

**FLORIDA BUILDING COMMISSION  
HUTCHINSON ISLAND MARRIOTT  
555 NE OCEAN BOULEVARD  
STUART, FLORIDA 34996  
Plenary Session  
December 12, 2017  
8:30 AM**

**MINUTES**

**COMMISSIONERS PRESENT:**

James Schock, Chairman  
James Batts  
Steve Bassett  
Donald Brown  
Bob Boyer  
Oscar Calleja  
Jay Carlson  
David Compton  
Nan Dean  
Kevin Flanagan  
Shane Gerwig

David Gilson  
Richard Goff  
Jeff Gross  
Robert Hamberger  
Brian Langille  
Bradley W. Schiffer  
Frederick Schilling  
Drew Smith  
Jeff Stone  
Brian Swope  
Don Whitehead

**COMMISSIONERS NOT PRESENT:**

Kelley Smith Burk  
Charles Frank

Hamid Bahadori  
Diana Worrall

**OTHERS PRESENT:**

Thomas Campbell  
Mo Madani  
Chris Howell

Justin Vogel  
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**

Acting Chairman Schock welcomed Commissioners, staff, and members of the public to Stuart and the December 12, 2017 plenary session of the Florida Building Commission. He stated the primary focus of the December meeting is to consider 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.

Acting Chairman Schock stated that members of the public are requested 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 advised 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). Acting Chairman Schock stated that if they want 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 said that public input is welcome, but should be offered before there is a formal motion on the floor. Acting Chairman Schock asked that all please remember to keep all electronic devices turned off or in a silent mode and thanked them for their cooperation.

Acting Chairman Schock stated that there are also buff colored "*Public Comment Forms*" on the speakers' table that can be used to provide written comments. He said all written comments will be included in the Facilitator's Summary Report and asked that they please give their completed "*Public Comment Forms*" to Jeff Blair.

Acting Chairman Schock advised that 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 and stated if your board participates you may sign-in on the kiosk laptop provided in the meeting room.

**Roll Call:**

Acting Chairman Schock asked that Jeff Blair perform roll call, a quorum was met with 22 members present.

**Agenda Review and Approval:**

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

Jeff Blair welcomed participants to the December Plenary Session and introduced the agenda noting that there will be no rule hearing as none was requested therefore it will be removed as an agenda item.

A motion was entered by Commissioner Schilling to approve the agenda as amended. The motion was seconded by Commissioner Schiffer. The motion passed unanimously with a vote of 22 to 0 in favor.

**Approval of Previous Meeting Minutes and Facilitator Report for October 9-10, 2017 and Teleconference Call for October 17, 2017.**

Acting Chairman Schock requested a motion for approval of the October 9-10, 2017 and October 17, 2017 Facilitator's Summary Report and Meeting Minutes.

Commissioner Whitehead advised that the October 10, 2017 minutes will need a revision to add him as present at the meeting.

Staff will correct and send revised Minutes for posting.

Commissioner Schilling entered a motion to approve approval of the October 9-10, 2017 and October 17, 2017 Facilitator's Summary Report as posted and October 9 -10, 2017 minutes with requested revision to October 10, 2017 minutes and October 17 minutes as posted. The motion was seconded by Commissioner Schiffer. The motion passed unanimously with a vote of 22 to 0 in favor.

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

Acting Chairman Schock stated as most of you likely already know Chairman Browdy resigned from the Commission effective October 23, 2017 due to health issues. He stated the Chairman served on the Commission and its predecessor body the Board of Building Codes and Standards from June 28, 1988 until October 23, 2017. Chairman Schock said that Dick exemplified public service by effectively, fairly and civilly representing the homebuilders until his appointment as chair in October of 2011. He also stated that Dick served on the Commission and Board of

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

Building Codes and Standards for a total of 29 years, and served as Chair of the Commission for 6 of those years. Chairman Schock said that Dick was an outstanding, fair and objective leader and will be missed by all. He said that on behalf of the Commission we thank Dick for his dedication and service to the citizens of Florida.

Acting Chairman Schock advised that Chairman Browdy appointed him to serve as vice-chair of the Commission shortly after he was first appointed by the Governor as the Commission's Chair. He stated over the years he has had to occasionally serve as acting chair in his absence and at the Chairman's direction prior to his resignation he will serve as the acting chair until the Governor makes an appointment.

**Appointments:**

Acting Chairman Schock stated there were no appointments at this time.

**Residential Construction Cost Impact Workgroup:**

Acting Chairman Schock stated at the October meeting Chairman Browdy reported that at the request of stakeholders he was appointing a Residential Construction Cost Impact Workgroup. We will make the appointments during the February 13, 2017 meeting since the Workgroup will not be meeting until April.

**Commission Milestones:**

Acting Chairman Schock reminded everyone that the updated Commission Milestones documents are linked to the Agenda and on the BCIS.

**Executive Director Announcements and Discussions:**

Mr. Campbell stated that there is a card attached to the sign in roster for the Commissioners, this card is for Chairman Browdy and once circulated among the members it will be placed on the speaker table for anyone in the audience to sign if they so wished.

Mr. Campbell advised that at the next meeting in February there will be a new seating chart.

**Implementation:**

Mr. Campbell advised that HB 727 Electronic Registry for certification of conformity and remediation plans is fully functional on the BCIS. He stated the site has not been used much as of yet but there has been some activity.

**Executive Director Announcements and Discussions (cont.):**

**New Accessibility Council Member:**

Mr. Campbell stated that there has been a new appointment to Accessibility Council, and she is a former Commissioner. He stated Beth Meyer will be starting her term January 1, 2018 and will represent the physically handicapped. Mr. Campbell stated for the first time in several years the Council has no vacant seats.

**Legislative update:**

Mr. Campbell began his statements with the disclaimer that when we are talking about legislation, the Commission or the Department do not take a position yes or no on any piece of legislation. Mr. Campbell stated when there is a piece of legislation that affects the Commission, the staff and the department analyze the bill and the potential impact and advise the legislative departmental staff of the findings.

Mr. Campbell briefed the Commission on the current bills filed that could have an impact on the Commission and the current standings of those bills at this time.

HB 299 is the bill to reduce the Commission from 27 members to 11 members.

SB 106 is a bill authorizing certain buildings to have specified balcony guard openings.

HB 23 would direct the Commissioner with technical assistance from ACHA to update the current special occupancy standards to include recover care centers.

Mr. Campbell stated that there is a list of bills that speak to the requirement that nursing facilities have emergency power supply available to keep essential functions operational. He provided the list as SB 284, HB327, HB437, SB387, HB479, HB 655 and SB 896. Mr. Campbell advised that all of these bills speak to the same issue with some variances in each.

HB 589 is a bill regarding public meetings and specified requirements allowing the public's right to speak and how this could affect the process of the Commission meetings should it pass.

HB 727 is a bill regarding permit fees and requirements on the new process.

Mr. Campbell stated that the first meeting of the Lightning Protection Workgroup will be the day prior to the February Commission meeting which will be February 12, 2018 an agenda will be started within a few weeks.

**Executive Director Announcements and Discussions (cont.):**

Mr. Campbell told the Commissioners that we had received news on Friday that one of the prior staff members Mary Kathryn Smith had passed away. He stated he knew that she had worked with the group for numerous years and at this time we have not received any information on arrangements for her but will send this information out when it is received.

Mr. Campbell stated the Legislative Conference Calls scheduled for 2018 will tentatively be (all at 2pm): January 5th, January 26th, March 2nd, and March 16th.

Commissioner Schilling entered a motion to conduct the Legislative Conference calls for the 2018 session beginning at 2 pm on January 5th, January 26th, March 2nd, and March 16<sup>th</sup>. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 22 to 0.

**Accessibility Waivers:**

Acting Chairman Schock advised that the Commission will now consider this month's requests for accessibility waivers. Justin Vogel will serve as legal counsel and present the Accessibility Advisory Council's recommendations.

**Greenbrier Hotel – Waiver 277 - 3101 Indian Creek Drive, Miami Beach 33139 – The Council recommended**

1. For the ground floor, the Council voted to recommend that a waiver for vertical accessibility be granted for the northern end due to technical infeasibility and historical significance, and that a temporary waiver for vertical accessibility be granted for the southern end until a lift can be installed.
2. For floors 2 through 4, the Council voted to recommend granting a waiver for elevator cab dimensions, on the grounds of technical infeasibility and historical significance.
3. For the basement, the Council recommended granting a waiver for vertical accessibility due to technical infeasibility and the historical significance of the structure.

Mr. Vogel presented the Council's recommendations as listed above, however, he stated in reference to floors 2-4 he does not feel this is a Florida specific requirement that the Commission has authority to waive, so he encouraged the Commission to grant a waiver for vertical accessibility rather than elevator cab dimensions on floors 2-4 based on technical infeasibility and historical significance if this was the Commission's pleasure..

Commissioner Schiffer entered a motion to accept the Council's recommendation with the modification entered by Justin Vogel, Legal Counsel. Commissioner Schilling seconded the motion.

**Accessibility Waivers (cont.):**

Commissioner Gross inquired about the temporary waiver and if the Commission can even grant a temporary waiver.

Mr. Vogel responded to Commissioner Gross.

The motion passed unanimously with a vote of 22 to 0.

**8635 Harding Ave. Apartments - Waiver 272 - 8635 Harding Ave. Miami Beach 33141** –  
The Council recommended granting the request for waiver on the grounds of economic hardship.

Mr. Vogel presented the waiver.

Commissioner Schilling entered a motion to accept the recommendation of the Council to grant based on economic hardship. Commissioner Hamberger seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Good Viberations Only LLC – Waiver 280 - 809 Railroad Ave. Tallahassee 32310** -  
The Council recommended granting based on economic hardship.

Mr. Vogel presented the waiver.

Commissioner Schiffer entered a motion to accept the recommendation of the Council to grant based on economic hardship. Commissioner Schilling seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**MSFM 17002010, Pepper Building, Garage #34 – Waiver 276 - 111 W. Madison Street Tallahassee 32399** - The Council recommended denying the petition as the Commission does not have the authority to grant.

Mr. Vogel presented the waiver.

Commissioner Gerwig entered a motion to accept the recommendation of the Council to deny the petition as the Commission does not have the authority to grant. Commissioner Schiffer seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Product and Entity Approval:**

Acting Chairman Schock advised that Commissioner Stone would present the POC's recommendations for entity approvals and the consent agenda for products recommended for approval, and Jeff Blair would present the POC's recommendations for product approvals with discussion and/or comments.

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

Commissioner Stone entered a motion to approve the 9 product approval entities as posted. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**Product Approval Applications without Comments consent agenda under 2014 Code:**

Commissioner Stone entered a motion to approve the 10 products for the 2014 code on the consent agenda list. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**Product Approval Applications without Comments consent agenda under 2017 Code:**

Commissioner Stone entered a motion to approve the 940 products for the 2017 code on the consent agenda list. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

Jeff Blair presented the POC's recommendations for product approvals with discussion and/or submitted public comments.

**Product Approval Applications with Comments under 2017 Code Evaluation:**

**16294 R3** - Commissioner Stone entered a motion for conditional approval of 16294 R3. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**17010 R3** - Commissioner Stone entered a motion for conditional approval of 17010 R3. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**19266 R1** - Commissioner Stone entered a motion for conditional approval of 19266 R1. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**20378 R1** - Commissioner Stone entered a motion for conditional approval of 20378 R1. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.



**Product Approval Applications with Comments under 2017 Code Evaluation (cont.):**

**21146 R2** - Commissioner Stone entered a motion for conditional approval of 21146 R2. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 21 to 0 in favor with one Commissioner out of the room at the time of the vote.

**Accreditor and Course Approval:**

Acting Chairman Schock advised Commissioner Dean would present the Education Program Administrators recommendations regarding applications for accreditor and course approval.

Commissioner Dean entered a motion to approve advanced accredited courses 840.0, 852.0, 865.0, 861.0, 851.0, 855.0, 856.0, 854.0, 853.0, 848.0, 844.0, 845.0, 863.0, 864.0. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Dean entered a motion to conditionally approve advanced accredited course 849.0. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Dean entered a motion to approve the administratively approved updated course 569.2, 169.3, 179.3, 635.2, 817.1. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

Commissioner Dean entered a motion to approve the administratively approved self-affirmed courses 607.2 and 629.2 with one change. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Legal Report:**

Acting Chairman Schock advised that Justin Vogel will report on relevant legal matters of interest to the Commission.

Acting Chairman Schock stated that the Florida Accessibility Code for Building Construction (FACBC) was ready for certification concurrent with the effective date of the new ADA Standards for Accessible Design (SAD, 2010), and as reported numerous times since submittal in September of 2010 we continue to wait for a decision by the DOJ. He said the Commission requested that Justin Vogel periodically communicate with the DOJ regarding the status of the Commission's application for certification of the FACBC, and to provide updates to the Commission. He then asked Mr. Vogel for an update.

**Legal Report (cont.):**

Mr. Vogel advised the Commission that the DOJ has stopped returning his calls and any response to his e-mail request. He stated he would continue his effort to gain some information on this issue for the Commission.

Mr. Vogel advised the Commission that The Florida Association of the American Institute of Architects has filed a Rule challenge to the proposed amendments to 61G20-2.002. He stated they are alleging that the rule applies incorrect standards to the triennial update process and is an invalid exercise of delegated legislative authority. Mr. Vogel continued by stating that this case is waiting to be assigned an ALJ at the Division of Administrative Hearings and once that occurs there will be a hearing scheduled and he will be representing the Commission in the proceedings and will provide further updates as they become available.

**Petitions for Declaratory Statements:**

**DS 2017-070 by John (JC) Centera of Aquatic Design Services, LLC:**

Mr. Vogel read the petition with response. He advised that the Swimming Pool TAC voted unanimously to recommend the Commission accept the staff analysis or Option #2/Staff: Yes, as per the definition of the term "Nominal" of section 202 of the 2014 FBC, Building and the 2017 FBC, Building, the grout line can be included when meeting the 1"x 1" tile requirements set forth in section 454.1.2.1 if the tile is sold and distributed as 1"x 1" nominal or trade size tile.

Mr. John Centera was present at the meeting and stated he was in agreement with the TAC's decision regarding the tile size.

Commissioner Batts entered a motion to approve the Swimming Pool TAC recommendation Option #2/Staff. Commissioner Schilling seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**DS 2017-072 by Chris Birchfield of Global Fireproof Solutions, Inc.**

Mr. Vogel read the petition with response. He advised that the Product Approval POC voted unanimously to recommend the Commission accept the staff analysis answer that No, the products in question are not elements of the building envelope or structural frame and, therefore, fall outside of the scope of the state product approval pursuant to Rule 61G20-3, F.A.C. However, the products in question are subject to review and approval at the local level.

**DS 2017-072 by Chris Birchfield of Global Fireproof Solutions, Inc. (cont.)**

Commissioner Compton spoke on this petition and stated he is in support of the POC's decision.

Commissioner Stone entered a motion to approve the Product Approval POC recommendation for staff analysis. Commissioner Boyer seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor. **To Consider Approval of Energy Code Compliance Software for the 6<sup>th</sup> Edition 2017 Florida Building Code, Energy Conservation:**

Acting Chairman Schock advised that at the October 17, 2017 meeting the Commission voted to approve Energy Code Compliance Software for the 6th Edition 2017 Florida Building Code, Energy Conservation, specifically EnergyGauge USA 6.0 for demonstrating compliance with residential building energy requirements. He stated in addition, the Commission voted to conditionally approve the Energy Code Compliance Software for the 6th Edition 2017 Florida Building Code, Energy Conservation, specifically Right-Suite Universal 2017 using Right-Energy Florida 2017 for demonstrating compliance with residential building energy requirements for new construction, single-family houses.

Acting Chairman Schock stated today the Commission is being asked to approve Energy Code Compliance Software for the 6<sup>th</sup> Edition 2017 Florida Building Code, Energy Conservation, specifically COMcheck Version 4.0.8.0 Florida Review for demonstrating compliance with commercial building energy requirements; and, Energy Gauge Summit 6.0 for demonstrating compliance with commercial building energy requirements.

Acting Chairman Schock advised that the Energy TAC reviewed the COMcheck Version 4.0.8.0 Florida Review pursuant to addressing DBPR staff's and FSEC's written comments and Energy Gauge Summit 6.0. and is recommending approval. Commissioner Smith will provide the Energy TAC's recommendation and Mr. Madani will provide any technical background needed and answer members' questions.

Commissioner Smith stated that the Energy TAC recommended approval of both pieces of software.

Commissioner Bassett entered a motion to approve COMcheck Version 4.0.8.0 Florida Review for demonstrating compliance with commercial building energy requirements for the 6th Edition (2017) Florida Building Code, Energy Conservation. Commissioner Calleja seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**To Consider Approval of Energy Code Compliance Software for the 6<sup>th</sup> Edition 2017 Florida Building Code, Energy Conservation (cont.):**

Commissioner Bassett entered a motion to conditionally approve Energy Gauge Summit 6.0 for demonstrating compliance with commercial building energy requirements for the 6th Edition (2017) Florida Building Code, Energy Conservation subject to addressing DBPR staff's written comments. Commissioner Smith seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Committee Reports:**

**Code Administration Technical Advisory Committee:**

Commissioner Carlson provided a brief summary of the Code Administration TAC October 31, 2017 teleconference meeting.

Commissioner Carlson entered a motion to accept the report from the October 31, 2017 teleconference meeting. Commissioner Bassett seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Education Program Oversight Committee;**

Commissioner Dean provided a brief summary of the Education POC November 28, 2017 teleconference meeting.

Commissioner Dean entered a motion to accept the report from the November 28, 2017 teleconference meeting. Commissioner Bassett seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Energy Technical Advisory Committee**

Commissioner Smith provided a brief summary of the Energy TAC teleconference meetings held October 31, 2017 and November 29, 2017.

Commissioner Smith entered a motion to accept the report from the October 31, 2017 and November 29, 2017 teleconference meetings. Commissioner Calleja seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Committee Reports (cont.):**

**Product Approval Program Oversight Committee**

Commissioner Stone provided a brief summary of the Product Approval POC meeting held November 30, 2017 via teleconference.

Commissioner Stone entered a motion to approve the report of the Product Approval POC meeting held November 30, 2017 via teleconference. Commissioner Compton seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Swimming Pool Technical Advisory Committee:**

Commissioner Batts provided a brief summary of the Swimming Pool Technical Advisory Committee meeting held November 29, 2017 via teleconference.

Commissioner Batts entered a motion to approve the report of the Swimming Pool Technical Advisory Committee meeting held November 29, 2017 via teleconference. Commissioner Flanagan seconded the motion. The motion passed unanimously with a vote of 22 to 0 in favor.

**Public Comments:**

Keith Cullen with Strong Tie expressed his appreciation for the staff support during the product approval process.

Mike Fischer, Kellen Company offered his assistance to Justin Vogel and staff with contacting DOJ for a response on the certification concurrent with the effective date of the new ADA Standards for Accessible Design.

Mr. Fischer stated that he wanted to make the Commission aware that Monroe County Commission is considering a local amendment to the State Code relating to roofing performance based on observations from Hurricane Irma. He stated there was a public hearing last month at the Commission meeting at which time they tabled the draft ordinance and the item is on the agenda for the public hearing tomorrow afternoon. Mr. Fischer stated he is hoping they will table this item again as there are field studies being conducted and the FEMA MAT Team is deployed as we are meeting today in the Keys and Eric Stafford is actually in that group. He said they are hoping they will delay action until the data has come back from the field but he wanted the Commission to be aware of this development.

**Commissioner Comments:**

Commissioner Bassett stated his term just expired and he is unsure of how many more meetings he will be allowed to attend but wanted to say how much he has enjoyed working with the Commissioners again and wish everyone a Merry Holiday Season.

Acting Chairman Schock also expressed his appreciation to the Commission and wished them all a Happy Holiday. He also thanked the public for their continued support and attendance at the meetings.

Commissioner Schiffer asked for clarification on the actual meeting date for the Lightning Protection Workgroup. He also asked about the materials.

Mr. Madani stated the agenda and notice will be prepared shortly and the materials will be provided.

**The meeting was adjourned at 9:49 a.m.**