



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

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Secretary

**MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION MINUTES
AUGUST 10, 2010**

APPROVED OCTOBER 13, 2010

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:37a.m., Tuesday, August 10, 2010, at the Crowne Plaza in Melbourne, Florida.

COMMISSIONERS PRESENT:

Raul L. Rodriguez, AIA, Chairman
Richard S. Browdy, Vice-Chairman
Jeffrey Gross
Angel "Kiko" Franco
Jeff Stone
James E. Goodloe
James R. Schock
Herminio F. Gonzalez
Robert G. Boyer
Hamid R. Bahadori
Christopher P. Schulte
Mark C. Turner
Scott Mollan
Jonathon D. Hamrick
Kenneth L. Gregory
Joseph "Ed" Carson
Raphael R. Palacios
Nicholas W. Nicholson

Dale T. Greiner
John J. Scherer

COMMISSIONERS ABSENT:

Drew M. Smith
Randall J. Vann
Anthony M. Grippa
John "Tim" Tolbert
Donald A. Dawkins

OTHERS PRESENT:

Rick Dixon, FBC Executive Director
Ila Jones, DCA Prog. Administrator
Jim Richmond, DCA Legal Advisor
Jeff Blair, FCRC Consensus Solutions
Mo Madani, Technical Svcs. Manager
Marlene Stern, Access Council Legal Counsel

WELCOME

Chairman Rodriguez welcomed the Commission, staff and the public to Melbourne and the August 2010 plenary session of the Florida Building Commission. He stated the primary focus of the August meeting was to decide on regular procedural issues including product and entity approvals, applications for accreditor and course approvals, petitions for declaratory statements, accessibility waivers, recommendations from the Commission's various committees, and conduct a rule development workshop on product approval. He then stated, in addition, the Commission's TACs met to adopt recommendations for proposed modifications to the Florida Building Code for review by the Commission at the December 2010 Commission meeting. He further stated additional TACs would be meeting later in the month to continue the review of proposed code modifications.

Chairman Rodriguez stated if anyone wished to address the Commission on any of the issues before the Commission they should sign-in on the appropriate sheet(s). He then stated the Commission would provide an opportunity for public comment on each of the Commission's substantive discussion topics. He further stated if one wants to comment on a specific substantive Commission agenda item, they should come to the speaker's table at the appropriate time so the Commission is aware they wish to speak. He concluded by stating public input was welcome, and should be offered before there was a formal motion on the floor.

Chairman Rodriguez then conducted a roll-call of the Commission members.

REVIEW AND APPROVE AGENDA

Mr. Blair conducted a review of the meeting agenda as presented in each Commissioner's files. He amended the agenda stating there would be no Mechanical TAC report.

Commissioner Browdy moved approval of the meeting agenda as amended. Commissioner Nicholson entered a second to the motion. Vote to approve the motion as amended was unanimous. Motion carried.

REVIEW AND APPROVE JUNE 8, 2010 COMMISSION MEETING MINUTES AND FACILITATOR'S REPORT

Chairman Rodriguez called for approval of the minutes and Facilitator's Report from the June 8, 2010 Commission meeting.

Commissioner Goodloe stated the minutes listed the effective date of HB663 was listed as June 1st and was usually July 1st.

Mr. Dixon responded that date was an error and should be corrected.

Commissioner Carson moved approval of the minutes, as amended, and the Facilitator's Report from the June 8, 2010 Commission meeting. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez stated there was one new ad hoc committee which would be known as the Building Code System Assessment committee. He stated Florida Statute Chapter 553. 77 (1)(b) requires the Commission to make a continuous study of the Florida Building Code and related laws and on a triennial basis report the findings and recommendations to the Florida Legislature for provisions of the law which should be changed. He then stated the Commission conducted the first assessment in 2005 and in 2010 the Commission will again solicit stakeholder input in the form of an online survey and at the October 2010 Commission meeting consider and develop a package of recommendations for enhancements to the Florida Building Code, the Florida Building Commission, local administrations, compliance and enforcement and product evaluation and approval.

He stated an ad hoc committee of commission members was appointed to review the results of the Building Code System Assessment Survey and develop recommendations for the Commission regarding any proposed changes to the Building Code System. He continued by stating the process would be facilitated and the ad hoc committee would meet at the October 2010 Commission meeting and the Commission will consider the committee's recommendations at the December 2010 Commission meeting for inclusion in the report to the 2011 Legislature. He stated the following commission members were appointed to the ad hoc committee: Commissioners Browdy, Carson, Gonzalez, Goodloe, Greiner, Gross, Hamrick, Schock, Schulte, Tolbert, Turner, and Vann. He further stated he would be chairing the committee.

Mr. Blair stated the survey had been active and online. He then stated to date there have been 75 respondents. He then stated in 2005 there were 216 respondents. He added it would be nice for those who have not completed the survey to do so. He continued by stating the survey was not intended for commissioners alone and public input was both welcomed and encouraged. He stated for commissioners a link to the survey had been sent by email two different times. He then stated if anyone needed a link to the survey to contact him.

Commissioner Carson asked to which groups the survey would be distributed.

Mr. Blair responded it had been sent in an email from DCA staff to those on the interested parties list, which includes thousands of people.

Commissioner Carson asked if the list included AIA and NEC.

Mr. Blair answered stating emails were sent to AIA and to the board of professional engineers. He stated there were quite a few architects who responded but the results need to be from more than just one profession.

Mr. Dixon stated the survey had been sent to BOAF.

Doug Harvey, Director, BOAF

Mr. Harvey stated BOAF had sent one email relative to the survey. He then stated they would be happy to send another one through their discussion group which covers a multitude of the state. He further stated the survey was also posted on the front page of BOAF's website.

Mr. Blair stated he was extending the deadline to submit the survey until September. He then stated he needed time to compile the results prior to the October Commission meeting.

Chairman Rodriguez asked Commissioner Carson if he had a list of individuals he would like to receive the survey, then directed him to see Mr. Blair.

Chairman Rodriguez stated he had been asked to announce any contractors or building officials who would like to receive CEU's for their participation on the Florida Building Commission should send their names and license numbers to Ila Jones. Ms. Jones will send the information to the appropriate organization.

REVIEW AND UPDATE OF COMMISSION WORKPLAN

Mr. Dixon conducted a review of the updated Commission work plan. (See *Updated Commission Work plan August 10, 2010*).

Mr. Dixon stated there is one new task which came from the 2010 Legislative session but it was not in the building code bill and therefore was not presented at the last Commission meeting. He then stated the bill number was HB7243 which gave the Commission the assignment to develop recommendations to increase recycling, composting and increase the use of recyclable construction materials and construction demolition debris. He further stated the current focus of the Commission was on development of the 2010 Florida Building Code therefore the task would start sometime in early 2011 when the bulk of the work on the Code was complete. In the plan the Commission would provide recommendations to the 2012

Legislature. He then updated the Commission on the Product Approval Rule, stating based on legislative input, a rule development workshop would be held at the August 2010 Commission meeting and would be followed by a rule adoption hearing if requested before the October 2010 Commission meeting in order to complete the task this year. He further stated authority has been delegated to the Commission to establish fees for accessibility waivers, declaratory statements and non-binding opinions. He continued by stating a discussion regarding those fees and increasing fees for different types of services the Commission provides would be initiated at the October 2010 Commission meeting. He further stated a number of tasks which were not directly related to the 2010 code development were to be discussed at the October meeting.

Mr. Dixon then discussed the building code development which was the Commission's current major task. He gave a brief overview of where the Commission was currently in the process and reviewed its upcoming steps in that process.

Mr. Dixon stated the US Department of Justice has been working on updates to the ADA accessibility standards for a number of years but due to changes in federal government administrations adoption of the new Standards for Accessible Design had been delayed. He continued by stating at the end of July the DOJ had noticed on its website that it had completed its work and intended to publish the final rules in the Federal Register so the process was moving forward. He stated DOJ indicated that 6 months after the publishing date the public may start using the new standards for design and 18 months after publishing they have to use them. He stated Florida's Accessibility Code law requires the Commission to maintain all laws, rules, regulations, etc to ensure DOJ certification of the Accessibility Code as essentially equivalent to the Federal Standards for Accessibility Design. He then stated the Accessibility Code Work Group project over the last year had been to integrate the technical requirements the Legislature wrote for Accessibility into the new federal Standards for Accessible Design and that project had been completed.

Mr. Dixon stated there may be changes to Florida Law necessary to attain certification of Florida Accessibility Code when it has been revised to integrate Florida requirements with the new Standards for Accessible Design. He further stated all advocacy groups that can be identified who want to participate as well as industry would be brought in for their input on any potential law changes. He continued by stating any changes necessary to attain certification could hopefully be made during the 2011 session. He stated, for those not familiar with the ADA, certification of a state's code provides some limit on the liability of a building owner, if their building is built to that code, should there be a lawsuit claiming discrimination that violates the civil rights of a person with disabilities. He then stated the Florida Legislature had established the policy that Florida would always pursue certification of the Code and the Commission should try to maintain that certification throughout

time so the buildings that were built will always have the limited protection provided to them by law.

Commissioner Carson moved approval of the updated workplan.
Commissioner Nicholson entered a second to the motion.

Commissioner Schulte stated he wanted to make sure he understood the code change process. He then stated what he understood was the TACs would review comments on TAC recommendations after the 45 day comment period, either in November or some other time before the next Commission meeting. He further stated it was his understanding that after the comments were reviewed there would either be a motion or no motion on the comment but the TACs would somehow determine their consensus on the comment and convey that to the Commission. Presumably the TAC chair would remove a Code modification that had received comments from the consent agenda at the Commission meeting to express the TAC's view on the comments. But how would the TAC's view on the comments and how they effect its original recommendation on the modification be determined.

Mr. Dixon answered by stating the reason NAR was expressed on the record is so proponents can respond to TAC concerns about proposals through public comment. He further stated what the TACs will be providing to the Commission when they review public comments is a comment on the public comment. He then stated if the proposed modification which was rejected the first time around had been changed to address the TACs concerns, the TAC could make a positive comment on the proponents comment.

Commissioner Schulte asked if there was no motion to approve to vote on how would it be determined what the consensus of the TAC is?

Mr. Dixon stated straw polls were often conducted in an attempt to arrive at consensus so there would be some indication of what the majority of the TAC felt about the issue and it would be based on the 75% vote.

Mr. Richmond stated he believed the process needs to be used with a healthy dose of discretion. He explained the comments the Commission was looking to address were not ones which change the underlying concept of the modification. He then stated the comments actually address drafting errors or things of that nature. He further stated if it was a matter of changing black to white to address the concerns of the TAC he would recommend those be approached with extreme caution. He continued by stating the Commission was looking at correlation type situations and things of that nature but not items that change a pony to a zebra.

Mr. Dixon offered background on the evolution of the code change process to the commissioners who had not been through the process previously. He stated in

2004 the TAC's made recommendations, comments were made on the recommendations to the Commission, and the Commission made substantial changes to what the TACs had recommended. He then stated one of the consequences of those changes was some glitches that led to the need for some corrections in a supplement. He explained the TACs had more expertise specific to a subcode than the Commission and generally provided better judgment on proposals. He stated the process changed in the 2007 Code development when a second review was introduced where the TACs would review the comments. He continued by stating it was a fine line the Commission walks in the code development process to stay within the constraints of Chapter 120 proceedings and the building code specific amendment process.

Vote to approve the motion was unanimous. Motion carried.

CONSIDER ACCESSIBILITY WAIVER APPLICATIONS

Chairman Rodriguez directed the Commission to Mr. Dixon for consideration of the Accessibility Waiver Applications.

Mr. Dixon stated the Accessibility Advisory Council met for the first time by webinar to review waiver applications before the Commission meeting. He stated there were only five applications of which all were fairly simple projects. He explained there were a number of proposed code changes for the TACs review therefore the accessibility waiver process was initiated and worked better than anticipated. He stated in the process of reviewing plans sometimes it is difficult to see the detail needed on a computer screen as well as hearing presenters from different areas or cities trying to explain their case using the plans being presented by DCA. He further stated the process did run smoothly and will be utilized again when there was the appropriate opportunity. He continued by stating because the meeting was conducted in such a manner the chairman of the council was not present at the Commission meeting, legal counsel was not present, nor was Mary Kathryn Smith who had been very ill and was not able to attend the meeting.

Mr. Dixon presented the waiver applications for consideration. Recommended approvals were presented in consent agenda format with conditional approvals, deferrals and denials being considered individually.

Recommendation for Approval with No Conditions:

#1 Fidelity National Financial Aircraft Carrier

#2 FSS-AME Research Building

4 USF Soccer Park

#5 Miami Beach Cinematheque

Commissioner Nicholson moved approval of the council's recommendation for approval for items 1, 2, 4 and 5. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Recommendation for Approval with Conditions:

#3 Picerne Building Storage Annex

Issue #1 Vertical Accessibility to storage mezzanine of Annex Building

Mr. Dixon explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended approval with no conditions for vertical accessibility to the storage mezzanine of the Annex Building.

Commissioner Nicholson moved approval of the Council recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Issue #2 Accessible parking and accessible route to this existing structure

Mr. Dixon explained the petitioner's request for waiver as it was described in each Commissioner's files. He stated the Council unanimously recommended denial, due to lack of jurisdiction, of a waiver for accessible parking and accessible route to this existing structure.

Commissioner Nicholson moved approval of the Council recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond stated there was one glitch identified in a waiver final order which was approved as drafted at the last Commission meeting. He explained there was missing information and supporting documentation about a particular project in Miami-Dade. He stated some of the documentation indicated it was a three story building and some of the documentation indicated it was a two story building. He then stated the building turned out to be physically a two story building. He further stated a corrected waiver order would be issued which would not change the order in any manner.

CONSIDER APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL

Chairman Rodriguez directed the Commission to Commissioner Carson for presentation of entity approvals.

Commissioner Carson stated the following 24 entities were recommended for approval by the POC:

CER 1497 Intertek Testing Services NA Inc. - ETL/Warnock Hersey

CER 1498 American Architectural Manufacturers Association

CER 1663 PSI/Pittsburgh Testing laboratory

CER 1523 Keystone Certifications, Inc.

CER 1739 Underwriters Laboratories Inc.

CER 2512 APA - The Engineered Wood Association

CER 3471 PFS Corporation

CER 8824 NTA Inc

TST 1509 Intertek Testing Services NA Ltd.

TST 1679 PFS Corporation

TST 1740 Underwriters Laboratories Inc.

TST 1867 FM Approvals

TST 1987 RADCO, Inc.

TST 3478 NTA, Inc.

TST 4205 Progressive Engineering, Inc.

TST 5328 Force Engineering & Testing, Inc.

TST 6127 Ramtech Laboratories, Inc.

QUA 1680 PFS Corporation

QUA 1673 Intertek Testing Services NA Inc. - ETL/Warnock Hersey

QUA 1789 National Accreditation and Management Institute

QUA 1988 PSI/Pittsburgh Testing Laboratory

QUA 1990 RADCO, Inc.

QUA 6128 Ramtech Laboratories, Inc.

QUA 7309 Smith Emery Laboratories

Commissioner Nicholson moved approval of the POC recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair stated there was a consent agenda for all those issues that were posted with the same result from all four compliance methods either for approval, conditional approval or deferral. These were the ones without comment or there was no change to the recommendation as proposed presented. He stated if no commissioner wished to pull any if the products for individual consideration he asked for a motion to approve the consent agenda for all four compliance methods for approval, conditional approval and deferral.

Commissioner Carson entered a motion to approve the consent agenda as amended for all four compliance methods for approvals, conditional approvals and deferrals. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair presented the following products for consideration individually:

13893 Superior Window Corp.

Mr. Blair stated the product was recommended for deferral with the condition the applicant provides test reports for the assemblies on application and the evaluation report shall refer only to the assemblies on application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13894 Superior Window Corp.

Mr. Blair stated the product was recommended for deferral with the condition the applicant provides test reports for the assemblies on application and the evaluation report shall refer only to the assemblies on application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

8637-R2 StormWatch

Mr. Blair stated the product was recommended for conditional approval with the conditions the applicant: 1. Change the language of Note 3 to reflect the language from Public Comments, 2. Change the language of the Product Evaluation Report to add restrictions on alternate components in the HVHZ per Public Comments, 3. Expand the General Note #4, page 1 to more clearly direct users to the tension and shear values listed in the HVHZ Schedules on page 4, 4. Indicate "No" for use within HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

10882-R1 ROLLINGSHIELD INC

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant: 1. Indicate "No" for use within HVHZ. 2. Provide proof of mullions being impacted or indicate on limits of use: "Not to be used within Wind Zone 4 (140 mph or higher).

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13911 Ultratek Worldwide

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant indicates "No" for use within HVHZ.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13615 Bee Safe Hurricane, LLC

Mr. Blair stated the application was withdrawn..

13872 Simpson Strong-Tie Co.

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation.
Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

5573-R2 PGI Fabrene Inc

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant indicate on limits of use other "Product shall not have an exposure in excess of 30 days."

Commissioner Carson moved approval of the POC recommendation.
Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

10947-R2 JELD-WEN

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant describe the slip on fin as tested or evaluated indicating material and grade, thickness, width, length and description of attachment to window.

Commissioner Carson moved approval of the POC recommendation.
Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

10970-R1 JELD-WEN

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant describe the slip on fin as tested or evaluated indicating material and grade, thickness, width, length and description of attachment to window.

Commissioner Carson moved approval of the POC recommendation.
Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

10971-R1 JELD-WEN

Mr. Blair stated the product was recommended for conditional approval with

the condition the applicant describe the slip on fin as tested or evaluated indicating material and grade, thickness, width, length and description of attachment to window.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13423 Polarhyde Distribution DBA/ Final Flat Roof

Mr. Blair stated the product was recommended for deferral with the condition the applicant: 1. Provide Testing/Certification of testing standards that will indicate product physical properties and adhesion. 2. Remove from installation instructions use with assemblies not tested and remove testing standards that are not certified.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

12480-R1 Sun Metals Systems, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provides a test report for Products .3 and .5 indicating three modules tested or remove products from application.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13204 Winco Window Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant revise evaluation report using current approved anchor values or manufacturer's published literature.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13208 Winco Window Company

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant Revise evaluation report using current approved anchor values or manufacturer's published literature.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13663 USA Shutter Company LLC

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant use tested values for design pressures.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13856 Windoor Incorporated

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant provides hardware details as tested.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13868 All Metal Roofing and Siding, Inc.

Mr. Blair stated the product was recommended for approval.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13869 Berridge Manufacturing Co.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant removes the Miami-Dade Seal of Approval on page 3 of the evaluation and remove reference to Miami-Dade County.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13883 Ingersoll-Rand

Mr. Blair stated the product was recommended for conditional approval with

the condition the applicant revises Design Pressures to the lowest of TAS202 or TAS 203 testing.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

13909 Wasco Products, Inc.

Mr. Blair stated the product was recommended for conditional approval with the condition the applicant: 1. For Products .5 and .8 indicate that plastic is certified under NOA 05-0819.01. 2. For Product .13 provide signed and sealed test reports by the witnessing PE. 3. Change the QA contract expiration date to 10/13/2010 because NOA 05-0819.01 expires on this date.

Commissioner Carson moved approval of the POC recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER APPLICATIONS FOR ACCREDITOR AND COURSE APPROVAL

Accreditor Approvals

Commissioner Browdy stated there were no accreditor approvals.

Course Approvals

Commissioner Browdy stated there were three courses being submitted for consideration by the Florida Building Commission that have been reviewed by the Education POC:

Advanced Florida Building Code Principals, BCIS Course Number #421.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced Training: Accessibility and the Florida Plumbing Code, BCIS Course #428.0

Commissioner Browdy moved approval of the POC recommendation. Commissioner Goodloe entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Advanced ASCE 7 – With Significant Changes to the 2010 Edition, BCIS Course #430.0

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

Advanced FBC Understanding the Florida Energy Code, BCIS Course #443.0

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

Advanced Wind Requirements in the Florida Building Code, BCIS Course #442.0

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

Course Deferrals

Fla. Building Code Advanced 2007 W 09 REV Ch 11 Part 1 Internet, BCIS Course #433.0

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

Fla. Building Code Advanced 2007 W 09 REV Ch 11 Part 2 Internet Course, BCIS Course #434

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

Fla. Building Code Advanced 2007 W 09 REV Ch 11 Part 3 Internet Course, BCIS Course #435.0

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

Fla. Building Code Advanced 2007 W 09 REV Ch 11 Restaurants, Medical, Business Internet, BCIS Course# 441.0

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

Commissioner Browdy stated the following courses were administratively approved:

Practitioner's Guide to FBC: Accessibility Code and Fair Housing - CLASSROOM, BCIS Course #64.3

Practitioner's Guide to FBC: Accessibility Code and Fair Housing - INTERNET, BCIS Course #65.3

Advanced 2007 Roofing Course Test Protocol Standard RAS - 127, BCIS Course #312.1

Commissioner Browdy moved approval of the administratively approved courses. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER LEGAL ISSUES AND PETITIONS FOR DECLARATORY STATEMENT: BINDING INTERPRETATIONS: REPORTS ONLY
DECLARATORY STATEMENTS:

Legal Issues:

None

Binding Interpretations:

Mr Richmond stated late last week an appeal of a binding interpretation of a local decision was filed and will likely come before the Commission in the future.

Declaratory Statements:

Second Hearings:

DCA09-DEC-259 by John Dellagloria, Counsel for Malibu Lodging Investments, LLC

Mr. Richmond stated the petition had been around for six months and had been deferred numerous times for various reasons resulting in a couple of amendments and a very difficult procedural history to track. He then stated his

current recommendation, along with the petitioner, was the petition be dismissed expressly and without prejudice. He further stated there was some question whether the decision of the Commission would even be needed by the petitioner based on the sale of the building or different use. He continued by stating the result also allows clarifying the specific facts, if in fact the Commission's input was required in the future.

John Dellagloria,

Mr. Dellagloria stated(audio not good, speaker stood instead of speaking into microphone at speakers table)

Commissioner Nicholson moved approval of the committee recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

First Hearings:

DCA10-DEC-059 by Paul T. Myers, Building official of Putnam County

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Carson moved approval of the committee recommendation. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

DCA10-DEC-146 by Gary Harrison, Building Official of Collier County

Mr. Richmond explained the issues presented in the petition for declaratory statement and the committee's recommendations as they appeared in each Commissioner's files.

Commissioner Carson moved approval of the committee recommendation. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDER OTHER LEGAL ISSUES

None

**RULE DEVELOPMENT WORKSHOP RULE 9N-3 (formerly 9B-72),
PRODUCT APPROVAL**

Chairman Rodriguez stated at the June 2010 Commission meeting the Commission voted to proceed with rule adoption for Rule 9N-3.002, Rule 9N-3.007, and Rule 9N-3.008 for Product approval. He then stated the rule was formerly known as Rule 9B-72. He continued by stating the rule would help implement HB663 new requirements for Product Approval including expedited product approval for products using the certification method and revision of the list of approved evaluation entities by conducting a rule development workshop at the August 2010 Commission meeting. He further stated the workshop would provide an opportunity for the public to comment before the Commission votes to proceed with rule adoption.

Mr. Richmond opened the hearing.

Chairman Rodriguez asked Commissioner Carson if there were any additional recommendations from the Product Approval POC.

Commissioner Carson responded stating there was a little word-smithing to be done. He stated on the first page the POC felt the term “technically significant” should be changed to “technically relevant.” He continued by stating under the definition of “technically relevant” it shall mean “relevance with regards to compliance with the rule.

Jamie Gascon, Miami-Dade County

Mr. Gascon stated the main concern with the revision and the inclusion of the certification method was products scheduled for approval to the next Commission meeting or POC meeting for the proposed rule. He then stated the concern specifically was products which fall under the category installed during that period of time and then are questioned or reversed at the POC. He stated affecting Miami-Dade County were the issues of life safety, of what can be installed and not have all of the checks and balances or the tracking of those products installed during that period of time. He stated it was a concern voiced at the previous meeting relative to section (32) (d) (4). He then stated their recommendation was to include language which indicates in the event the approval requires ratification by the Commission each correction shall be the responsibility of the manufacturer to maintain a list of customers who have used the product with subject approval which allows the customers to be notified. He further stated it would secure any network deficiencies identified at the POC which would result in something needing to be changed.

Mr. Richmond stated the concern was certainly valid and it was equally applicable to the situations which currently exist. He then stated a very limited scope of products, those who had been certified by an approved certification agency, for use within the state of Florida. He further stated the current

circumstance qualifies those products, especially the locally approved products, without further substantive review unless some affirmative action was taken by a local official to bring the matter to the Commission's attention. He continued by stating the Commission's authority to require some type of recall was extremely questionable under Florida Statutes. He stated, however, if someone had inappropriately certified a product or sold a product under an inappropriate claim of code compliance, the purchasers of that product would have regress against the manufacturer, which was something outside the Commission's scope of authority.

Mr. Madani stated approving a product under the normal process takes 30 days. He then stated doing an approval in 10 days would allow less than two weeks for an application to be submitted and then affirmed through the Commission. He further stated staff would make sure comments were posted on the website next to the application so the user would know there was a comment and allow the manufacturer to revise and make necessary changes.

Chairman Rodriguez asked if the approval could be "subject to" or something similar. He then stated he realized it was 10 days and was highly unlikely someone could squeeze through. He asked if there was some language which could be added to caution the product manufacturer that the process must be followed.

Mr. Richmond responded stating a general "subject to" would probably be beyond the current legislative charge. He further stated any action of the department or the Commission was certainly subject to emergency. He then stated if an approval was identified as creating a particular risk of harm to the general public the product could certainly pull it on an emergency basis and brought before the Commission.

Mr. Madani stated the administrator and staff would assess the significance. He then stated the certification method, in terms of technical documentation available for review, was very limited in nature. He further stated if there was anything significant it would be it would come from someone who knows the products very well and knows the background of the materials which staff does not have. He stated for staff of all the products that have been reviewed he did not see any situation where an emergency was required to be make a correction.

Chairman Rodriguez stated if it were necessary though there was a course of action for that

Mr. Gascon stated his comments were relative to the closing of any loopholes or any full revision. He then stated another potential exists in worse case condition that 50 days could go by from the time the 10 days was applied for staff to determine the approval every 60 days clarification was made the identification status on the

BCIS would indicate approved by staff or administrators and would distinguish it from overall approved status.

Mr. Madani stated it would indicate approved by DCA and anyone could search those approvals at any time.

Chairman Rodriguez asked if it could state “approved by DCA, POC approval pending”, or something of that nature.

Mr. Richmond responded stating it could but doing so would probably be more accurate to say “ratification by the POC”.

Chairman Rodriguez stated he liked “ratification pending” because it gives someone a heads up that DCA had approved it but it still needed to be ratified. He further stated although the vehicle of emergency was available if something were found seriously wrong, life safety, this would give someone

Kari Hebrank, Florida Building Association and Product Manufacturers Assoc.

Ms. Hebrank stated the products being discussed have used the certification method, which include testing, engineering, validation, and peer review. She then stated it was a very small slice of the big product approval pie. She further stated as for revocation nothing changes procedurally relative to that. She continued by stating the approvals were just trying to expedite the process to get the products to market that have already gone through a nationally recognized entity. She then stated they appreciated it being approved in the current form and it was something the manufacturers have.

Mr. Richmond asked for clarification ff the one item the POC had recommended the one clarification of “technical significance” was also acceptable to the association.

Ms. Hebrank responded stating yes it was all relevant to the association.

Mr. Richmond closed the hearing.

Commissioner Nicholson stated when the issue first came up it was discussed the products being on the market and being installed later. He then stated at that point in time when it was discussed it was mentioned from the board there would be no problem tracking the products or taking them back out but no one ever said how the tracking would be done or who would be doing the tracking. He further stated he was in agreement with Mr. Gascon in cases where he stated the manufacturer who was the responsible party should track the products in the event there was a problem they could be found and replaced. He then stated maybe it

was being overly conservative but it was a new process and no one can know what will happen.

Chairman Rodriguez asked how it could be tracked.

Mr. Madani responded stating it would be very difficult to track the products.

Chairman Rodriguez asked for clarification if the product was approved by DCA, subject to ratification and it was not ratified staff would know it was not ratified but would not know how many times the product had been used if at all.

Commissioner Gregory stated under the normal process of product approval products are found that do not meet the criteria.

Mr. Richmond stated the Commission's means for addressing the issue is if a product becomes problematic and the Commission withholds ratification through the website officials can be advised of which products were not ratified. He then stated through the permitting process there was some knowledge of where the products may have been used because the submittals for permits typically include evidence of product approvals. He further stated the numbers could be matched up to identify problems to the extent projects were still under construction and could be addressed through the inspection and enforcement processes available to them statutorily.

Commissioner Gregory asked if he was suggesting it should be the building officials who track the problems.

Mr. Richmond stated he was suggesting the current law and the current processes established that typically all of the Commission's regulations are enforced

Commissioner Carson stated the issue had been a concern of the POCs since day one because there was a risk in using the process however small.

Mr. Madani stated as an office they would be hearing from local building officials

Chairman Rodriguez stated if the product failed to be ratified the officials would be notified.

Doug Harvey, Director, BOAF

Mr. Harvey stated he was concerned with the direction of the conversation because an unfunded mandate could be set. He then stated not all building departments have direct access to the internet therefore do not have emails that go directly to the building officials. He further stated he was very curious if the issue

was going to be laid back on the building departments for products which might be approved, that the officials would be held responsible to go ahead and authorize those products.

Chairman Rodriguez stated Commissioner Carson was concerned because the product approval had always been perfect. He then stated the best the Commission could offer was to put the ratification comment with the application alerting the public if the product was sold and then not ratified there would be a problem.

Mr. Richmond stated since the term unfunded mandate was mentioned he wanted to offer some background. He then stated the Florida Building Code and the efforts of the local building officials are funded by building permit fees and inspection fees. He continued by stating if the funds were insufficient then those fees needed to be raised. He further stated the existing enforcement structure relies on the efforts of the local building officials. He stated he was aware many worked under legislative bodies that may or may not have the will to adjust fees appropriately. He then stated there can be no unfunded mandate because the funding mechanism was present. He continued by stating the question was whether those entities choose to utilize use the mechanism.

Ms. Hebrank stated it was going to be very important to the product manufacturers that the ratification tag is removed once the product has been ratified.

Commissioner Nicholson stated he was in agreement with both Commissioner Carson and Mr. Richmond. He then stated everyone had to do things they did not have to do in the past. He further stated the local building departments, like everyone else in the state of Florida, when something comes up that they have to do now they did not have to do previously, they just have to do it. He continued by stating if the fees need to be raised to pay for it, then that was something that has to happen.

Commissioner Gonzalez asked if the Commission was able to separate the issue or did it have to vote on the entire rule.

Mr. Blair stated because there had been a comment from the POC to change the word "*significant*" and a proposal to add the words "*approved by DCA, ratification by POC pending*" he thought Mr. Richmond should craft the motion necessary to proceed with rule adoption. He then asked if the individual pieces needed approval.

Chairman Rodriguez asked if the issues had to be voted on individually or all at once.

Mr. Richmond responded stating essentially if a note was being added it could be as simple as adding a note to a screenshot as opposed to adding language to the rule. He further stated the screen shots were electronic forms adopted by reference within the rule and approved by all of the processes involved with the Department of State. He continued by stating it would be a footnote on any screen which identifies product approval by DCA as opposed to products that just have the approved moniker. He stated in that way Ms. Hebrank's concern would be addressed because once the product was ratified the status would change to simply approved.

Chairman Rodriguez asked about the change proposed by Commissioner Carson from "*technically significant*" to "*technically relevant*".

Mr. Richmond responded stating he believed the change could be considered in a general motion on the rule.

Chairman Rodriguez asked Mr. Richmond to state the motion necessary for vote by the Commission.

Mr. Richmond stated a motion should be entered to proceed with rule adoption for Rule 9N-3, publishing a notice in Florida Administrative Weekly subject to a hearing only if requested to be held by communications media technology during the week of September 20, 2010, if no hearing was requested, then proceeding with rule adoption by filing the rule with the secretary of state authorizing the Secretary of the Department of Community Affairs to authorize any required rule certification package subject to the recommendation of the POC regarding the utilization of the term technical relevance and the definition thereof and the comments made at the August 2010 Commission meeting regarding advising the public using the system that rules adopted pursuant to the process were subject to ratification by the POC.

Commissioner Nicholson moved approval of the motion as stated. Commissioner Greiner entered a second to the motion. Vote to approve the motion was unanimous. Motion approved.

CONSIDER PUBLISHING FORMATS FOR THE 2010 FLORIDA BUILDING CODE

Chairman Rodriguez stated for the commissioners who have been around when the Commission produces a new edition of the code there was consideration relative to how the different code volumes would be printed and packaged. He then stated two times in the past the Legislature has added codes to the Florida Building Code, the Residential and the Building codes, and both are published as separate volumes. He further stated the Legislature has now added the Energy Code to the

list of foundation codes for the 2010 Building Code. He continued by stating for consistency the Energy Code will be pulled from the Building volume and published as a separate volume. He stated in addition the Accessibility Code would be updated sometime between 2010 and 2013 when the U.S. Department of Justice publishes the recently approved Standards for Accessible Design. He then stated staff has proposed the Accessibility volume also be published as a separate document. He continued by stating as a practical matter the Building Volume requires the largest ring binder available so publishing the Energy and Accessibility Codes as separate volumes would help limit the physical size of the code and reduce the size of the Building volume into a single volume. He stated Mark Johnson, representing the ICC, would discuss the packaging the different volumes into sets for purchase. He further stated Mr. Johnson had conferred with DCA and staff and would present proposals for the Commission's consideration.

Mark Johnson, ICC, Senior Vice-President of Business and Product Development

Mr. Johnson stated this was the third code cycle he has been involved with. He then stated each time he learns a little more, making the process very educational. He then stated during the last two code cycles the ICC has reviewed and worked collaboratively with DCA on ways to better facilitate the needs of the code users. He further stated ICC and DCA were exploring bundle opportunities with regard to allowing users to purchase Accessibility Code and some of the other codes. He continued by stating the bundle opportunities would eliminate any impact of removing the Energy Code and the Accessibility out of the Building Code. He stated there would be various bundles to meet the needs of the users and the Plumbing Code would be reviewed as well. He then stated the administrative chapter would be looked at for other parts of the Building Code and making it accessible, looking to bring that collaboratively to the October 2010 Commission meeting. He continued by stating he had a comment relative to accessibility provisions. He stated the size of the Florida Building Code had basically reached its maximum size to fit one binder and it was time the issue of size was addressed. He then stated the publication staff was working very close with the ICC to meet the deadline set forth by Florida.

Commissioner Schock asked if the Energy Code was being pulled out of the Building Code does that mean it would be pulled from the Residential Code as well.

Mr. Dixon responded stating the proposal would be to have the Energy Code be a code which would stand on its own just like the existing Building Code or Residential Codes when they were added to the Florida Building Codes.

Commissioner Schock asked if there would be two binders, one for each.

Mr. Dixon responded stating there would be one binder one code.

Mr. Dixon then stated staff would like to hear the input of any Commissioner who had questions or ideas on different combinations which could be provided. He stated after staff hears the Commissioner comments or ideas a list of combinations would be put together and a projected cost developed for those combinations. He further stated historically what has been done was to provide the Accessibility Code along with the Plumbing Code when someone purchases the Plumbing Code so the plumbers would have Accessibility, of which a large part is plumbing. He continued by stating the Mechanical Code and the Energy Code would be included in a bundle because a lot of mechanical contractors, especially in residential buildings, are doing energy code calculations and need to know the Energy Code. He stated there were different ways of packaging. He then stated the Administrative chapter had been removed from all volumes of the Code, except for the Building volume. He further stated finding some way to make that chapter available and inexpensive for someone interested in purchasing only the Plumbing Code or the Mechanical Code i.e., the trades people would be beneficial. He restated if there was any Commissioner who had ideas or comments to present them at the August 2010 Commission meeting to allow those comments to be worked into discussions with ICC.

Commissioner Greiner asked if accessibility requirements were being removed from the Plumbing Code.

Mr. Dixon responded stating they were not being removed but he did not believe everything was in the Plumbing Code. He further stated there were technical specifications portions within the code but there was scoping criteria within the Accessibility Code also which was not translated within the code.

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated he shared the same concern as Commissioner Schock. He then stated that staff should be complimented for what was done with the Energy provisions within the Residential Code. He further stated from a free-standing document Energy Code is now in Chapter 11 and would prefer it stay there.

Chairman Rodriguez stated at this point the work had been done.

Mr. Dixon stated the issue could be reviewed as well as the cost efficiencies and different ways of printing all of the codes together also provided dimension to the consideration and optimization problem. He then stated the Building Code also applies to residential. He continued by stating there were always special cases and the policy or approach taken before when two other codes were added to the suite of codes and printed in separate volumes, the Residential and the Building Codes.

Mr. Glenn stated there was overwhelming acceptance by the industry for the creation of the Residential Code because it was a single binder with all subcode requirements in it. He then stated he attended a mitigation class and the attendees were amazed at the number of remodeling contractors who know that the Existing Building Code even existed after all of this time. He further stated it was obviously not being enforced very effectively. He stated the point was there are two different classes of residential contractors although many have had to readapt themselves due to the economy because remodels cannot be done overnight. He then stated in new construction typically they do not, in normal times, deal with remodels and renovations because that was a different class of contractor. He continued by stating those contractors would typically recognize the fact there were multiple codes they would deal with. He stated but in new construction the ability to have a code book, which contains everything, the job superintendent could have in his truck on the jobsite is desirable. He also stated that a single code book had been instrumental in causing building inspectors to be more precise in code violation red tags. because no one there had a copy of the code on the jobsite. He concluded by stating it had been well received and turned out very well to have the Residential Code as a standalone volume.

Chairman Rodriguez stated the Commission appreciated Mr. Glenn's comments. He then stated for all of those reasons he believed if it needed to come out it was question which was good to come up why Mr. Johnson was here, to make sure he listens to any suggestion a member of the Commission would have.

CONSIDER COMMITTEE REPORTS AND RECOMMENDATIONS:

Code Administration TAC

Commissioner Gonzalez presented the report of the Code Administration TAC. (See *Code Administration TAC Teleconference Meeting Minutes August 5, 2010.*)

Commissioner Nicholson moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Gonzalez presented the report of the Code Administration TAC. (See *Code Administration TAC Teleconference Meeting Minutes August 9, 2010.*)

Commissioner Nicholson moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Education POC

Commissioner Browdy presented the report of the Education POC. (See *Education POC Teleconference Meeting Minutes August 4, 2010*).

Commissioner Nicholson moved approval to accept the report. Commissioner Scherer entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Fire TAC

Commissioner Goodloe presented the report of the Fire TAC. (See *Fire TAC Teleconference Meeting Minutes August 5, 2010*).

Commissioner Nicholson moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Plumbing TAC

Commissioner Gregory presented the report of the Plumbing TAC. (See *Plumbing TAC Meeting Minutes August 9, 2010*).

Commissioner Nicholson moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Swimming Pool Sub-committee to the Plumbing TAC

Commissioner Gregory presented the report of the Swimming Pool Subcommittee to the Plumbing TAC. (See *Swimming Pool Sub-committee to the Plumbing TAC Meeting Minutes August 9, 2010*).

Commissioner Nicholson moved approval to accept the report. Commissioner Carson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Product Approval/Prototype Buildings/Manufactured Buildings POC

Commissioner Carson presented the report of the Product Approval/Prototype Buildings/Manufactured Buildings POC. (See *Product Approval/Prototype Buildings/Manufactured Buildings POC Teleconference Meeting Minutes August 5, 2010*.)

Commissioner Carson stated revocation proceedings for the following PA numbers due to lack of quality assurance: FL#'s 4141, 4865, 5484, 6339, 8853, 10881, 10997, 11326, 11327, 11004, 11015, 11199, 11272, and 12086.

Commissioner Carson moved approval to begin revocation processes. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Roofing TAC

Commissioner Schulte presented the report of the Roofing TAC. (See *Roofing TAC Meeting Minutes August 8, 2010*).

Commissioner Carson moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

Special Occupancy TAC

Commissioner Hamrick presented the report of the Special Occupancy TAC. (See *Special Occupancy TAC Meeting Minutes July 27, 2010*.)

Commissioner Hamrick moved approval to accept the report. Commissioner Nicholson entered a second to the motion. Vote to approve the motion was unanimous. Motion carried.

COMMISSION MEMBER COMMENTS AND ISSUES

Commissioner Schock stated over the past couple of days he had sat in and observed some of the TAC sessions during the code modifications. He then stated he believed the Commission should require more of an explanation relative to a Florida specific need. He further stated several times the modifications to remove Florida specifics were disapproved indicating only there was a "Florida specific need" with no clear explanation what the Florida specific need was.

Chairman Rodriguez offered clarification stating the proponents appear before the Commission with what they deemed to be Florida specific comments.

Commissioner Schock stated he thought it was the opposite. He further stated he thought the proponents would come trying to take out the Florida specific requirement, without explaining what the need was.

Chairman Rodriguez asked - on the Florida specific side who was Commissioner Schock suggesting be responsible for backing that up.

Commissioner Schock stated he believed the committee needed to state their reason for a Florida specific need.

Chairman Rodriguez asked for clarification if he meant the committee members.

Commissioner Schock responded stating he was correct.

Mr. Blair stated the committee members are asked to be specific but do not present any rationale.

Commissioner Schock stated maybe that indicates there was no rationale.

Commissioner ?? suggested on the submittal forms the candidates should be required to present the Florida specific need at the time of submittal.

Mr. Richmond stated a contractor went through trying to find areas where previously adopted Florida specific amendments could be replaced with language from the I-codes. He continued by stating it becomes somewhat problematic to ask the TAC members to go back, in some cases several years, to identify the need that initially supported the Florida specific amendment. He stated secondly the proponents were asking TAC members to establish a record so they could challenge the Commission's action. He then stated he would advise the Commission against the request. He further stated the action of the TAC was sufficient to support the previously adopted Florida-specific amendment and that subsequent changes to the I-Codes have failed to address the substance of that amendment.

Mr. Blair asked for clarification as to whether the TACs providing the guidance who feel the need for the Florida specific to remain was sufficient.

Mr. Richmond responded stating that was correct.

Chairman Rodriguez stated the ideal situation would be for the I-Codes to incorporate what was believed to be Florida specific but in many cases have found to be applicable outside of Florida. He further stated the I-Codes would be as strong as the Florida Building Code. He then stated to the degree those commissioners

who were in the TACs can illustrate the specificity he did not believe it would cause harm but it could be used against them.

Mr. Madani stated he believed the issue takes away from the hard work of the Roofing TAC, there was a lot of discussion relative to the modifications as to whether it should be considered or not to be able to really summarize what the intent was.

Chairman Rodriguez stated he did not believe anyone argued the fact the individuals who appear before the Commission had not had an opportunity to be heard. He then stated because it was important for everyone to have the right to state their position the Commission does not run the most time sensitive operation. He further stated he believed it was a valid concern relative to the specificity of the Florida specific items.

Commissioner Stone stated he believed there was really going to be an impact on how much time it takes the Commission to go through the proposals at the December Commission meeting. He then stated the more specific in argument the faster it would probably be for the Commission to process those proposals. He continued by stating he looked back through the commentary from 2004 Code to determine whether the reasons for the Florida specifics were included in that version. He concluded by stating he would like to see the proposals listed including the specifics.

Commissioner Browdy stated the entire reason everyone moves forward with the effort to be engaged in the code process was for enforcement. He then stated he wanted to reiterate what Mr. Glenn had stated relative to the publishing effort of the 2010 Code. He continued by stating he believed it was very important the Commission does what it can to produce written documents that enable and encourage contractors to act in accordance with the code. He stated if there was a way the Commission can create something other than just the separate volume of the Energy Code as the work product indicates to be added to the Residential volume and be incorporated into the Residential volume it would be most helpful to the individuals who were still left in business.

Commissioner Gonzalez stated he needed clarification relative to what happened in the rule development workshop of Rule 9N-3. He then stated he would appreciate it if Mr. Richmond would offer further explanation.

Mr. Richmond stated the Commission voted to move forward with the rule adoption by holding the hearing if requested, likely telephonically or by webinar, depending on availability, which would be the week of September 20, 2010, if requested. He then stated if a hearing was not requested with the Rule adoption with the rule reflecting the changes recommended by the POC "*technical*

significance” to “*technical relevance*” as recommended to be defined by the Program Oversight Committee with the notation in on-screen shots indicating the process, per the statutes, results in approval by the department subject to ratification by the Commission at its next scheduled meeting, products stand which have been administratively approved by the department per statutory language.

Commissioner Gonzalez asked Mr. Richmond who could ask for a hearing.

Mr. Richmond responded by stating he meant the general public. He then stated as with all of the proposals notice would be published on Florida Administrative Weekly scheduled for Wednesday August 18, 2010. He continued by stating the public would have 21 days after publication which would be two Fridays after submission to review and request a hearing. He stated if there was no request for a hearing then the Commission would proceed with adoption. He further stated anyone from the general public could request a hearing to the department.

Commissioner Gregory stated this was his third time he had participated in the code modification process. He then stated he would like to thank the Chairman and the Commission for allowing the industry to have some control over their destiny. He continued by stating it was very gratifying to see the industry come and participate in the process.

Commissioner Schulte stated he wanted to offer a public thank you to Mr. Blair and the DCA staff. He further stated they had worked very hard in the Roofing TAC meetings.

Chairman Rodriguez stated staff deserves a tremendous amount of credit

Mr. Blair stated it was a clearly a team effort. He then stated Mr. Madani and the staff did a tremendous job in organization the documentation. He stated he did not think it could not have been any better and it made his job much easier.

GENERAL PUBLIC COMMENT

Amy Yelvington

Ms. Yelvington stated she sat on the Product Approval POC conference call 2 ½ hours. She then stated there were dogs barking. She further stated she did not think the committee should get in a situation where there was possible arguments while trying to figure things out....(audio)

Chairman Rodriguez stated it was not an excuse, but so she could understand, resources were limited, meetings were less frequent. He further stated there was also an issue of telephone etiquette. He stated participants had been

asked to put their phones on mute to avoid any sounds which would be distracting. He further stated the Commission would rather conduct the meeting in person but there are not enough resources to do all the committee meetings necessary when the Commission only meets once every two months.

Tom Johnston, Hurricane Protection Product Manufacturers

Mr. Johnston stated it was very hard to articulate information clearly during the conference calls as much as he enjoyed not having to travel and incur expenses for accommodations. He continued by stating his expenditures were irrelevant to not having a product available. He stated it was very difficult to have a turn in line to speak and the etiquette is never going to be great, even if improved upon. He then stated he would suggest most manufacturers would rather have an open forum.

Chairman Rodriguez stated the Commission agrees. He then stated the dilemma was raising fees during a time when most people were hurting. He further stated he had the same discussion with Ila Jones, who was the fortunate person who handles the Commission's money or lack thereof. He continued by stating the state cannot subsidize the Commission any longer.

Mr. Richmond stated the Commission provides a public point of access to all conference calls. He then stated for anyone who would like to attend in person the access point is 2555 Shumard Blvd. He then stated the Commission hears from those who would like to show up in person but there were countless numbers of others who do not attend because they do not have to and do not wish to. He further stated those individuals do not want to incur travel expenses and appreciate the opportunity to conduct business by telephone from the comfort of their own offices. He stated he understood the etiquette problem but the Commission was hearing from the group who would rather come to the meeting because those individuals come to the Commission meetings regularly. He then stated he did not think he could overstate the convenience factor for those who were not here because they appreciate it.

Chairman Rodriguez stated the point that the meetings can be attended in person if it were more comfortable for those individuals.

Mr. Gascon stated he wanted to commend staff on the work they have done to get the code modifications to the TACs. He then stated having sat through those TACs a picture was painted of what to expect from the Structural TAC meeting. He added he would like to ask the Commission as the code modification process continues to keep the Florida specifics enforced in the HVHZ areas. He further stated there were changes presented for the HVHZ areas that are crucial. He continued by stating if the changes were made in the near future or down the road it will be evident it was taken out when what's left does not really work. He stated it

was more of an indication why more changes will be necessary and eventually may be watered down until they don't necessarily work. He again asked for the Commission's participation in helping with Florida specifics in the HVHZ areas.

Mr. Gascon read a letter from David Perez, External Affairs Coordinator, Miami-Dade County Department of Emergency Management to be entered into public comment. (Please see *David Perez, External Affairs Coordinator, Miami-Dade County Department of Emergency Management, Public Comment to Florida Building Commission August 10, 2010.*)

Mr. Gascon stated on behalf of Miami-Dade County he they were grateful and appreciated the opportunity to make comments before the Commission. He asked again for the Commission's participation with the Florida specifics in the HVHZ areas.

Chairman Rodriguez stated on behalf of the Commission, from an 11 ½ year perspective, the Commission had done more to uphold the HVHZ areas standards than anyone else. He then stated the Commission had done so because it believes in the importance of those sensitive zones. He further stated the situation 11 ½ years ago when the public was concerned about the "South Florida Building Code" being weakened. He stated he strongly recommended to everyone on the list in Mr. Perez' letter that we do not go back 11 years. He then stated they were not around when there was a public official in Miami-Dade County saying to the Commission that if the state were to adopt the South Florida Building Code in Toto and just change the word South he would not support it because he did not trust the state of Florida. He further stated the message was clear and it does not need to go there. He continued by stating the Commission does everything it can because it believes in it, not because of political convenience. He stated the person who made that comment was, at that time, running for county mayor and did not win. He then stated the bottom line was those who come personally from Miami-Dade County have done more than anyone else and have carried more weight, not because of the knowledge, but the technical competence, and they bring solid reasons for concerns before the Commission. He stated the fact Miami, Dade and Broward counties were hit first was interesting because when other communities in Florida were hit they saw and discovered the benefits of what those three counties had done. He then stated, from the bottom of his heart, he had not put in 11 ½ years on the Commission for nothing. He further stated it would be advisable to work through the process rather than start alarming the community or making local politicians believe the way to win an election was to scare people into believing that the codes were going to be weakened because it was not the intention. He stated it had never been the intention and through the democratic process people come up with suggestions, the Commission listens and deliberates. He further stated those who come bear the most influence because of the involvement and technical competency.

Mr. Gascon stated it was definitely the intent of Miami-Dade County to keep it in the process that had been set. He further stated this was merely an approach to convey information to the Commission. He then stated he sincerely requested the Commission's continued support to uphold the HVHZ

Chairman Rodriguez stated his request, Commissioner Gonzalez' request and everyone else from Miami-Dade request are much more powerful to the Commission than requests from people who have not come before the Commission. He stated the Commission forum was not a political forum, but a technical forum. He then stated there was a place for political forums which was why elections were held and candidates elected who go to the Legislature. He further stated sometimes the Legislature undoes things the Commission has done, as in the panhandle. He stated the traffic needed to be bifurcated i.e. politicians to the Legislature and technical people to the Commission.

Mr. Gascon stated under the budgetary constraints it was becoming more difficult to attend forum type meetings and it would be more beneficial to have more of their staff participate.

Chairman Rodriguez stated the Commission could only consider technical compelling technical arguments. He then stated if there were a political argument it should be taken to the Legislature.

David Perez, External Affairs Coordinator, Miami-Dade County Department of Emergency Management

Mr. Perez stated, relative to Chairman Rodriguez' comments about politics and the technical aspect of the Commission, he believed it was still important to know the elected officials were concerned about some of the amendments that were proposed the HVHZ area. He then stated he was there to convey the south Florida communities, especially Dade and Broward, were concerned about any amendments which would lessen or weaken the codes in the HVHZ areas.

Mr. Richmond stated some of the representatives who were being contacted relative to the actions of the Commission will eventually come before the Commission in December. He further stated the challenge submitted at the Roofing TAC remains. He continued by stating what had been identified was a generic any change submitted relative to the South Florida Building code presents an eminent-like danger. He stated he proposed what the Commission would see was the actions because the net results of those will the application of some of those protections of the South Florida Building Code to make it available throughout the state. He further stated from a technical aspect in no way water down those protections, there may be some changes to it. He continued by stating some changes were identified through the TAC process and may be recommended for

changes, which may not be an eminent life threat, but just a change. He stated he would challenge all of those individuals who contacted him with what the issue was. He then stated the Commission had always been extremely sensitive and extremely cognizant of all participants particularly those who come from Miami-Dade and Broward counties because they have been very proactive and constructive. He stated he believed the Commission would remain sensitive to issues that protect homes in those areas. He further stated to date no one has identified any particular change being considered as providing any threat. He concluded by stating he hoped the information at some point the underlying concerns will be conveyed to the elected officials and other organizations so they can make some evaluation of their own right.

Jack Glenn, President, Florida Homebuilders Association

Mr. Glenn stated he echoed Mr. Gascon's first remarks relative to staff organization of the proposals. He then stated in 2001 he came to the code modification process with six 6-inch binders and in 2010 he came with his computer and a flash drive. He further stated he had a better record of what had occurred over the last three TAC meetings than he has had throughout the entire process because of the systems put into place by the staff. He continued by stating staff should be commended for the number of approvals made during the process. He stated he hoped the remaining TAC meetings go as well the December Commission meeting.

Commissioner Nicholson stated he was in agreement with the public relative to their comments about the Product Approval POC teleconference meetings. He then stated he believed the meetings would go much better at the Commission meetings. He continued by stating he did not know what one additional room would cost or the Commission could pick and choose which meetings to hold here instead of by phone. He stated during the 2½ hours there was a dog barking, people talking and there were 50 participants, which was hard to control. He then stated he believed in some situations where there were going to be bigger amounts of participants which would be better meetings in person. He stated there was no way the Roofing TAC would have been able to have its last meetings by phone. He further stated he believed the 2½ hour meeting would not have been so long if it had been in person because it would've been more under control.

Chairman Rodriguez stated he understood the concern.

ADJOURN

11:13 a.m. adjourned.