motion to accept the staff and Fire TAC recommendations.  
Commissioner Schock seconded the motion, the motion passed unanimously.

**Petitions for Declaratory Statement and Legal Report (cont.):**

[DS 2015 – 055](#) by Robert Fine of Greenberg Traurig, P.A.

Ms. Hammonds read the petition from Mr. Fine which contained 5 separate questions which will be addressed individually with responses.

**Questions 1 and 5:**

Ms. Hammonds read the petition and questions 1 and 5 with responses.

Commissioner Phillips entered a motion to accept the Staff, Structural TAC and Special Occupancy TAC recommendations. The motion was seconded Schock. The motion passed unanimously.

**Questions 2, 3, 4:**

Mr. Fine provided background on questions 2, 3, and 4 in his petition and argued his clients proposed answers.

**Question 2:**

Commissioner Schock responded to Mr. Fine and his client on behalf of the Structural TAC.

Commissioner Compton continued by adding to Commissioner Schock's response regarding the location and purposes of the structure with exclusions from previous declaratory statement.

Commissioner Phillips responded that the original statement was appropriate for this project.

Commissioner Brown asked client Ms. Shepherd to repeat the prior question from Mr. Fine and her response.

Ms. Shepherd responded with the question and her response.

Commissioner Compton read the staff analysis from prior statement.

Mr. Madani clarified to ensure that the TACs and Commission had as prior decision and the basis for that decision.

Commissioner Bassett provided background on the prior project in Hollywood, FL and the DEP decision on same.

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question 2 (cont.):**

Commissioner Schock entered a motion to approve the Structural TAC's recommendation. The motion was seconded by Commissioner Compton seconded the motion. The motion passed with 14 Commissioners in favor and 10 Commissioners against.

**Question 3:**

Ms. Hammonds read the question and responses from the Structural TAC and Special Occupancy TAC.

Mr. Fine provided further information on question number 3 and his clients proposed answers for the Structural TAC recommendation.

Commissioner Compton asked further questions regarding the plan site.

Mr. Fine responded with full explanation.

Commissioner Schock entered a motion to approve the Structural TAC recommendations so that it is consistent with question 2.

Ms. Hammonds stated that she explained during both TACs this was not a discussion, this came up in the Workgroup yesterday and as it has already been alluded to the Legal terms of precedence you determine something one way you have to continue to follow that determination unless the language changes in the law or there is some significant change in the facts. She further stated that is where the Special Occupancy TAC looked at it and there was not a huge distinction in the facts and Mr. Chalecki was on the phone and back since it was a rule prior to it coming into the code the language has not changed since it was in Rule until today. Ms. Hammonds said that the Commission less than six months ago issued a declaratory statement answering it the way the Special Occupancy answered it. She stated the Structural TAC is essentially looking at making some changes to Section 3109 but you also have to follow the precedence that was laid through this Commission and the way it has always been interpreted through DEP. Ms. Hammonds stated as a legal matter in order to follow precedence it would be advisable to maintain going with what your previous interpretation had been actually there are two of them one in 2007 and one in 2015 and there have been no changes in the Code. She stated there were questions during the TAC meetings regarding the facts but unless you can find a very distinct strong difference that would change it, the language has not changed in 3109, so what you are essentially trying to do is almost wipe out your previous declaratory statements

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question 3 (cont.):**

which could cause a lot of confusion in the State, that is just a legal matter and she said she does not have technical expertise, but felt she needed to raise this issue one more time.

Chairman Browdy stated there is a motion on the floor from Commissioner Schock to accept the recommendation of the Structural TAC.

Commissioner Schock stated he would like to respond to Ms. Hammonds.

Chairman Browdy stated that there will need to be a second on the motion to open for discussion.

Commissioner Compton seconded the motion.

Chairman Browdy then asked for Commissioner Comments.

Commissioner Smith stated he will vote against the motion as we need to follow the Commission action on prior statement.

Commissioner Schiffer asked Commissioner Schock if they made two independent structures on that line would that in fact be two independent structures and your resolution be similar to the Occupation.

Commissioner Schock stated yes if there are two structures, one seaward and one is not they would be independent.

Commissioner Schilling stated when you first made your statement you stated the address on the drawings was not correct so could you please identify the correct address of this project.

Mr. Fine stated it is 701.

Commissioner Schilling stated is this safe to say this is just south of Oakland Park Blvd. on A1A on the of the side streets.

Ms. Shepherd stated that it is landward of A1A.

Commissioner Schilling stated he was sure they were aware that this area that there are aware that this is a very unique area in terms of erosion and he does not think using the previous cases of which have hundreds of yards of sand on the ocean side of it. He further stated that A1A

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question 3 (cont.):**

was closed for a year because it fell into the Ocean. Commissioner Schilling said looking at this at a more practical standpoint he is reluctant for anything that is beyond the coastal construction set back line and because of the uniqueness of this area and the erosion that has taken place and severity of that erosion recently.

Chairman Browdy acknowledged response to Commissioner Schilling from the petitioner.

Ms. Shepherd stated for this project site they did run site specific storm analysis consistent with the DEP and understand the erosion is seaward of the CCL and that the wave diminishes as you move further into the site.

Commissioner Stone stated that properties in St. Pete Beach which have a portion of the building seaward of the CCL with most of the building in a V zone but a significant portion of the building is in an A zone so staying with the Structural TAC saying they have to design everything for the highest requirement which would be seaward of the CCL not to the V or A zone requirement would that be correct.

Chairman Browdy stated that is the position of the Structural TAC.

Commissioner Stone stated he had a problem with that.

Commissioner Schock stated he does not remember answering this question before. He said there has not been a question on whether a building that is divided between the CCL eastward and westward of the CCL as one building is to be handled. Commissioner Schock stated he does not believe this has ever come up in any of the declaratory statements. He further said that he does not believe the Commission or TACs have ever done this before and all of the time we have done it we have always said that it is to the extent that the historic application of the regulation is consistent with contents of the Florida Building Code and the plain language of the Code is very clear its says structures which extend wholly or partially, he said he is still in support of the Structural TAC.

Commissioner Compton stated he agreed with Commissioner Schock. He said Ms. Hammonds stated the we are trying to make changes to Section 3109, we are not trying to make changes, we are trying to read the plain language of it and it specifically says wholly or partially seaward of the CCL line and if you fall under that condition, you have to design the whole thing as if it is in the CCL line.

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question 3 (cont.):**

Ms. Hammonds stated she would let Mr. Madani address the language of the Code. She said she was explaining to them and wanted to stress the importance was that this Commission at least should consider as you have interpreted this language in line with DEP which was originally their regulation and they are still involved through the TACs, the Commission has interpreted it the same way and by now changing the answer effectively does somewhat change the language. Ms. Hammonds advised Mr. Madani brought up the change in language that if you did not like the way it was written or thought it should be more specific that perhaps a Code modification could be done, however, the language in this section has not changed and DEP interpreted it one way when they had it and when it was put into the Building Code the language never changed, the same as the rules have not changed through a single code cycle since and there have been two declaratory statements on this language with no change to the language and all of a sudden we are getting a different answer as compared to the previous declaratory statements. She stated that is her concern that is a legal concern and she has raised it.

Mr. Madani advised that the issue here is as discussed yesterday is that the language is written in the Code and has not changed since 2001 Code since DEP put it in the Code and as we have already stated we need to be consistent with the DEP interpretation. He said we are changing now with how we are dealing with these issues and will be difficult to deal with these issues in the future and we need to be consistent. Mr. Madani stated the Commission has already stated in two declaratory statements that this is how we are going to do this and now we are changing the policy we have already established in the Commission.

Commissioner Calleja asked for clarification by stating aren't declaratory statements supposed to be specific to the case at hand.

Chairman Browdy stated what we are looking at here are the same set of circumstances we looked at before.

Commissioner Calleja stated he thought declaratory statements were particular to each case and that you could not go back and use a previous declaratory statement and use it for a current declaratory statement.

Ms. Hammonds addressed Commissioner Calleja and stated he is correct under Chapter 120 in that they are individual, however in Chapter 553 there is a specific directive that tells all building officials that they shall interpret the Code in line with previously issued declaratory statements. So there is some conflict in the statutes however Chapter 553 is specific as previously stated.

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question 3 (cont.):**

Mr. Fine advised the Commission that his petitioner and client have done their homework and were aware of the prior declaratory statements and history on this issue.

Chairman Browdy stated the motion on the floor from Commissioner Schock to accept the recommendation of the Structural TAC and the motion was seconded by Commissioner Compton. There were 3 Commissioners in favor and 21 Commissioners against, the motion failed.

**Reconsideration of Question # 2:**

Mr. Blair stated there would need to be a motion to reconsider.

Commissioner Brown stated we have contradicted ourselves and need to go back to reconsider question # 2.

Commissioner Phillips entered motion to accept the recommendation of the Special Occupancy TAC and the motion was seconded by Commissioner Frank. There were 22 Commissioners in favor and 2 Commissioners against, the motion passed.

Commissioner Brown entered a motion to reconsider response to question 2. Commissioner Carlson seconded the motion. There were 18 Commissioners in favor and 4 Commissioners against, the motion passed.

Commissioner Phillips entered motion to accept the recommendation of the Special Occupancy TAC on question #2 and the motion was seconded by Commissioner Hamberger. There were 22 Commissioners in favor and 2 Commissioners against, the motion passed.

**Question # 4:**

Ms. Hammonds read the question and response for the Commission.

Commissioner Phillips entered a motion to accept the Special Occupancy TAC. Commissioner Smith seconded the motion.

Commissioner Schock stated that the Structural TAC will have the petitioner where they need to be and feels the Structural answer is more correct.

**Petitions for Declaratory Statement and Legal Report (cont.):**

**Question # 4 (cont.):**

Chairman Browdy asked for a vote on the motion there were 20 Commissioners in favor and 4 Commissioners against.

Ms. Hammonds stated that concludes the declaratory statements.

**Legislative Report:**

Chairman Browdy advised that the 2015 Legislature passed and the Governor signed CS/SB 466.

Mr. Madani provided the Commission with a report on how this Legislation impacts the Commission. He reported that the 2015 Legislature passed one Bill impacting the Commission. CS/SB 466 amended Section 553.793, F.S. regarding low-voltage alarm systems. Mr. Madani stated the amendment revises the definition of the term “low-voltage alarm system project” and added the definition of the term “wireless alarm system”; provided that a permit is not required to install, maintain, inspect, replace, or service a wireless alarm system and its ancillary components; reduced the maximum price for permit labels for alarm systems; prohibited a local enforcement agency from requiring the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system; authorized a local enforcement agency to coordinate the inspection of certain alarm system projects; and provided an effective date of July 1, 2015. He said the Commission will need to amend the Florida Building Code, 5th Edition (2014) to conform the Code to the statutory requirements.

**Consider Proposed Rule 61G20-4.001, F.A.C., Procedures:**

Chairman Browdy stated that the Accessibility TAC has recommended that the Commission revise Rule 61G20-4.001 Procedures, the Accessibility Code Waiver Application Form. He said the purpose of this was to provide for an electronic Accessibility Waiver application submittal process in form and the relevant rule language. Chairman Browdy further stated the Commission will conduct a rule development workshop today to review the rule, take public comment and then vote to proceed with rule adoption.

Chairman Browdy advised that today’s workshop provides an opportunity for public comment on proposed revisions to the Procedures Rule for Accessibility Waiver Applications to update the form for accessibility waiver requests prior to the Commission proceeding with rulemaking. He stated that once the rule development workshop is opened and we hear the Accessibility TAC’s recommendations and public comments, we will close the public comment portion of the workshop, and the Commission will vote to proceed with rule adoption.

**Consider Proposed Rule 61G20-4.001, F.A.C., Procedures (cont):**

Ms. Hammonds advised that this is really something that was already approved by the Commission at one point. She further stated that the form was already approved for rule adoption and it did not make it on the agenda for the April Meeting, so it is on the agenda today so that Ms. Griffith can go forward and actually publish the necessary rule language that she needs to publish. Ms. Hammonds advised that there were no rule language changes; this has already been reviewed by all of the TACs and things of that nature. She said what we are looking for today is the approval of the SERC and signature of that and the procedural matters that this was already approved and we now need the final formal approval so that Ms. Griffith can publish it.

Chairman Browdy asked for clarification if we are opening a rule hearing workshop or is the Commission approving the SERC or both.

Ms. Hammonds stated both, and that Ms. Griffith had advised that the term workshop and hearing are interchangeable and she will ask Ms. Griffith to explain if that becomes a question. She further advised the work has all already been done and it should have come in April but it did not make it in the notice or agenda, thus why it is coming before you today.

Chairman Browdy then asked Ms. Griffith if she had any further comment.

Ms. Griffith stated no they are ready to proceed and will answer questions if needed.

Chairman Browdy asked if the Commission is having a public hearing now.

Ms. Griffith stated this is a forum to allow anyone from the public to have an opportunity to speak if they would like to.

Chairman Browdy asked for public comment, there being none.

Commission Gross entered a motion to approve the proposed rule text for revisions to Rule 61G20-4.001, Procedures, approve the SERC, and to proceed with rule adoption for Rule 61G20-4.001, Procedures, conducting a rule adoption hearing only if requested. Commissioner Schiffer seconded the motion. The motion passed unanimously.

**Committee Reports and Recommendations:**

Chairman Browdy asked that Committee Chairmen please confine their TAC/POC reports to a brief summary of key issues and recommendations, emphasizing any issues requiring an action from the Commission. He asked that they please frame any needed Commission action in the form of a motion. Chairman Browdy stated that there is no need to read the TAC/POC minutes

### **Committee Reports and Recommendations:**

since the complete minutes will be linked to the committees' subsequent meeting agendas for approval by the respective committees.

#### **Accessibility Technical Advisory Committee;**

Commissioner Gross provided report from the June 5, 2015 at 2pm with a quorum. He said they reviewed and discussed the integration of their comments of their report. Commissioner Gross advised their report is somewhat different than other TACs reports of the University of Florida Educational Report because theirs (the Accessibility TAC) is controlled by the Legislature and cannot be a code change. He stated they want to move forward with their recommendations and put them on the Legislative at the end of the year Legislative recommendations and move forward with our recommendations.

A motion was entered by Commissioner Schilling to accept the Accessibility TAC report. The motion was seconded by Commissioner Meyer. The motion passed unanimously.

There was side bar discussion on motions.

Jeff Blair clarified that if accepting the report is just accepting the report. He further stated if there is specific action you would need a separate motion for that action.

Chairman Browdy stated that the Commission took the action on workshop forum.

Jeff stated no, that there is a different action apparently and then asked Commissioner Gross to explain.

Commissioner Gross stated they had a report from the University of Florida study report like everyone else had and the TAC is final with their study would like that to be moved forward.

Chairman Browdy asked if he was putting this in a form of a motion.

Commissioner Gross stated yes he is entering this as a motion. Commissioner Meyer seconded the motion. The motion passed unanimously.

#### **Code Coordination and Implementation Workgroup; Facilitators Report**

Mr. Blair provided the Commission with a report from the Code Coordination and Implementation Workgroup that met in Citra on June 18, 2015.

**Committee Reports and Recommendations (cont.):**

Commissioner Frank entered a motion to accept the report as give for the Code Coordination and Implementation Workgroup. The motion was seconded by Commissioner Calleja, the motion passed unanimously.

**Education Program Oversight Committee; Revised Report**

Commissioner Dean provided a brief summary of the POC meeting held on June 19, 2015 in Gainesville, Fl.

Commissioner Dean entered a motion to approve the POC report. Commissioner Calleja seconded the motion, the motion passed unanimously.

**Energy Technical Advisory Committee**

Commissioner Smith provided a brief summary of the TAC meeting held via teleconference on June 11, 2015.

Commissioner Smith entered a motion to approve the TAC report. Commissioner Calleja seconded the motion, the motion passed unanimously.

**Fire Technical Advisory Committee;**

Commissioner Schiffer provided a brief summary of the TAC meeting held via teleconference on June 9, 2015.

Commissioner Schiffer entered a motion to approve the TAC report. Commissioner Schock seconded the motion, the motion passed unanimously.

**Product Approval Program Oversight Committee.**

Commissioner Stone provided a brief summary of the POC meeting held via teleconference on June 4, 2015.

Commissioner Stone entered a motion to approve the POC report, Commissioner Compton seconded the motion, the motion passed unanimously.

Commissioner Stone entered a motion to accept the POC recommended dismissing the complaint and related investigation regarding Zion Tile Corporation of Miami's product FL 16057-R1, on the basis there is insufficient evidence demonstrating a Florida approved product (FL 16057-R1) is deficient, and therefore the Commission has no jurisdiction on the matter. Commissioner Compton seconded the motion.

**Committee Reports and Recommendations (cont.):**

Chairman Browdy stated there will now be time for public comment on this motion. He also acknowledged that there was a handout provided prior to this motion.

Daniel Arguelles stated he filed a complaint against Zion Tile Corporation about two years ago. He stated that he was heard at the December 2013 in St. Petersburg at the Florida Building Commission Meeting and at the time he has a Civil Litigation Case from the alleged perpetrator and since then there is no Civil Litigation and there has not been for a very long time. Mr. Arguelles stated he would like to continue his original complaint that delineated several jobs that were done since 3555 Flamingo there are several jobs which he has provided you with permits that were copies of perforated copies from the City of Miami Beach which was the original site and is accompanied by a fraudulent documentation test report that actually reflects a Dade County await that had been rescinded six months before an investigation that eliminated their product control approval. He said the following February they managed to get a Florida approved document and they submitted that fraudulent engineering document. Mr. Arguelles said what makes that so interesting is that at the Coral Gables 1461 Mendavia Avenue actually he believes it was an investigation conducted by Keystone. He said when he looks at this certified document from the City of Coral Gables it is pretty funny because the same May 8<sup>th</sup> 2013 Florida Tec, if you look at it and you see the Engineers signature at the bottom and the date you will notice that the document does say 16057 but what was submitted for the documentation for Miami Beach is the exact same document with a different signature, that is a fraudulent document both of these documents are fraudulent and both places were investigated. Mr. Arguelles stated he has a collection of fraudulent documents used by Zion Tile Corporation. He stated his complaint is from two years, he has provided Mr. Madani a long list of things he finds very inconsistent on the surface very fraudulent from the documents requested then send you a list of your concerns, he is asking the Commission to please give them an investigation, it has been two years they have provided substantial documentation and if 61G does not allow him to be identified as a substantially affected individual, he knows that 61G allows for an investigation in light of the fraudulence here. He said if you compare the Miami Beach document and take a look at the engineering report which is the May 8<sup>th</sup> engineering report and then take handout # 6 for the investigation into Mendavia and if you look at the same page May 8<sup>th</sup> that was also present to get their butts out of the sling on that investigation you will find the engineering signature changed a little and you will also see the date change a little. Mr. Arguelles stated these were certified documents to the authorities having jurisdiction and this is a big problem.

Chairman Browdy thanked Mr. Arguelles for his comments and stated he appreciated his frustration, but did not know what action if any the Commission can take. He said the POC has made a recommendation and we are going to review the recommendation of the POC.

**Committee Reports and Recommendations (cont.):**

Mark Zehnal, FRSA stated he did listen to the POC Teleconference and did not realize that this was going to happen today but one suggestion would be, he knows the staff and the POC here keep saying this is not a Florida issue or product approval issue it is a Miami-Dade County NOA issue, but just taking the fact of the integrity of the Miami-Dade NOA system the steps that they are taking to deal with this problem needs to be considered. He said maybe reaching out to the BOAF and asking them to ask their people if maybe some permits were pulled during this time frame that was spoken about just to see if something actually has happened under the Florida Product Approval. Mr. Zehnal stated this is just a thought he had and also because he does represent the contractors of this State, roofing contractors that may sell this product and if there is an issue fine they need to know about it and if there is not an issue then it is just as well. He said this is just a suggestion the Commission might want to consider.

Commissioner Stone stated that the POC under the Attorney voted to suggest the dismissal of the investigation and even though many of them on the POC think there maybe there was substandard roofing products in the market for this company, they decided it was a Miami-Dade NOA issue and not a Florida Product approval issue so he does make the motion to dismiss the complaint. The motion was previously seconded by Commissioner Compton.

Commissioner Stone stated he does feel guilty voting for this.

Commissioner Compton stated the POC does not feel that there is an issue with the product, the problem is all of the information provided involves NOAs and does not involve product approval numbers and that is the issue. He further stated they are not saying that there is not a problem we are saying we cannot do anything because there has not been any evidence that there is a problem with the Product Approval Number and don't think they do not think that there is something going on.

Ms. Hammonds stated she would like to give some comfort level to the Commission. She advised an investigation was under taken that is how we discovered that at one time Keystone which is a quality assurance agency had done a suspension of their quality assurance and have since re-instated that and are requiring random testing. She said Mr. Gascon under the NOA on testing based on her recollection from the last POC meetings on two different batches and one survived fine but one did not but this company also serves places like Texas that do not have the requirements that we do. Ms. Hammonds said as Commissioner Compton previously stated he looked at the documentation and saw the NOA as the issue and is therefore outside of the jurisdiction of the Commission but to alleviate some of the concerns there was an investigation conducted and quality assurance is back on board and everything else would be under the NOA.

**Committee Reports and Recommendations (cont.):**

Chairman Browdy addressed Mr. Arguelles and the position of the Commission.

Mr. Arguelles stated this was information was provided two years ago and they are all under product approval numbers and that is absurd.

Chairman Browdy stated it is all a matter of jurisdiction.

Chairman Browdy asked for the vote of the recommendation of the POC. The motion passed unanimously.

Commissioner Bassett stated he was trying to stop Mr. Arguelles and tell him that if he felt the engineers were not doing their job or were wrong they should report them to the State Professional Engineer Board and let them investigate it.

Mr. Arguelles was speaking from a distance and not at the speaker table; most of his comments are inaudible.

Mr. Blair advised this issue is now off of the table for discussion. He said that Mr. Arguelles could possibly speak under public comment.

Chairman Browdy stated we will now hear from the Special Occupancy TAC.

**[Special Occupancy Technical Advisory Committee](#)**

Commissioner Phillips provided a brief summary of the TAC meeting held via teleconference on June 9, 2015.

Commissioner Phillips entered a motion to approve the TAC report. Commissioner Frank seconded the motion, the motion passed unanimously.

**[Structural Technical Advisory Committee](#)**

Commissioner Schock provided a brief summary of the TAC meeting held via teleconference on June 10, 2015.

Commissioner Schock entered a motion to approve the TAC report. Commissioner Compton seconded the motion, the motion passed unanimously.

**Consider Approval of Energy Code Compliance Software for the 5<sup>th</sup> Edition (2014) Florida Building Code, Energy Conservation ([Commerical](#)) ([Summit Software](#)) ( [Residential](#)) ([EG Summit Software](#))**

Chairman Browdy stated with the implementation of the 5th Edition (2014), Florida Building Code becoming effective on June 30, 2015 the Commission needs to approve the Energy Code Compliance Software for the 5th Edition (2014) Florida Building Code, Energy Conservation. He advised that Commissioner Smith, Energy TAC Chair, will review the Energy TAC's recommendations, and Mo will provide any technical background needed and answer members' questions.

Commissioner Smith stated the Energy TAC recommended approval of the software.

Commissioner Bassett asked if the software included standard energy code calculations that are equivalent to manual J.

Rob Vieira, Florida Solar Energy Center stated that they have a version of the software that just does the Code pretty much, but if people want to pay extra we have a version that includes manual J.

Commissioner Bassett stated it does include manual J calculation.

Mr. Vieira stated there is a version of their software that does manual J.

Commissioner Bassett stated the motion should include that language for the manual J.

Mr. Madani stated no the Commission is only charged with responsibility of the ruling the software of manual calculations not the load calculations. Mr. Madani stated they he did not believe the Commission should go there.

Commissioner Bassett stated yes he did and the reason is there is at least one Code Official that he knows that will not accept the Solar Energy software for doing the manual J calculations and he insist that he get manual J. calculation and this is in Energy Code and says "perform the manual J calculation or equivalent and he is accepting no equivalent unless we say what an equivalent is, he won't accept it.

Mr. Winters advised Commissioner Bassett that the concern is that manual J calculations is a private for purchase item that we do not have the authority to approve and he asked Mr. Madani if that was correct.

**Consider Approval of Energy Code Compliance Software for the 5<sup>th</sup> Edition (2014) Florida Building Code, Energy Conservation ([Commerical](#)) ([Summit Software](#)) ([Residential](#)) ([EG Summit Software](#))**

Mr. Madani stated first of all the manual load calculations manual J and equivalent is left to the Building Official to approve as equivalent. He further stated that in the Energy Code the only thing that the Commission is charged with is to approve the simulation calculation for the Energy Code not the load calculation, we have no authority within the Code to give the Commission that authority to approve load calculations.

Mr. Winters stated as an Executive Agency we have not been delegated the authority to approve the manual J calculations created by a company if it is FSEC or anyone else, our authority is limited to the approval of the actual energy calculation.

Commissioner Bassett stated he would bring in a little history, a while back he brought up a recommendation for a revision which would give an alternate for a Mechanical Engineer or Architect to allow non-ventilated attics and the Commission at that time stated at least one Building Official stated that is covered in alternate means and methods and we don't have to do that. He said I come back three years later and say not a single Official accepted that and therefore we need to put it in the Code. Commissioner Bassett said we've got things in the Code where Officials are not accepting alternates and we need to do something about it and let them know there are alternates that can be used and he cannot insist on one in particular.

Commissioner Smith stated right now all we are here to do and are charged with is approving the Code Simulation Software.

Commissioner Calleja stated that he had two questions of Robin, one we did modify or delay enforcement of the mechanical ventilation and blower door portions of the Code, that is going to affect the software or portions of the software. He asked if they will be able to modify the software in time.

Chairman Browdy stated the Code has not changed, we have simply delayed action.

Commissioner Calleja stated if you are going to run an energy gauge simulation you have to enter the blower door results and the mechanical ventilation into the software, so if we don't change that right now you enter 5 just to get a result so is that going to be modified.

Mr. Vieira stated the software that the TAC approved and is before you and the Commission tested is the product that will be released. He said that the work around for the change that was approved today is that they do have to 5HCH50 per hour as they won't actually know what they are testing and what the result is because it is not going to be tested. Mr. Vieira said if you enter 5 because the Energy Code says you have to enter 5 or less that is what is in there, you don't

**Consider Approval of Energy Code Compliance Software for the 5<sup>th</sup> Edition (2014) Florida Building Code, Energy Conservation ([Commerical](#)) ([Summit Software](#)) ([Residential](#)) ([EG Summit Software](#)) (cont.):**

need to enter mechanical ventilation because it has to be less than 5 to show mechanical ventilation. He said if they enter 5 they will not get more credit than they would for 5 and they don't have to enter that what happens is the form that gets printed out at time of permits says at the bottom for the Code Official that they must get a test report, so part of the education along with the 90 day delay, he would suggest whatever notices go out will include Building Officials to let them know that does not have to be received or watch after the end of the 90 days. There is nothing stopping them at time of permit.

Commissioner Schock asked about the availability to the public, engineering and contracting ability.

Mr. Vieira stated if approved today, it should be ready by Tuesday.

Chairman Browdy stated he needed a motion to approve the Energy Code Compliance Software for the 5th Edition (2014) Florida Building Code, Energy Conservation, specifically EnergyGauge Summit 5.1 for demonstrating compliance with commercial building energy requirements and EnergyGauge USA 4.0 for demonstrating compliance with residential building energy requirements.

Commissioner Smith entered the motion as stated by the Chairman. Commissioner Schiffer seconded the motion. The motion passed unanimously.

**Review and Approval of Commission's Fiscal Year 2014-2015 Annual Report:**

**[Annual Report](#)**

Chairman Browdy stated that the Commission received a Summary of Issues and Recommendations for Inclusion in the Annual Report at the April meeting. He said that today the Commission will review any legislative recommendations and approve the Commission's Fiscal Year 2014-2015 Annual Report, and our plan as always, with your support and approval, is for the Chair to review and approve the final draft of the Annual Report, ensure completeness and accuracy, and approve the Report for submittal to the Legislature and Governor. Chairman Browdy stated Mr. Blair will provide an overview of the Report for the Commission.

Mr. Blair reviewed the Draft FY 2014 2015 Annual Report with the Commission.

**Review and Approval of Commission's Fiscal Year 2014-2015 Annual Report (cont.):**

Commissioner Bassett entered the motion to adopt the Commission's Fiscal Year 2014 – 2015 Annual Report, including any Commission actions taken during the June 19, 2015 meeting, and to charge the Chairman with reviewing and approving the Final Report prior to submittal to the Legislature and Governor. Commissioner Schilling seconded the motion. The motion passed unanimously.

**General Public Comments:**

Linda Patrick, BOAF in general. She stated it was a general consensus not necessarily voted on by the Executive Board, but if you are planning on proposing revising some appropriate rules they would like to suggest that the Rule allowing declaratory statements and interpretations during the six months waiting period so that all stake holders can be better prepared to follow the new code.

Jamie Gascon, Miami-Dade stated there were two things he wanted to point out. He said one is the consideration that needs to be given to products that receive an e-mail for example indicating a finalization date of May 1<sup>st</sup> and if you do not do something by that date some action will be taken. Mr. Gascon stated apparently staff did not take that action, there is a particular case where FL 12875 that was basically deferred during this meeting that continued to have an approval status, these are things that staff is sending out a notice to the applicant that they are going to take certain action by a certain date or it will trigger a status change in the file. He said if the action is not taken stick to it and impose because if a product continues to show approved out there for all we know the Company is out of business and the notice is still showing them approved.

Mr. Gascon continued by saying that the Commission needs to look at and obtaining or refining a more robust investigative process. He said that some of the issues and complaints that have been brought before you by the same proponent seem to be caught in the process and it looks like it is the process but you need to take a closer look as there may be merits in there. Mr. Gascon said there was reference to some FL numbers and even jobs that were using those FL numbers and he thinks they need to take a closer look at things, just some advice in that regard.

**Commission Member Comments and Issues:**

Commissioner Bassett stated he received e-mails from the two TACs he is on to download the red line portion of the ICC Code that is affected by those to be able to have access. He said specifically the Energy Redline, even though he is not on that TAC he would like to follow along.

Mr. Madani stated with the ICC providing free copies of the Code to the Commissioners, due to costs they are sending only the portions to Commissioners for the TACs they serve on. He said if he goes back to ICC for the whole thing they will not do that.

Commissioner Schock stated as a dual TAC member he received the same twice.

Mr. Madani stated send special request to him.

Commissioner Schiffer stated today was a tough trail and he wanted the Chairman to know that he did an excellent job sheparding us through it.

Commissioner Gross stated the city he lives in sent out a letter and he had to disclose that he was one of the 3000 people that received one, where it was a utility amendment that affected a building code item and they don't have a local amendment. He said he has shown it to staff and they have helped him before with the City in assistance to gain their local amendments. Commissioner Gross stated he wanted to echo Commissioner Schiffer's statement regarding the Chairman's handling of the meeting today.

Mr. Winters addressed the Commissioners advised them we are at the end of the fiscal year which means if we do get your travel reimbursements in by about Monday or Tuesday, otherwise there is a long process for payment.

**Next Commission Meeting Overview and Issues:**

Daytona Beach at The Plaza, Workshop on the 17<sup>th</sup> and Plenary on the 18<sup>th</sup>.

**Adjournment:**

The meeting adjourned at 5:06 following a unanimous vote from the Commission