

000STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
October 2, 2001**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:15 a.m., on Tuesday, October 2, 2001, at the Rosen Centre Hotel, Orlando, Florida.

Commission Members Present:

Raul Rodriguez, Chairman

Dan Shaw

Sam Walthour

Craig Parrino

Francisco Quintana

George Wiggins

John Calpini

Leonard Lipka

Christ Sanidas

Karl Thorne

Medard Kopczynski

Stephen Corn

Jim Mehlretter

Bob Leonard

Ed Carson

Suzanne Marshall

Steven Bassett

Dr. Diana Richardson

Peggy Harris

Michael McCombs

Nick D'Andrea

Commission Members Absent:

Richard Browdy

Others Present:

Suzanne Schmith, Legal Advisor

Kathy Butler, Legal Advisor

Jim Richmond, Legal Advisor

Rick Dixon, Executive Director

Jeff Blair, FCRC

Ila Jones, Program Administrator

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WELCOME, INTRODUCTIONS

Chairman Rodriguez opened the meeting by offering a brief overview of the meetings' tasks. He reminded the Commissioners that only the November and December meetings remain to finalize the recommendations on the Legislative assignments to include the Report to the Legislature in January.

AGENDA REVIEW AND APPROVAL

Mr. Blair conducted a facilitated review of the meeting's agenda. (Please see *Facilitator's Report* Attachment.)

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

REVIEW AND APPROVAL OF AUGUST 27-28, 2001 MEETING MINUTES

Commissioner Wiggins motioned approval of the August minutes. Commissioner Bassett seconded the motion and made note that the spelling of his name should be corrected. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND APPROVAL OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair conducted a facilitated review and discussion of the updated workplan. (See *Facilitator's Report* Attachment.)

Commissioner Corn motioned to approve the updated workplan. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

RULE ADOPTION HEARING ON ACCESSIBILITY CODE AMENDMENTS (9B-7)

Mr. Blair conducted a facilitated review of the Rule Adoption Hearing Process. (See *Facilitator's Report* Attachment.)

PUBLIC COMMENT

Larry Schneider, AI of Florida

Mr. Schneider offered comment in relation to the application for waiver. He stated he would be submitting his comments in writing via email. (See *Public Comment Attachment*.)

Commissioner Lipka motioned to recess the Rule Hearing. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing recessed.

**RULE HEARING ON CODE REFINEMENTS NOTICE OF CHANGE
(AMENDMENTS TO FBC ADOPTED BY REFERENCE 9B-3)**

PUBLIC COMMENT

Summer Pfeiffer, Legislative Advocate, Florida League of Cities

Ms. Pfeiffer offered comment expressing the concerns of the Florida League of Cities regarding the negative impact the proposed Code will have on Florida's governments and communities. (See *Florida League of Cities, Inc. Letter to Florida Building Commission, September 28, 2001 Attachment*.)

Bob McCormick, Building Officials Association of Florida, Inc.

Mr. McCormick distributed to each Commissioner a copy of a letter reflecting BOAF's position regarding the Code. (See *Building Officials Association of Florida, Inc. Letter to Florida Building Commission October 2, 2001 Attachment*.)

Mr. McCormick asked legal if the refinements for Section 553.79(1) poses a conflict with that statute. He then referenced Chapter 468 of the Code and asked if the proposed refinements also pose a conflict for Chapter 468 604(1)(a).

Ms. Schmith responded that the issue is that Section 553.79(1) sets out a general rule that work shall not begin without a permit in the State of Florida. She stated that during the past Legislative session, the Legislature assigned to the Commission the duty to determine the standards and criteria which would allow work to begin prior to the completion of plans review. Ms. Schmith stated that the most recent pronouncement will govern in this issue.

Mr. McCormick stated that although the statute authorizes the Commission to establish standards and criteria for certain preliminary construction to begin and expressed that his organization does not support the idea that applying for a permit is a reasonable standard. He then asked Ms. Schmith to address Chapter 468.604(1)(a) and any conflicts there. Mr. McCormick stated that the members of his organization were concerned whether they would be violating the law according to this statute.

Mr. Richmond replied that the provision 468 states that permits cannot be issued until plans review is completed. He stated that the standards established by the Commission do not require the building official to issue permits prior to completion of plans review.

Mr. McCormick countered that his understanding of the reading of that statute is: "...it is the responsibility of the building official and the plan reviewer to complete a plan review before the permit is issued."

Mr. Richmond agreed then stated that the requirements in the Code and the requirements in 553.79 do not require issuance of a permit prior to plan review.

Commissioner Harris offered comment that she concurs with Mr. McCormick regarding the early start permitting issue.

Mr. McCormick concluded that Chapter 713 of the Florida Statutes is the Construction Lien Law. He stated that the law requires that a Notice of Commencement be recorded with the County Clerk's Office prior to commencement of work. He furthered that the law provides certain financial protection for subcontractors and materials suppliers at job sites.

Commissioner Kopczinski stated that the Florida Building Board of Codes & Standards commissioned a study of the permitting process many years ago through FAMU. He stated that the number reflected was 98% of all permits are rejected for Code violations and urged the contractors to have concern about beginning work without a permit.

Commissioner Lipka stated that there is a danger when unethical contractors are at issue.

Richard Unger, City of Orlando Planning Official

Mr. Unger offered agreement with Ms. Pfeiffer and Mr. McCormick. He stated that the City of Orlando appreciates any attempts to facilitate

the building and development process, however not at the expense of public safety or at the expense of their jurisdiction retaining the character of their community such as historic buildings, historic neighborhoods, wetlands, etc.

Mr. Unger referenced a case in Palm Beach citing a builder who constructed apartment buildings contrary to the Comprehensive Plan and the city ordered the buildings demolished. He stated that the developers were relying on a building official's statement and expressed that city officials should not be put in that position.

Mark Wylie, Associated Builders and Contractors, Inc.

Mr. Wylie offered comment in favor of the refinements. He stated that it benefits the consumer. He stated that the early start is at the risk of the licensed contractor and offered the support of ABC.

Jay Evans, Town Manager, Oakland, Florida

Mr. Evans offered a brief description of Oakland, Florida. He expressed concern that also at risk with the early start are specimen trees, specifically referencing live oaks. He asked that the Commission reconsider the proposed changes due to the potentially great ramifications which could result.

Roland Holt, Palm Beach County Building Official

Mr. Holt stated that in the verbiage being discussed, there is no restriction to "licensed contractor." He stated that the Palm Beach County Building Code Advisory Board recently held discussion on this subject and the majority of the Advisory Board entered that the building official would be held responsible.

Mr. Holt then referenced a second group, an Ad Hoc Committee for a privatization statute concerning permitting, plan review, and inspections. He furthered that an interesting definition had been established for the application for quick permit by affidavit. Mr. Holt stated that it had been decided that the application for quick permit must be completed and must have all approvals from outside agencies. He suggested that defining the word application could clarify the issue.

Neil Melick, Building Officials Association of Palm Beach County

Mr. Melick offered support for the League of Cities position on the issue. He stated that his organization views it as a conflict in law.

Commissioner Lipka motioned to recess the hearing. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing recessed.

ADDITIONAL RULE ADOPTION HEARING ON PRODUCT APPROVAL SYSTEM (9B-72) PRODUCT APPROVAL AD HOC REPORT AND RECOMMENDATIONS

Mr. Blair offered a brief facilitated review the process for the Rule Adoption Hearing and the Ad Hoc's recommendations. (See *Facilitator's Report* Attachment.)

Chairman Rodriguez presented the report of the Product Approval Ad Hoc Committee. (See *Product Approval Ad Hoc Report and Recommendations* Attachment.)

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

COMMISSION DISCUSSION/DECISION ON PUBLIC HEARING COMMENTS

Mr. Dixon reviewed each public comment and identified the Ad Hoc's recommendation. (See *Rule 9B-72-010 Definitions* Attachment.)

Commissioner Thorne referenced page 29, "professional engineer," and noted that "licensed engineer" would be changed throughout the document.

PUBLIC COMMENT

Peter Billings, Building Code Consultant, Sarasota, Florida

Mr. Billings referenced 9B-72.040(1), page 8 of the Rule document. He stated that he had prepared a modification to address some of the concerns on the wood products. (See *Peter Billings Proposed Modification* Attachment.)

Commissioner Wiggins asked for clarification regarding the location of the section being discussed.

Mr. Billings offered clarification and read the proposed

modification to the Commission.

Commissioner Wiggins asked for more detailed description on the recommended changes.

Mr. Billings identified the location of the item at issue and described in detail his changes.

Lorraine Ross, Florida Building Code Alliance

Ms. Ross wanted to publicly thank the members of the Product Approval Ad Hoc Committee for the work accomplished in the meeting. She urged the Commission to adopt the recommendations of the Committee and offered appreciation for allowing her organization to participate as much as it has.

Keri Hebrank, Florida Building Materials Association

Ms. Hebrank expressed concern regarding a couple of outstanding issues her organization would like to see addressed. She stated that there was concern about the local validation process and regarding the use of a standardized checklist and application form for that process. She continued that the removal of the term "certification mark" could be problematic for FBMA, and stated that the \$300 fee could be too high. Ms. Hebrank requested a strong commitment from the Commission to re-evaluate the fees. She continued by stating that the issue of the definition of "structural components," is very important to her group. Ms. Hebrank then expressed concern regarding the administration of the changes.

Commissioner D'Andrea motioned to recess the hearing. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

BREAK

Chairman Rodriguez called for a five-minute break at 9:42 a.m.

**CONTINUATION OF RULE ADOPTION HEARING ON
ACCESSIBILITY CODE AMENDMENTS**

Commissioner Bassett motioned to re-open the Accessibility Code Amendments Rule Adoption Hearing. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous.

Commissioner Calpini motioned to close the hearing. Commissioner Leonard seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CONTINUATION OF RULE ADOPTION HEARING ON CODE REFINEMENTS NOTICE OF CHANGE

Commissioner Calpini entered a motion to re-open the Rule Adoption Hearing on the Proposed Changes to the Approved Code Refinements. Commissioner Thorne seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing closed.

Commissioner Bassett motioned to close the hearing. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing closed.

CONTINUATION OF RULE ADOPTION HEARING ON PRODUCT APPROVAL SYSTEM

Commissioner Bassett motioned to re-open the Rule Adoption Hearing on Product Approval System. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing closed.

Commissioner Bassett motioned to close the hearing. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried, hearing closed.

CONTINUATION OF COMMISSION DISCUSSION/DECISION ON PUBLIC HEARING COMMENTS

Chairman Rodriguez explained the process and guidelines for Commission discussion and decisions on public comments.

Mr. Blair interjected that public comment was received earlier during the meeting from Mr. Schneider. He then reiterated the public comments from Mr. Schneider.

Commissioner Lipka offered clarification of the terminology used to describe full-size drawings as it relates to full-scale drawings.

Ms. Butler offered comment disagreeing with Mr. Schneider's comments relating to hardship criteria.

Commissioner Shaw motioned to discuss full-size drawings for

clarity. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Shaw offered clarification regarding the term full-size drawings. He stated that it should be clear that the drawings are not full-size as could be misinterpreted by the public, rather the drawings are the full-size according to the stipulated scale.

Commissioner Lipka motioned to accept stipulated scale terminology. Commissioner Wiggins seconded the motion.

Commissioner Thorne suggested that a graphic scale be used so that no matter how much the drawing is reduced, it will be to scale.

Chairman Rodriguez stated that the stipulated scale must be used because reductions of graphic scales are difficult to interpret.

Commissioner Lipka concurred with Chairman Rodriguez.

Vote to approve using "stipulated scale" was unanimous. Motion carried.

Mr. Blair directed the Commission to the public comments regarding Code Refinements.

Mr. Modani directed the Commission to the documents needed to follow the proposed changes as reflected by public comments. (See *Notice of Change to the August 3, 2001 Proposed Changes to the Florida Building Code, September 7, 2001* and *Tracking Chart, Proposed Written Comments on the 2001 Florida Building Code, September 27, 2001 Attachments*.)

Commissioner Wiggins offered referenced the *Notice of Change* document regarding the "upon approval of the building official." He stated that he had assimilated documentation explaining that the statewide requirement allowing early start construction without a permit would cause the state to go backward in terms of eliminating the ability of "one-stop permitting." He then itemized his concerns regarding changes to this section of the Code. Commissioner Wiggins motioned that language be added to reflect staff's recommendations from the last Commission meeting. Commissioner Lipka seconded the motion and requested that the language to be added be read for the Commission.

Commissioner Wiggins stated the language to read: ". . . upon approval of the building official. The scope of work delineated and the

building permit application and plans may be started prior to the final approval and issuance of permit provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the first required inspection.”

Commissioner Bassett stated that the Commission has been discussing the minimum building Code and expressed frustration with why the administrative rules set for jurisdiction cannot include any requirements above and beyond what is stated in the paragraph.

Commissioner Sanidas disagreed and added that change would overrule the local amendments. He stated that the Commission was moving favorably toward better construction throughout Florida and the performance code will help the contractors, architects, and engineers so that when they begin construction, they do not have to stop. He expressed concern that by allowing early start construction without a permit, it is moving backwards from the performance code goal.

Commissioner Corn added that currently the state has many conditions listed throughout and the issue under discussion could be different from regulations in some areas, and in other areas it may not be different. He continued that there are conditions in South Florida where people are doing jobs without a permit due to the problems with obtaining one and the time required in some jurisdictions it takes to obtain a permit. Commissioner Corn stated that he had asked Rusty Carroll in Broward County if he knew of any problems being created by Broward County allowing jobs to begin without a permit. He furthered that it had been in the Broward County building code for fifteen to twenty years and no problems had occurred. Commissioner Corn stressed that by leaving it to the discretion of the building officials, it would allow those officials to use their favoritism. He stated that it was his impression that it conflicts with what is trying to be accomplished under the Code. He stated that in many years as a building contractor he has never had a building official let him off for making mistakes, he stated that he has always had to bring mistakes up to Code no matter what the cost. Commissioner Corn continued that he had never known a building official to hesitate on a stop work order when one is necessary. He urged the Commission to implement the proposed changes to the Code.

Commissioner Kopczinski stated that Commissioner Corn's statement held much merit and suggested that the issue could have been sent before a TAC for substantive review. He proposed that one of the problems with the proposed wording is that it does not restrict the right to contractors, it restricts it to applicants, which includes anybody, including homeowners, who wishes to begin construction. He continued

that in terms of early start permits, there would probably be no problems, however, projects that have been started without approvals or consultation with building departments could create problems.

Commissioner Leonard stated that he is in support of the proposed changes.

Commissioner McCombs asked for clarification regarding the location of Commissioner Wiggins' statement proposed for amendment and in finding it, offered support for the proposed change.

Commissioner D'Andrea commended Commissioner Corn on the eloquence of his comments and concurred with his statements. He stated that there are many areas in the state where there are problems obtaining a permit. He explained that he is a state certified general contractor and worked in the industry for 20 years prior to becoming a building official and stated that he understands trying to get work done when time is of the essence. Commissioner D'Andrea stated that early starts have been done in Tampa for approximately 12 years and that he looks at his role as a building official as being instructive in terms of technical and regulative aspects and what the problems can be if they start early. He stated that the contractor is ultimately responsible if there is a problem with construction or plans for construction. Commissioner D'Andrea urged the Commission to consider that allowing the building official to give his approval first is helping the contractor, not hindering and offer support for the proposed changes.

Commissioner Bassett expressed concern that the wording being used is not in accordance with JAPC guidelines and could be giving unbridled discretion to the building official. He suggested that using the words ". . . after consultation with the building official. . ." would give the chance for a meeting to take place to discuss concerns.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion resulted in 18 in favor and 3 opposed (Bassett, Corn, Shaw). Motion carried.

Mr. Modani asked for clarification from Commissioner Wiggins regarding the wording to be added. He then continued on page two of the Tracking Chart. Each item was considered and action was taken as follows:

Chapter 4, Special Occupancy

(1) FBC-4.1

Commissioner Thorne moved to approve the proposed changes. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

(2) 427.1.1

Commissioner Wiggins moved to approve the proposed changes. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) 427.1.3.2.11

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

(4) 427.1.3.3.2 and 427.1.4.2.8

Commissioner Wiggins moved approval of the proposed changes. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous.

Commissioner Shaw expressed concern that the temperatures had been revised by the Food Code. He stated that the temperatures were incorrect and inadequate and suggested that it could present a problem without scientific data.

Ms. Schmith pointed out that in the comments attached to the Tracking Chart, the range that is currently in the rule is "at least 100 degrees, not to exceed 120 degrees."

Commissioner Shaw reiterated his concern that a minimum temperature of 105 degrees would be too hot for children to wash their hands.

Commissioner Lipka suggested that technical items such as these should go before the TAC before coming to the Commission for action.

Commissioner Leonard stated that the wording would violate Chapter 409, Food Service, where water hotter than 115 degrees must be available.

Commissioner D'Andrea expressed concerns and agreed with Commissioner Shaw's comments, then withdrew his second to the

motion.

No action was taken on (4) 427.1.3.3.2 and 427.1.4.2.8.

FBC-B.4.2 s. 412

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

(5) 427.2

Commissioner Bassett moved approval of the proposed changes. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Modani continued reviewing each comment on the Tracking Chart.

Chapter 10, Means of Egress

FBC-B10.1

Commissioner Kopczinski urged the Commission not to take action on this item pending joint review with the State Fire Marshall to ensure that the two codes are in agreement.

Mr. Modani stated that staff checked both codes and the proposed changes would make the Florida Building Code consistent with the Fire Marshall's Code verbatim.

Commissioner Lipka reiterated that technical changes should be reviewed by the TAC.

No action was taken on Chapter 10.

Chapter 13, Energy Code

FBC-B13.1

Commissioner Bassett moved approval of the proposed changes. Commissioner Corn seconded the motion. Vote to approve the motion resulted in 1 opposed (Lipka) and 21 in favor. Motion carried.

Chapter 31, Special Construction

FBC B31.1 s 3109.1.2

Commissioner Wiggins moved approval of the proposed changes. Commissioner Calpini seconded the motion.

Commissioner D'Andrea asked for clarification.

Mr. Richmond offered clarification explaining that this proposed change is the recommendation of the emergency management department dealing with the flood plain insurance program. He stated that it provides the reader of the Code a reference but does not interfere with local ordinances that have been adopted.

Vote to approve the motion was unanimous.

Commissioner Shaw suggested that if staff would consult the Chair of the appropriate TACs when reviewing public comments it would be helpful to the Commission to know the TAC recommendation.

Commissioner Wiggins motioned to proceed with Rule Adoption on Code Refinement and to file a Notice of Proposed Changes. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous.

Commissioner Wiggins moved to proceed with Rule Adoption on Accessibility Code Amendments and to file a Notice of Proposed Changes. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Wiggins moved to proceed with Rule Adoption on Rules of Procedure. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair directed the Commission back to Code Refinements.

Commissioner Wiggins entered a motion to reconsider Rule Hearing on Code Refinements. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Parrino stated that comment was received from the manufactured lawn storage building industry requesting a change in the requirement for factory inspections of those types of buildings from 50% to 20% of those buildings manufactured. He continued that legal had advised that the Commission could consider that request. Commissioner Parrino furthered that the Committee had discussed this issue and

decided to make a recommendation to add the change to the Code without delaying any Code refinements. Commissioner Parrino then motioned that inspection requirements for manufactured lawn storage buildings be 20%. Commissioner Wiggins seconded the motion.

Commissioner Bassett asked if the change applies to lawn storage buildings only.

Commissioner Parrino confirmed.

Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett motioned to proceed with Rule Adoption on Code Refinements and to file a Notice of Proposed Change. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

Mr. Blair explained the tasks at hand in the Product Approval process.

Mr. Dixon began reviewing the public comments and recommendations referencing again the *Rule 9B-72 comments tracking chart* document. Commission discussion and action on each comment resulted as follows:

(4) (7) (14) (31)
No action.

(13) Commissioner Bassett moved approval of the proposed language. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(14) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(15) Commissioner D'Andrea moved approval of the proposed language. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(16) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(18) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(19) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(20) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(21) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(22)(a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(23) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(29) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.030 Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.040 (2) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3)(a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3)(b) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3)(c) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(4) No action.

(4) (a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(4)(b) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(5) No action.

9B-72.050 (1) No action.

(2) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.060 No action.

1. and 2. Commissioner Bassett moved approval of the proposed combined language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.070 (1) Commissioner Bassett motioned to accept the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(1)(a) Commissioner Bassett motioned approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(1)(b) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(1)(c) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Second part of comment referenced above. No action.

(2) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Second part of comment referenced above. No action.

Final part of comment referenced above. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) No action.

(a) No action.

9B-72.080 (2) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.090 No action on Comments 1 or 2.

(1)(c) Commissioner D'Andrea motioned approval of the proposed language. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous.

(1d) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2c) No action.

9B-72.100 (1) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion.

Vote to approve the motion was unanimous. Motion carried.

(2a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2b) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(4)(a)2. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(4)(a)3. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(5)(a)1. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(5)(a)2. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(5)(a)3. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(6)(d) No action.

9B-72.110 Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) and (4) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.120 Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.130 Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett requested clarification regarding the motion asking if both forms were included in the motion.

Commissioner Parrino requested clarification regarding the forms as well.

Mr. Dixon offered clarification stating that both (4) and (5) will be added back to the rule.

Commissioner Parrino then added that the editorial comments discussed in the Ad Hoc were agreed to be added also. Commissioner Parrino then motioned for approval to add the comments. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.160 (1)(a)(5) No action.

(1) No action.

(1)(b) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(3) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(a)(5) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(b) No action.

(2)(3) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to

approve the motion was unanimous. Motion carried.

(2)(e) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(b) No action.

(2)(c) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(e) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.170 (2)(a) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

(2)(b) 1. No action.

(2)(b) 2. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.180 (1) Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

9B-72.190 Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

General Comments On Rule. Commissioner Bassett moved approval of the proposed language. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

General Comments On Rule. No action.

General Comments On Rule. No action.

Comments On Fees. No action.

Comments On Local Approvals. No action.

Comments On Costs. Commissioner Kopczynski motioned approval of the committee's recommended changes to fees and to review the fee structure after one year and revise as appropriate. Commissioner Lipka seconded the motion. Motion carried.

Comments On Definition Of Product. Commissioner Bassett moved approval of proposed language. Commissioner Lipka seconded the motion.

Commissioner Mehlretter asked if a comma was intentionally omitted.

Commissioner Parrino requested discussion on structural components. He stated that the staff recommended that language be inserted into the Legislation that stated "structural components as defined by the Commission." Commissioner Parrino expressed concern that these types of products may need further discussion. He suggested that creating an exception list for structural components within the Rule may be considered.

Bassett modified his motion to include "by US Department of Commerce standards, shutters and any other items identified by the Florida Building Commission."

Commissioner Lipka accepted the amendment.

Ms. Schmith offered clarification that the Commission has been granted authority to determine which structural components can be approved by Method #1 and which structural components must be approved by Method #2 and #3, according to the law. She continued that it was suggested that these types of components be approved through Method #1. She reminded the Commission that rewriting the Rule doesn't provide a solution because it must go through rulemaking. Ms. Schmith suggested that perhaps there needs to be no action at this time.

Commissioner Bassett stated that he was merely trying to keep it out of the Code due to modifications being allowed only once per year.

He stated that rulemaking can be done any time during the year and modifications can be made through that venue.

Commissioner Bassett modified the motion to his original motion. The amendment was accepted. Vote to approve the motion was unanimous.

Commissioner Bassett referenced Page 21, bottom of the right column, language had been tabled and was not addressed again. He stated that the language was approved with a minor change.

Mr. Dixon suggested that for clarification if the issue needs to be addressed, a committee recommendation is not necessary. He then recommended working from Commissioner Bassett's comment.

Commissioner Mehlretter agreed that Commissioner Bassett was correct and the issue needed to be addressed again.

Commissioner Bassett motioned approval. Commissioner Mehlretter seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved proceeding with Rule Adoption on Product Approval and Notice of Proposed Change. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS **Appointment/Reappointment of TAC Members**

Chairman Rodriguez briefly opened discussion on Chair's issues. He stated that regarding the appointment and reappointment of TAC members, he had decided to leave the membership as it is until the Rules of Procedure are finalized and the committee structure is formally in place. He added that at that time he would make the necessary appointments at that time.

Chairman Rodriguez announced the appointment of Commissioner Kopczynski to chair the Rehab Code Ad Hoc Committee.

Chairman Rodriguez stated that the Code should not be delayed and that the Commission should recommend to the Governor and to the Legislature to move forward with the Code.

Commissioner Lipka motioned to recommend moving forward with the adoption of the Florida Building Code as scheduled. Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Chairman Rodriguez directed the Commission to Mr. Neil Melick, acting Chair for the Accessibility Advisory Council.

#3 - Tiki Island Adventure Golf

Mr. Melick stated that the Council recommended to grant the waiver. Commissioner D'Andrea motioned approval of the Council's recommendation. Commissioner Bassett seconded the motion. Vote to approve the motion was unanimous.

#1 Master's Title Search, Inc.

Mr. Melick stated that the Council recommended grant with condition that the second floor would be limited to only five persons. Commissioner Shaw motioned approval of the Council's recommendation. Commissioner Bassett seconded the motion.

Commissioner Thorne stated that he had reviewed the application and that the design indicates more than five people. He suggested that the application be discussed further.

Mr. Long stated that Commissioner Thorne refers to the space on the second floor allowing for more than five people and then agreed that it is large enough for more than five. He continued that the Council was concerned also and chose to grant with conditions.

Chairman Rodriguez stated that the applicants had agreed to the conditions attached to the waiver and suggested that there was not much more that would be necessary to merit approval.

Commissioner Lipka posed that it is one thing to agree to only five people on the second floor, but stated that it is another issue when the applicant builds seven or eight offices while agreeing to only five people on the floor. He asked how all the space would be used.

Mr. Long addressed responded by stating that the applicant's

answer to that question was that additional space was needed for storage.

Commissioner Corn offered comment stating that the Commission is not in the business of determining how the space would be used. He suggested that a title company may need more storage space than other businesses.

Commissioner Thorne interjected that it is obvious that the spaces marked storage have windows and the spaces marked office have no windows.

Vote to approve the motion to grant resulted in 16 favoring and 4 opposing. Motion carried.

#2 - Sandbar Restaurant and Grille

Mr. Melick stated that the Council recommended to grant the waiver subject to the use of the loft being limited to 10 diners and that the office space is technically infeasible. Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Harris seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#7 - Hippodrome State Theatre

Mr. Melick stated that the Council recommended to grant with condition that vertical accessibility would be provided to the basement area within three years. Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Bassett seconded the motion.

Commissioner Thorne stated for the record that his name is mentioned as consultant in feasibility but his involvement in the project has concluded.

Vote to approve the motion was unanimous. Motion carried.

#8 - TCBY Pretzlemaker

Mr. Melick stated that the Council recommended to grant with the condition that a sign be placed out front stating that there is no access into the building but a window to provide the same services at the street level. Commissioner D'Andrea moved approval of the Council's

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

#9 - CSX Transportation

Council recommended approval with condition that the proposed use and ownership remain the same. Commissioner D'Andrea motioned approval of the Council's recommendation. Commissioner Shaw seconded the motion. Vote to approve the motion was unanimous.

Commissioner Thorne offered comment that in terms of the use of the building, all the training appears to be located on the second floor and asked how it would be accessible.

Mr. Melick clarified that the space was intended for training conductors only which requires a certain amount of physical ability in itself.

Mr. Long interjected that he had questioned the applicant about injured trainers and was not totally satisfied with the answer.

Vote to approve the motion to grant was unanimous. Motion granted.

#4 - The Plaza Resort & Spa

Recommended to deny based on lack of demonstrated technical infeasibility and extreme hardship.

Commissioner Shaw motioned to deny. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#5 - The Acts Bacco Facility

Council recommended to deny. Commissioner Thorne moved approval to deny. Commissioner Walthour seconded the motion. Motion carried.

Don McTarnigan, Applicant Representative

Mr. McTarnigan directed the Commission to the owner of the building.

John Morroco, Executive Director

Mr. Morroco explained the nature of his facility. He also explained that he is a recent member of the disabled community. He then briefly discussed the facility's financial difficulties and problems with providing accessibility. Mr. Morroco requested time to be able to develop grants to raise enough money to install vertical accessibility.

Commissioner Lipka asked how much time would be needed and why the second floor couldn't be delayed until funding was available.

Mr. Morroco replied that the second floor was needed for office space.

Commissioner Shaw requested information from the Council with regard to reconsideration in light of a recommendation to delay rather than deny the grant.

Mr. Harding offered comment that the Hippodrome had just been granted an extension and that the facility was catering to services very needed in the community. He suggested that the applicant be given time to generate funding then come back in three years with either achieving accessibility or proving that it cannot be structurally accomplished.

Commissioner D'Andrea asked if the space on the second floor was only office space or if some treatments were to be administered.

Mr. Morroco stated that some treatments may be conducted but primarily the second floor would be for office space.

Commissioner D'Andrea suggested that the waiver be granted with the condition that the second floor be used for office space only and limited to five people at one time.

Commissioner Thorne withdrew his motion to deny.

Commissioner Richardson motioned that the waiver be granted with the three-year extension and with the provision that the second floor be used for offices only and limited to five or less people. Commissioner D'Andrea seconded the motion.

Commissioner Harris asked whether the building would be feasible for accessibility installation three years down the road.

Mr. McTarnigan replied that the building is feasible.

Mr. Long suggested that the location of the future elevator be submitted in the plans.

Commissioner Richardson offered to amend the motion.

Ms. Butler cautioned the Commission regarding requiring a report on where the elevator would be located.

Commissioner D'Andrea stated that the facility is in his jurisdiction and offered to submit an inspection request to check on them periodically.

Commissioner Leonard requested clarification regarding the motion.

Vote to approve the motion was unanimous. Motion carried.

#6 - Watson Realty Corporation

Council recommended denial. Commissioner Lipka motioned to deny. Commissioner Thorne seconded the motion.

John Kurts, Kur-Star, Inc.

Mr. Kurts stated that he had met with the Council and learned of information that had not been available to him before. He explained that the problem was financial hardship due to increasing the project more than 60%. He stated that the same services and more would be located in the downstairs only.

Chairman Rodriguez asked how many people would be occupying the second floor.

Mr. Kurts replied that up to 25 real estate agents would be on the second floor.

Commissioner Richardson asked what happens when a realtor meets with a disabled individual.

Mr. Kurts replied that there are two conference rooms downstairs.

Commissioner Harris asked how vertical accessibility would be accomplished.

Mr. Kurts stated that a staircase would have to be removed to install an elevator.

Vote to approve the motion to deny resulted in 19 favoring, 1 opposed. Motion to deny carried.

Commissioner Shaw expressed appreciation for the Council and the way the information is provided to the Commission for action on Accessibility Waiver Applications.

REHAB CODE AD HOC COMMITTEE REPORT AND RECOMMENDATIONS

Commissioner Kopczinski reviewed the Rehab Code Ad Hoc Committee Report. (See *Rehab Code Ad Hoc Committee Report* Attachment.)

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

MANUFACTURED/PROTOTYPE BUILDING AD HOC REPORT & RECS

Commissioner Parrino conducted a review of the Manufactured/Prototype Building Ad Hoc Report and Recommendations. (See *Manufactured/Prototype Building Ad Hoc Report* Attachment.)

Commissioner Lipka motioned approval of the report and recommendations. Commissioner D'Andrea seconded the motion.

Mr. Dixon offered clarification that the Rule Hearing could not be held until December due to the public notice and comment period requirements.

Vote to approve the report was unanimous.

Commissioner Parrino added that one other issue needed discussion. He stated that it needed to be determined by the Legislature if exceptions need to be made in terms of the broad categories of

buildings that are exempt from the Code. He suggested that the issue be brought back before the Commission for discussion.

RULES OF PROCEDURE AD HOC REPORT AND RECOMMENDATIONS

Commissioner D'Andrea presented the Rules of Procedure Ad Hoc report and recommendations. (See *Rules of Procedure Ad Hoc Report Attachment*.)

Commissioner Shaw suggested that staff provide to the Commissioners the criteria being voted on.

Commissioner Bassett asked how to get the process started for updated base codes to be inserted into the Code.

Commissioner McCombs stated that it would be 18 months from January.

Commissioner D'Andrea stated that he could not speak to what the code cycle is.

Commissioner McCombs stated that the 1999 electrical code had served as the base code.

Mr. Dixon advised that the requirements of law state the Commission cannot adopt an updated edition of the model code earlier than six months after the adoption by the Model Code Organization. He stated that the issue is whether the Code would stay insync with the base codes as they are updated.

Commissioner Kopczinski offered clarification that updated base codes have been available for approximately a year.

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

EDUCATION AD HOC REPORT AND RECOMMENDATIONS

Commissioner Marshall stated that the Education Ad Hoc Committee did not have a quorum and held instead a workshop. She briefly reviewed the items discussed. (See *Education Ad Hoc*

Discussions Attachment.)

Commissioner Harris stated that she was on the Education Committee and could not find the meeting at the time it was scheduled. She suggested that hotel signage could be better in the future.

POOL AND SPA DRAIN SAFETY SUBCOMMITTEE REPORT & RECS

Commissioner Shaw presented the report of the Pool and Spa Drain Safety Subcommittee report and recommendations. (*See Pool and Spa Drain Safety Subcommittee Report Attachment.*)

Commissioner D'Andrea motioned approval of the report and recommendation. Commissioner Thorne seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ELEVATOR EMERGENCY AD HOC COMMITTEE REPORT AND RECOMMENDATIONS

Commissioner Calpini stated that a quorum was formed with two of the three members on the Committee. He then presented the report and recommendations of the Elevator Emergency Ad Hoc Committee. (*See Elevator Emergency Ad Hoc Committee Report Attachment.*)

Commissioner Lipka motioned approval of the report and recommendations. Commissioner D'Andrea seconded the motion.

Commissioner Shaw offered comment that the recent events in New York demonstrated problems with exiting buildings when the elevators are not working.

Commissioner Richardson asked if the Committee considered lifts as well as elevators.

Commissioner Calpini responded that they had not looked at lifts and that it was not planned to do so.

Vote to approve the motion was unanimous. Motion carried.

ACCESSIBILITY TAC REPORT AND RECOMMENDATIONS

Commissioner Richardson presented the Accessibility TAC report

and recommendations. (See *Accessibility TAC Report* Attachment.)

Commissioner Lipka motioned approval. Commissioner Thorne seconded. Vote to approve was unanimous. Motion carried.

**CONTINUATION OF ADDITIONAL RULE ADOPTION HEARING ON
PRODUCT APPROVAL SYSTEM (9B-72**

Mr. Dixon presented additional public comment on Product Approval to be read into the record. (See *Architectural Manufacturers Association of Florida, Inc. Concerns and Problems with Product Approval Rule 9B-72* Attachment.)

PUBLIC COMMENT

No one approached for public comment.

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

Mr. Blair conducted a facilitated review of the Committee assignments and issues. (See *Facilitator's Report* Attachment.)

SUMMARY AND REVIEW OF MEETING WORK PRODUCTS

Chairman Rodriguez briefly reviewed the meeting work products. He stated that a Rule Development Workshop had been conducted for the Prototype Buildings Program. He continued that Accessibility Code Amendments Rule Adoption Hearing had been conducted, as well as a Rule Hearing on Notice of Change for Code Refinements. He furthered that the Commission had conducted an Additional Rule Adoption Hearing on Product Approval System and had considered Accessibility Waiver Applications.

Chairman Rodriguez stated that the Commission had reviewed and adopted and updated the Commission Workplan, and had considered and decided on the Chair's discussion issues. He stated that the following Ad Hoc Committee reports and recommendations had been considered and decided on: Rehab Code, Prototype Building, Rules of Procedure, Product Approval, Education, and the Pool and Spa Drain Safety Subcommittee. Chairman Rodriguez continued that the Commission had

also considered and decided on the Elevator Emergency Access Ad Hoc Committee and on the Accessibility TAC Report and Recommendations, and had discussed and decided on Committee assignments and issues for the next Commission meeting.

ADJOURN

No further business was discussed. Meeting was adjourned at 1:02 p.m.