

## **Commission's Adopted Consensus-Building and Decision-Making Procedures**

*In May, 1999 the Commission reviewed and made decisions on the consensus building and decision making process. At its June, 1999 meeting the Commission confirmed their adoption of the guidelines and procedures set forth below.*

### **Overview of Process.**

Both the Florida Building Commission and the TAC/TGs will seek consensus decisions on particular issues and their package of recommendations for developing the new Florida Building Code and for the Commission's Final Report to the Legislature.

The Commission's Consensus building and decision making process is a participatory one whereby on matters of substance, the members jointly strive for agreements which all of the members can accept, support or at least agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on an issue or package of recommendations, and where 100% acceptance or support is not achievable, final decisions of the Commission will require at least a 75% favorable vote of all members present and voting. This super majority decision rule underscores the Commission's view of the importance of seeking and developing agreements with the participation of all members and with which all can live with and support.

### **Commission Review Procedures of TAC/TG Recommendations and Issues**

For TAC/TG Building Code Recommendations, the Commission will maintain both a "consent agenda" and a "discussion agenda."

**Consent Agenda.** Those TAC/TG recommendations receiving a 75% affirmative vote will be placed on the Commission's consent agenda. The chair will move the consent agenda as a single decision item. Prior to such a motion, any Commission member may request to place any consent agenda item on the discussion agenda.

**Discussion Agenda.** The Commission's discussion agenda is for those issues and recommendations that need further deliberation and consensus building. A TAC/TG may request time on the Commission's discussion agenda for guidance on an issue the TAC/TG is addressing but has not taken a vote on. TAC/TGs may also request time on the Commission's discussion agenda for an issue or recommendation upon a vote of 51% of the members of the TAC/TG. (see TAC/TG decision rule below).

## **Product Approval System Development Process Timelines for Key Elements**

(Unanimously Adopted March, and Amended Unanimously June and July 2000)

### **Product Approval System Timelines**

- The Product Approval Ad Hoc will meet and report monthly to the Commission, and deliver their final recommendations to the Commission by the November 2000 meeting in order to meet the statutory requirements adopted by the Legislature.
- Adopt Amendatory Text of State Product Approval System including elements of stakeholder's recommendations and elements of Miami-Dade's Product Control System at the November 2000 meeting.
- Review and decide on amendments to the Product Approval System at the December 2000 meeting and present recommendations to the 2001 Florida Legislature.

### **Development Process**

*The Commission will utilize the same decision-making process used for the development of the Building Code:*

*Both the Florida Building Commission and the Product Approval Ad Hoc will seek consensus decisions on particular issues and their package of recommendations for developing the State Product Approval System and for the Commission's Final Recommendations to the Legislature.*

*The Commission's Consensus building and decision making process is a participatory one whereby on matters of substance, the members jointly strive for agreements which all of the members can accept, support or at least agree not to oppose.*

*In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on an issue or package of recommendations, and where 100% acceptance or support is not achievable, final decisions of the Commission will require at least a 75% favorable vote of all members present and voting. This super majority decision rule underscores the Commission's view of the importance of seeking and developing agreements with the participation of all members and with which all can live with and support.*

## **Amendment Process**

- An amendatory text will be adopted at the November 2000 meeting of the Florida Building Commission.
- The November Meeting Summary will be mailed to members after the November 2000 meeting with amendment forms.
- Deadline for Member Written Amendments—Will be established at the Amendatory Text adoption meeting.
- The Chair will work with staff to organize amendments as editorial and substantive and will move at the December 2000 meeting the adoption of the editorial amendments as consent packet. As necessary, the Commission will review and vote separately on any editorial amendment believed to be substantive by any member.
- At the December 2000 meeting, the Amendment sponsor(s) may accept “friendly” language to their amendments. Amendment sponsors, at the chair’s discretion, may be recognized for brief clarifying comments on the meaning and intent of the amendments. Members or the Chair may request straw polls on amendments.
- Commission members in the room will express consensus or vote on amendments, sections and the overall system or component as amended (no abstentions).
- Consensus reflecting support by 75% or more of the members will be required for inclusion of the amendments, for sections as amended and for the overall System as amended.
- No amendments will be accepted by members from the floor. The Chair may offer amendatory language to seek consensus.

It is anticipated that if the Product Approval Ad Hoc reaches a consensus recommendation prior to the November 2000 Commission meeting, the Chair, or by a 75% in favor vote of the Commission, may elect to move up the dates for amendatory and final adoption of recommendations for the system. These recommendations will be presented to the 2001 Legislature prior to start of session.

**Commission Decision Procedures for  
Deciding Whether to Change the Florida Building Code Rule**  
(Unanimously Adopted March 2000, Amended April 2000, and Amended June 2000)

**Florida Building Commission Consensus Decision-Making Procedures**

The Commission will sponsor public hearings on the proposed building code rule at its meetings in March and May, on the Florida Building Code that was submitted for rulemaking on February 18, 2000. Any changes to the Florida Building Code Rule would require the Florida Building Commission to publish a notice of change to the code pursuant to the requirements of Chapter 120 of the Florida Statutes.

**The following process will not apply to those changes specifically mandated by HB 219, which requires the Commission to implement said requirements.**

Following public comment received by May 19, 2000, and in response to Legislative direction mandating consideration of all pending amendments and previously adopted modifications to the Florida Building Code, in light of a fiscal impact statement, the Commission establishes the following process for considering new amendments/changes that may lead to additional consensus on the code by the Commission and for reviewing previously approved modifications to the base code. These procedures will supercede the normal Roberts Rules of Order procedures related to motions and decisions on matters related to changing the rule language.

1. All proposed Commission member proposals for changes on new amendments must be offered to the Chair by close of business on April 21, 2000 for his consideration in light of adopted criteria. Commission members will include a statement of how the proposed amendment addresses the consensus-building criteria listed below. The Chair will decide whether the proposal meets that criteria and submit those that do as a Chair's amendments at the July 2000 Commission meeting. The Chair may propose additional amendments as a result of public comment received by May 19, 2000.

2. The Chair will review and decide, whether on his own motion or at the request of a Commission member, to sponsor proposed amendments for review at the July 2000 meeting based on the following criteria:

**For reviewing approved modifications to the base codes:**

- All currently adopted modifications that receive public comment by May 19, 2000, and include a fiscal impact statement by June 29, 2000, will be forwarded to the Commission for their consideration and considered individually by the Commission.

**All changes mandated by Legislation shall be forwarded to the Commission for their formal adoption into the code.**

**For reviewing new changes/amendments to the FBC:**

- ☐ The proposed amendment/change can facilitate a greater level of consensus between stakeholders and/or Commissioners on key issues already adopted in the code; or
- ☐ The proposed amendment/change can build consensus by responding to public concerns on an issue not directly addressed by the Commission; or
- ☐ The proposed amendment/change can build consensus by addressing consequences clearly not intended by the Commission in adopting the Code; and
- ☐ On balance, the proposed amendment/change will provide benefits that outweigh the costs in delaying the code adoption process by publishing a notice of change to the Florida Building Code Rule.
- ☐ The proposed amendment/change includes a fiscal impact statement.

3. The Chair may elect to convene an Ad Hoc committee of the Commission to make recommendations to the Commission on a proposed amendment.

4. The Commission shall apply the criteria set forth at section 553.73 (7) (a) and (b), Florida Statutes for reviewing and adopting new amendments to the Florida Building Code, and review modifications to the base code, adopted by the commission on or before February 15, 2000, which are identified verbally or in writing during the public hearings on proposed rule 9B-3.047 held pursuant to chapter 120, Florida Statutes, except those integrating state agency construction regulations, high velocity hurricane zone provisions, and those necessary to harmonize the Florida Building Code with the Florida Fire Prevention Code, and shall confirm that such amendments meet the requirements of s. 553.73(7), Florida Statutes, as amended by s. 40, chapter 98-287, Laws of Florida, and subsequently noticing the changes pursuant to the requirements of Chapter 120 of the Florida Statutes.

5. At the July, 2000 Commission meeting Commission members who submitted proposals for changes, may at the Chair's discretion, provide a brief explanation of the proposed change, how it complies with the criteria above, and respond to any brief clarifying questions on the meaning and intent of the chair's amendment. The Chair may accept "friendly" amendments" as determined by the Commission member proposing the change.

6. All previously approved modifications to the base codes that receive public comment by May 19, 2000, and include a fiscal impact statement by June 29, 2000, shall be forwarded to the Commission by the Chair, and considered individually by the Commission. Any Commission member may request that a modification be removed from a consent agenda and placed on a discussion agenda for individual consideration. All discussion agenda items and new proposed amendments will be considered individually by the Commission at July's meeting.

7. Consensus reflecting support by 75% or more of a quorum of the Commission members will be required for approval of the amendments and to initiate a notice of proposed rule change. No amendments will be accepted by members from the floor. The Chair alone may offer amendatory language to seek consensus.

## **TAC/TG Decision Rule.**

TAC/TGs will make decisions only when a quorum is present. Decisions will require a vote of at least 75% of the members present. Regardless of the vote on an issue, any TAC/TG member may make a motion to place the issue on the Commission's discussion agenda. Such a motion will require 51% vote of the members present. In submitting the issue for the Commission's agenda, the Chair of the TAC/TG should draft an outline of the issues, the differences of opinion on issues, alternative options considered by the committee, and the result of the vote taken by the TAC/TG on the issue.

## **TAC/TG Consensus Building and Decision-Making Procedures**

### **Quorum**

A quorum for the TAC/TGs is constituted when 7 or more of the 12 voting members of the TAC/TG are present.

### **Motions:**

1. □ TAC/TG members may make only affirmative motions to approve proposals. The chair will not entertain motions to disapprove proposals.
2. □ Chairs should consider the use of "straw polls" prior to a vote on a motion to approve a recommendation in order to determine whether to table the issue for further additional discussion or the use of a facilitator.
3. □ Any member may make a motion for the use of a facilitator. Such a motion will require a simple majority vote of those present and voting.
4. □ Any member may make a motion to submit to for the Commission's discussion agenda a proposal receiving less than 75% support. Such a motion will require a simple majority of members present and voting.

### **Seventy Five Percent Decision Rule:**

TAC/TGs shall develop their recommendations to the Commission by using consensus-building processes. When a quorum is present, those proposals achieving a 75% favorable vote of all members present and voting are approved and forwarded to the Commission to be placed on its "consent" agenda. However, any TAC/TG member may make a motion to place the issue instead on the Commission's discussion agenda. Such a motion will require 51% vote of the members present. In submitting the issue for the Commission's discussion agenda, the Chair of the TAC/TG should draft an outline of the issue(s), the differences of opinion expressed on the issue(s), any alternative options that were considered by the committee, and the result of the vote taken by the TAC/TG on the issue.

## **Proposals not Achieving 75% Member Support:**

Where differences exist on an issue or package of recommendations that prevent a TAC/TG from reaching a 75% consensus approval on the package of recommendations or issue:

Following a vote on a recommendation which receives less than 75% support, a TAC/TG member may move and a simple majority vote of committee members will place the issue(s) on the Commission's discussion agenda.

A TAC/TG member may move and a simple majority vote of committee members will request the assistance of a facilitator to review the issue(s) using more structured problem-solving and consensus-building techniques to seek a consensus TAC/TG decision. The facilitator may help the TAC/TG clarify the issue(s), develop and evaluate proposed options; rank and prioritize options; and develop an acceptable solution.

## **TAC/TG Guidance on Procedures**

The presiding chair of the TAC/TG, in general, should use parliamentary procedures set forth in Robert's Rules of Order

1. Any voting member may make a motion when a quorum is present
2. A second is required to discuss the motion
3. If a motion is seconded, the chair opens the floor for discussion. The chair will recognize members wishing to speak on the motion. The chair will, if time permits, recognize other participants wishing to speak on the motion.
4. The chair may elect or be requested by the member making the motion to take a "straw poll" on the motion. Based on the result the Chair may table the motion with the agreement of the member moving it pending further discussion. The chair or any member may also move to utilize a facilitator for which a second and a simple majority vote would be required.
5. The member making the motion may accept friendly amendments to the motion.
6. The Chair will call the discussion to a close and restate the motion, with any friendly amendments, and call for a vote.
7. If the motion receives 75% vote of the members it will be placed on the Commission's consent agenda.
8. Regardless of the vote on an issue, any TAC/TG member may make a motion to place the issue on the Commission's discussion agenda. Such a motion will require 51% vote of the members present. In submitting the issue for the Commission's discussion agenda, the Chair of the TAC/TG should draft an outline of the issue(s), the differences of opinion expressed on the issue(s), any alternative options that were considered by the committee, and the result of any vote taken by the TAC/TG on the issue.

**Florida Building Commission**  
**Consensus Criteria for Modifying the Base Code**

(Unanimously adopted, September, 1998 and Refined in May, 1999)

The Commission has adopted and the TAC/TGs have utilized the following criteria for reviewing proposals to modify the base code(s) for inclusion in the Florida Building Code.

1. **How does the proposal strengthen and improve the base code to enhance safety for all of Florida's citizens?**
2. **How does the proposal make the code easier to understand or otherwise contribute to a user-friendly code?**
3. **What is the proposal's technical merit and how is it supported by a scientific basis?**
4. **How will the proposal be enforceable or otherwise contribute to an enforceable code?**
5. **Is the proposal cost effective?**
6. **Does the proposal account for Florida's diverse conditions including climate, geology, and population?**

**Additional Criteria for Modifying Draft II**

(Unanimously adopted, August, 1999)

7. **Is the modification essential for inclusion in Draft III?**
8. **Would the modification significantly enhance the protection of public health and safety?**
9. **Would the modification significantly serve to prevent a serious adverse impact on an industry?**
10. **Is there compelling new information that would warrant a reconsideration of an existing modification?**
11. **Does the proposed modification adequately address public input?**



# **Adopted Criteria and Process for Evaluating Proposed Modifications and Public Comment on Draft II**

(Unanimously adopted, August, 1999)

## **Timelines and Tasks for Adoption of Rule Draft (III)**

- ☐ Draft II adopted on August 10, 1999.
- ☐ Draft II disseminated during first week of September.
- ☐ Five public hearings on Draft II occur from September 8 through November 8, 1999.
- ☐ Deadline for public comment on Draft II: October 27, 1999.
- ☐ Final public hearing on Draft II for general comments: November 8, 1999
- ☐ Commission adopts Amendatory Draft III: November 10, 1999
- ☐ Written amendment deadline for Commission members: November 24, 1999
- ☐ Commission adopts final Rule Draft (III): December 9, 1999.

## **Consensus Criteria for Modifying Draft II**

### **Draft I Criteria:**

- 1.☐ How does the proposal strengthen and improve the base code to enhance safety for all of Florida's citizens?
- 2.☐ How does the proposal make the code easier to understand or otherwise contribute to a user-friendly code?
- 3.☐ What is the proposal's technical merit and how is it supported by a scientific basis?
- 4.☐ How will the proposal be enforceable or otherwise contribute to an enforceable code?
- 5.☐ Is the proposal cost effective?
- 6.☐ Does the proposal account for Florida's diverse conditions including climate, geology, and population?

### **Adopted Additional Criteria:**

- 7.☐ Is the modification essential for inclusion in Draft III?
- 8.☐ Would the modification significantly enhance the protection of public health and safety?
- 9.☐ Would the modification significantly serve to prevent a serious adverse impact on an industry?
- 10.☐ Is there compelling new information that would warrant a reconsideration of an existing modification?
- 11.☐ Does the proposal adequately address public input?

## **Adopted Process for Reviewing Proposed Modifications and Public Comment**

(Unanimously adopted, August, 1999)

### **Proposed New Modifications:**

1. □ Staff reviews proposed modifications and refers them to the appropriate TAC Chair for review.
2. □ TAC Chair reviews modifications to determine whether or not any modifications meet the consensus criteria adopted by the Commission.
3. □ If modification meets the consensus criteria, TAC Chair refers it to the TAC for a single (one time) review and recommendation for Commission action.
  - □ TAC reviews modifications using their existing 75% rule with approved modifications going on a consent agenda, and modifications that were not approved but received a 51% vote for discussion, being placed on a discussion agenda for Commission review.
4. □ If modification does not meet the consensus criteria, TAC Chair instructs staff to notify commentor on the disposition of the modification.

### **Public Comment:**

1. □ Staff reviews public comment to determine whether it is a comment on a new or existing modification/issue and refers them to the appropriate TAC.
2. □ TAC reviews comments to determine whether or not the information provided is compelling and warrants a reconsideration by the Commission to a previously approved modification.
3. □ If content of comment warrants reconsideration:
  - □ TAC makes a recommendation using their 75% decision rule and forwards it to the commission's consent or discussion agenda; or,
  - □ If TAC cannot reach consensus on a recommendation it would require a 51% favorable vote to send it to the Commission's discussion agenda with no recommendation.
4. □ If content of comment does not warrant a reconsideration by the Commission:
  - □ No further action or response is required.

### **Adopted Process for Commission's Review of Proposed Modifications to Draft II:**

1. □ Commission reviews TACs consent and discussion and considers the proposed modifications of Draft II for possible inclusion in Draft III.
2. □ Commission reviews modifications referred by the TAC and approves or denies them based on their 75% consensus rule.
3. □ Any Commission member may remove an item from the consent agenda and place it on the Commissions discussion agenda.
4. □ Any Commission member may submit a written amendment to the adopted amendatory Draft III by the November 24, 1999 deadline. This could include any of the proposed modification that were not approved by the Commission.

## **Amendatory Draft III Review Procedures**

(At the November, 1999 Commission meeting, the Commission adopted the following additional procedures for the Draft III review process and amended it in Dec. of 1999)

### **DRAFT III FLORIDA BUILDING CODE**

- ☐ An amendatory Draft III text will be adopted at the November, 1999 meeting of the Florida Building Commission.
- ☐ The November Meeting Summary will be mailed to members on November 16 with amendment forms.
- ☐ Deadline for Member Written Amendments—close of business November 24, 1999.
- ☐ The Chair will work with staff to organize amendments as editorial and substantive and will move at the December meeting the adoption of the editorial amendments as a consent packet. As necessary, the Commission will review and vote separately on any editorial amendment believed to be substantive by any member.
- ☐ At the Dec. meeting, the Amendment sponsor(s) may accept “friendly” language to their amendments. Amendment sponsors, at the chair's discretion, may be recognized for brief clarifying comments on the meaning and intent of the amendment. Members or the Chair may request straw polls on amendments.
- ☐ Commission members in the room will express consensus or vote on amendments, sections and the overall Draft III as amended (no abstentions).
- ☐ Consensus reflecting support by 75% or more of the members will be required for inclusion of the amendments, for sections as amended and for the overall Draft as amended.
- ☐ No amendments will be accepted by members from the floor. The Chair may offer amendatory language to seek consensus.

## **Ad Hoc Committee and “Glitch” Amendment Process—Dec. – Jan., 2000**

(Unanimously Adopted December, 1999 and Amended January 2000)

- □ Adopt Draft III as amended at December’s meeting. The Commission will review and adopt guidelines for the ad hoc committee and “glitch” amendment process which will be included in the Commission’s Adopted Consensus-Building and Decision-Making Procedures.
- □ The Chair will propose that the existing ad hoc committees (wind design, product approval, insurance) and any new committees be noticed, reconvened and charged to review any amendment receiving between a 51% and 74% vote in the December meeting to seek to draft committee amendments that are designed to build greater consensus on Draft III.
- □ As appropriate, the Chair may appoint new Commission members to these ad hoc committees as an additional opportunity to help to shape Draft III as a consensus product.
- □ Following the December meeting staff will distribute a summary of the decisions on amendments made at that meeting for use by the Ad Hoc Committees and members proposing “glitch amendments.”
- □ The Chair will also propose an additional “glitch amendment” process whereby members may submit written “glitch” amendments which:
  - □ Clarify or propose a solution to new and compelling information not considered by the Commission during the code development process; or
  - □ Clarify intent or address and resolve unintended or unexpected consequences, that may result from adoption of Draft III as amended in December; or
  - □ Suggest an alternative provision that can build greater consensus among members on a controversial recommendation adopted in Draft III as amended in December; or
  - □ Respond to public comment that suggest serious concerns from key stakeholders on an issue(s) not directly addressed by the Commission in the Code development process to date.
- □ Deadline for Ad Hoc Committee Written Amendments or member written “glitch” amendments —11:59 PM, January 9, 2000.
- □ Each glitch amendment should include a statement of how it meets an adopted criterion or criteria and will be reviewed by Commission chair to determine whether or not the proposed amendment meets the criterion or criteria in order to be reviewed by the Commission at the January, 2000 meeting.
- □ Commission member may appeal the Chair’s determination on a proposed “glitch” amendment by making a motion to appeal at January’s meeting. A Motion requires a second and a 51% favorable vote from the Commission in order to move amendment onto the Commission discussion agenda.
- □ The Chair will work with staff to organize both Ad Hoc Committee and Glitch Amendments as editorial and substantive and will move at the January meeting the adoption of the editorial amendments as a consent packet. As necessary, the Commission will review and vote separately on any editorial amendment believed to be substantive by any member.
- □ The Amendment sponsor(s) may accept “friendly” language to their amendments. Amendment sponsors, at the chairs discretion, may be recognized for brief clarifying comments on the meaning and intent of the amendment.
- □ Commission members in the room will express consensus or vote on ad hoc committee and “glitch” amendments and on the overall Draft III as amended at the conclusion of the January meeting. The Commission will then move to submit Draft III for notice of proposed rulemaking (no abstentions).
- □ Consensus reflecting support by 75% or more of the members will be required for inclusion of the amendments, for sections as amended and for the overall Draft as amended.
- □ No amendments will be accepted by members from the floor. The Chair may offer amendatory language to seek consensus.
- □ The Commission will move to proceed with rule development on Draft III as amended (if any glitch amendments) for the Building Code Rule at February’s meeting.