

FLORIDA BUILDING COMMISSION

ATTACHMENT TO THE MAY 14, 2003 MINUTES

FACILITATOR'S REPORT OF THE MAY 14, 2003 COMMISSION PLENERARY SESSION

Orlando, Florida

Meeting Design & Facilitation By



Report By Jeff A. Blair
Florida State University

jblair@mailier.fsu.edu
Website: consensus.fsu.edu

This document is available in alternate formats upon request to Dept. of Community Affairs, Codes & Standards, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850) 487-1824.

FLORIDA BUILDING COMMISSION

Attachment to the May 14, 2003 Minutes

OVERVIEW OF COMMISSION'S KEY DECISIONS

WEDNESDAY, MAY 14, 2003

COMMISSION PLENARY SESSION

Agenda Review and Approval

The Commission voted unanimously, 16 - 0 in favor, to approve the agenda as clarified.

Clarifications:

Rule adoption hearings and workplan will be considered after Chair's issues.

Review and Approval of April 8, 2003 Meeting Minutes

The Commission voted unanimously, 16 - 0 in favor, to approve the minutes as amended for the April 8, 2003 Commission meeting.

Corrections to the Minutes:

Page 7: Ted Berman's name misspelled.

Page 19: Commissioner Parrino's Resolution should be attached to the minutes.

Review and Approval of Commission's Updated Workplan

The Commission voted unanimously, 15 - 0 in favor, to approve the updated workplan as presented.

(Attachment 2—Workplan)

Consideration of Accessibility Waiver Applications

The Commission reviewed and decided on the Waiver applications submitted for their consideration.

Chair's Discussion Issues/Recommendation

Commission Appointments:

Chairman Rodriguez announced that the Governor had made the following Commission appointments effective as of May 13, 2003:

- ✓ Nick D'Andrea, re-appointed building official
- ✓ Dick Browdy, re-appointed residential contractor
- ✓ Mike McCombs, re-appointed electrical contractor
- ✓ Christ Sanidas, re-appointed building official
- ✓ Leonard Lipka, re-appointed mechanical contractor
- ✓ Jeff Gross, new Building Owners and Managers Industry appointment
- ✓ Randal Van, new plumbing contractor appointment
- ✓ Christopher Schulte, new roofing contractor appointment

Resolution Supporting the Florida Conflict Resolution Consortium

Chairman Rodriguez informed the Commission that FSU has decided to discontinue funding the Florida Conflict Resolution Consortium, and felt that the Commission should send FSU a Resolution from the Commission in support of the FCRC. The Chair presented a resolution he has prepared and Commissioner Richardson moved to adopt.

Commission Actions:

Motion—The Commission voted unanimously, 17 - 0 in favor, to adopt a resolution of support for the Florida Conflict Resolution Consortium and to send it to Florida State University.

(Attachment 3—Resolution)

Table Microphone Discussion

Commission Actions:

Motion—The Commission voted unanimously, 17 - 0 in favor, to approve the using an on-off type of microphone at future Commission meetings.

Commission Policy for TAC Review of Proposed Code Amendments

Chairman Rodriguez reviewed the following issues with the Commission relative to TAC review of proposed code amendments:

The TAC’S role is that of technical advisors and the Commission that of policy maker. The Commission should rely heavily on the TAC’s technical recommendations and focus their efforts primarily on key policy issues.

In addition to the Commission, the TAC’s should include a fiscal impact analysis and the answers to the 4 finding required in law, with all proposed code amendment recommendations. The findings that must be considered for amendments are:

- ✓ Addresses the health, safety, and welfare of the public; and
- ✓ Strengthens or improves the Code; and
- ✓ Does not discriminate against materials, products, methods, or systems; and
- ✓ Does not degrade the effectiveness of the Code.

All TAC modifications to proposed code amendments must include the TAC’s fiscal impact analysis for the modification.

Chairman Rodriguez indicated that all local governments may only adopt amendments that are justified by local conditions which are not adequately addressed by the Florida Building Code. The Chair recommended that the Commission should require TACs to use the same rationale when considering state amendments and include the Florida specific need finding in their code amendment recommendations to the Commission.

Commission Actions:

Motion—The Commission voted unanimously, 17 - 0 in favor, to require TACs to determine whether there is a “Florida specific need” when reviewing proposed code amendments and to include that analysis in their code amendment recommendations to the Commission.

TAC's June Code Amendment Review Schedule

Chairman Rodriguez announce TAC meeting schedule for June.

The Structural, Mechanical, and Plumbing TACs will meet on Monday, June 16, 2003 and Tuesday, June 17, 2003. The Code Administration, Energy, and Electrical TACs will meet on Wednesday, June 18, 2003, and the Fire TAC will meet on Thursday, June 19, 2003. The Chair indicated that staff will work with the TAC chairs to ensure that the meeting rooms are set up in such a way that the voting members of the TACs will be seated next to each other and differentiated in some way from the non-members in order to facilitated voting.

Review and Discussion of Legislative Actions Impacting the Commission

Chairman Rodriguez reported to the Commission on the status of the seven issues the Commission had requested legislative action on in its 2002 Report to the Legislature, and the Commission's preferences on the legislative issues reflected in the April 2, 2003 version of SB 518. The Chair indicated that staff and key stakeholders were able to negotiate language, approved by him on the Commission's behalf, and subsequently passed by the Senate and House on April 21, 2003. Chairman Rodriguez informed the Commission that in the final analysis none of the legislation affecting the Commission had passed by close of session. The Chair proposed that the Commission review the negotiated language on the various legislative issues and once again get a sense of the Commission's preferences on each of these issues. At the conclusion of the discussions, Chairman Rodriguez proposed that the Commission discuss whether they should request that the Governor add the Commission's issues to the call for consideration during the special session.

Chairman Rodriguez outlined the process as follows:

Rick Dixon and Jim Richmond would review the legislative issues with the Commission. Jeff Blair would then lead the Commission through a facilitated process that would include clarifying questions, public comment, commission discussion, and consensus-testing for support using a three point scale where 3 indicates comfortable, 2 indicates minor reservations and three indicates major reservations with the proposal.

Following are the Commission's preferences on legislative issues as well as the decision on whether to request a call by the Governor.

Issue	3	2	1
Stakeholder Negotiation Issues			
Hospice Facilities per bill	16	0	0
Staff review of amendments for complete application	12	2	2
Binding interpretation per negotiation	11	0	5
Expedited adoption of Rehab Code per negotiation	15	0	0
Repeal of local amendments per existing law	14	0	1
Elimination of authority to adopt successor model codes—Commission voted on maintaining authority per negotiation	14	0	0

Creation of public/private corporation to support Commission per negotiation (See comments below)	8	2	6
Revisions of Product Approval System (1. Add ICC ES in law to list of approved evaluation entities. 2. Delay implementation of optional state product approval until no earlier than January 1, 2004 and evaluate cost versus benefits it would provide.)	8	3	5
Commission Issues in Report to Legislature			
Revisions to Building Code Training Program	15	1	0
Facility permits	12	0	0
ICC ES recognition as evaluation entity	15	0	0
Alternative plans review system evaluation report delay	13	1	1

Reservations on Outsourcing

The Commission members who expressed either minor or major reservations on the creation of public/private corporation to support Commission were asked to express their reservations to assist staff with any future negotiations on the issue. Following are the Commission members' reservations:

Minor Reservations:

- ✓ Concern for current staff in relation to where they are today as opposed to how they might be affected under any new system.
- ✓ Desire to keep working with current staff and not unknown quantities resulting from proposed changes.

Major Reservations:

- ✓ Concern that a contractor would have control over the staff and not maintain staff consistency.
- ✓ Philosophic concern with a private entity having control of the Commission's regulatory functions and powers and the potential for outside interference and influence.
- ✓ There are no demonstrated cost savings for such a move and therefore outsourcing is not warranted.
- ✓ Concern for the welfare and a desire to maintain current staff.

Discussion on Requesting Governor add Commission Issues to the Call

Commission Actions:

A motion was made by Commissioner Kim to request that the Governor add the Commission's legislative issues to the call for consideration during the special session. Commissioner Wiggins proposed an amendment to the motion that would allow only those issues that received a 75% level of support be considered for the call.

Motion—The Commission voted by a vote of 3 to 13 in favor of the amendment to restrict issues for the call to only those that received a 75% level of support. Motion fails.

Motion—The Commission voted by a vote of 10 to 5 in favor to request that the Governor add the Commission's issues to the call for consideration during the special session. Motion failed for lack of a 75% favorable vote.

Rule Adoption Hearing for Chapter 9B-1 Manufactured Buildings

Following opening of the hearing, Chairman Rodriguez asked for public comment on the proposed rule.

Commission Actions:

Motion—The Commission voted unanimously, 15 - 0 in favor, to proceed with rule adoption for Rule 9B-1 by filing the rule with the Department of State.

Rule Adoption Hearing for Chapter 9B-3.054 Non-binding Opinions

Following opening of the hearing, Chairman Rodriguez asked for public comment on the proposed rule.

Staff reported there were two comments that needed to be added to the rule. One was from JAPC and the other comment was previously agreed to but was inadvertently left out of the noticed rule.

Commission Actions:

Motion—The Commission voted unanimously, 15 - 0 in favor, to approve the proposed comments and publish a Notice of Proposed Change (NOPC) for Rule 9B-3.054.

PETITIONS FOR DECLARATORY STATEMENTS

Following are the actions taken by the Commission on petitions for declaratory statements.

SECOND HEARINGS

DCA03-DEC-040 by Steven Felices, Sunrise Pools & Spas

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve their previous action on the petition.

DCA03-DEC-047 by Anne Mason, Mason Law

Dismissed.

DCA03-DEC-063 by Wendell Haney, Commonwealth Engineering

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve their previous action on the petition.

DCA03-DEC-073 by Joseph Hetzel, DASMA

Motion— The Commission voted unanimously, by a vote of 12 – 0 in favor, to approve their previous action on the petition.

DCA03-DEC-079 by Dean Heminger

Dismissed.

DCA03-DEC-083 by Joseph Hetzel, DASMA

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve their previous action on the petition.

FIRST HEARINGS

DCA03-DEC-078 by Vince LaPorta, County of Charlotte

Motion— The Commission voted unanimously, by a vote of 7 – 6 in favor, to approve the TAC/staff recommendation on the petition as presented.

DCA03-DEC-005 by Edward Riley

Motion— The Commission voted unanimously, by a vote of 13 – 1 in favor, to approve the TAC/staff recommendation on the petition as presented.

DCA03-DCE-086 by Robert LoPiano

Motion— The Commission voted unanimously, by a vote of 13 – 0 in favor, to dismiss the petition.

DCA03-DEC-091 by Paul A. Zilio

Motion— The Commission voted unanimously, by a vote of 13 – 0 in favor, to approve the TAC/staff recommendation on the petition as presented.

DCA03-DEC-073 by Joseph Hetzel, DASMA

COMMITTEE REPORTS AND RECOMMENDATIONS

The Commission agreed that unless a TAC/POC required specific Commission action, the balance of the reports would be submitted into the record and approved as a part of July's meeting minutes approval.

Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee

Commissioner Carson presented the committee's requests for Commission action.

Commission Actions:

Action on Applications for Approval for Product Approval Entities

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve Exterior Research & Design, LLC. as a testing laboratory.

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve Farabaugh Engineering and Testing, Inc. as a testing laboratory.

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve Fenstration Testing lab as a testing laboratory pending verification of the current status of the Florida engineering license.

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve Farabaugh Engineering and Testing, Inc. as a validation entity.

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to approve PSI/Pittsburgh Testing Laboratory as a validation entity.

Public Comment

Chairman Rodriguez invited members of the public to address the Commission. One member of the public addressed the Commission.

Committee Assignments

Structural, Mechanical, and Plumbing TACs will meet on Monday, June 16, 2003 and Tuesday, June 17, 2003.

Code Administration, Energy, and Electrical TACs will meet on Wednesday, June 18, 2003.

Fire TAC will meet on Thursday, June 19, 2003.

Staff Assignments

Provide a transcript of the legislative issues discussions from the April 8, 2003 Commission meeting.

Chair should make needed TAC appointments.

Include public comment during key discussion issues.

Adjourn

Motion— The Commission voted unanimously, by a vote of 14 – 0 in favor, to adjourn the plenary session. Session adjourned at 1: 22 PM.

ATTACHMENT 1

MEETING EVALUATION RESULTS

April 8, 2003

Orlando, Florida

HOW WELL DID THE COMMISSION ACHIEVE THE MEETING OBJECTIVES?

	<i>Circle One</i>					
	+++	(---			
• Review and Update of the Workplan	5	4	3	2	1	
	9	0	0	0	0	5.00
• Chair's Discussion Issues/Recommendations	5	4	3	2	1	
	9	0	0	0	0	5.00
• Accessibility Waiver Applications	5	4	3	2	1	
	9	0	0	0	0	5.00
• Rule Adoption Hearing on Rule 9B-72, Product Approval	5	4	3	2	1	
	9	0	0	0	0	5.00
• Requests for Declaratory Statements	5	4	3	2	1	
	9	0	0	0	0	5.00
• Accessibility, Education, Energy, Mechanical, Plumbing and Structural TACs' Reports/Rec's	5	4	3	2	1	
	9	0	0	0	0	5.00
• Product Approval/Prototype/Manufactured Buildings Program Oversight Committees (POCs) Reports/Rec's	5	4	3	2	1	
	7	2	0	0	0	4.78
• Public Comment	5	4	3	2	1	
	9	0	0	0	0	5.00
• Assignments and Issues for Next Meeting	5	4	3	2	1	
	9	0	0	0	0	5.00

RATE THE FOLLOWING ASPECTS OF THE MEETING

	+++	(---			
• Clarity of the meeting purpose and plan	5	4	3	2	1	
	9	0	0	0	0	5.00
• Background information was helpful	5	4	3	2	1	
	8	1	0	0	0	4.89
• Agenda packet was helpful	5	4	3	2	1	
	9	0	0	0	0	5.00
• Balance of structure and flexibility	5	4	3	2	1	
	8	1	0	0	0	4.89

• Group involvement and productivity	5	4	3	2	1	
	9	0	0	0	0	5.00
• Facilitation	5	4	3	2	1	
	9	0	0	0	0	5.00
• Facility	5	4	3	2	1	
	8	1	0	0	0	4.89

ANY GENERAL COMMENTS/RECOMMENDATIONS?

WHAT DID YOU LIKE BEST ABOUT THE MEETING?

- Location-accommodations
- Staff is doing an "outstanding" job-keep it up.

MEETING EVALUATION RESULTS

May 14, 2003
Orlando, Florida

HOW WELL DID THE COMMISSION ACHIEVE THE MEETING OBJECTIVES?

	<i>Circle One</i>					
	<u>+++ (---</u>					
• Review and Update of the Workplan	5	4	3	2	1	
	11	1	0	0	0	4.92
• Chair's Discussion Issues/Recommendations	5	4	3	2	1	
	11	1	0	0	0	4.92
• Accessibility Waiver Applications	5	4	3	2	1	
	11	1	0	0	0	4.92
• Rule Adoption Hearing for Rule 9B-1 Manufactured Buildings	5	4	3	2	1	
	10	2	0	0	0	4.83
• Rule Adoption Hearing for Rule 9B-3.054 Non-binding Opinions	5	4	3	2	1	
	10	2	0	0	0	4.83
• Requests for Declaratory Statements	5	4	3	2	1	
	8	2	0	0	0	4.80
• Accessibility, Education, Electrical, Fire, Mechanical, Plumbing, and Structural TACs' Reports/Rec's	5	4	3	2	1	
	8	2	0	0	0	4.80

• Product Approval/Prototype/Manufactured Buildings Program Oversight Committees (POCs) Reports/Rec's	5	4	3	2	1	
	7	3	0	0	0	4.70
• Public Comment	5	4	3	2	1	
	9	2	0	0	0	4.82
• Assignments and Issues for Next Meeting	5	4	3	2	1	
	9	1	0	0	0	4.90

RATE THE FOLLOWING ASPECTS OF THE MEETING

	+++	(---			
• Clarity of the meeting purpose and plan	5	4	3	2	1	
	9	3	0	0	0	4.75
• Background information was helpful	5	4	3	2	1	
	10	2	0	0	0	4.83
• Agenda packet was helpful	5	4	3	2	1	
	8	4	0	0	0	4.67
• Balance of structure and flexibility	5	4	3	2	1	
	10	2	0	0	0	4.83
• Group involvement and productivity	5	4	3	2	1	
	10	2	0	0	0	4.83
• Facilitation	5	4	3	2	1	
	10	2	0	0	0	4.83
• Facility	5	4	3	2	1	
	9	3	0	0	0	4.75

ANY GENERAL COMMENTS/RECOMMENDATIONS?

- It's important to keep these meeting facilitated.
- Please be sure that all TAC members are contacted ASAP re:meetings so they can make arrangements for time off and travel arrangements.

WHAT DID YOU LIKE BEST ABOUT THE MEETING?

HOW COULD THE MEETING HAVE BEEN IMPROVED?

- Also a copy of requirements to each TAC member would be helpful next meeting (4 questions and fiscal impact statements FL specific needs).
- Time allowed was not properly anticipated.

ATTACHMENT 3

COMMISSION'S REVISED WORKPLAN

FLORIDA BUILDING COMMISSION 2003 WORKPLAN

2003 Glitch Amendments:

Schedule for 2003 Glitch Amendments:

Amendment submittal cutoff	6/14/02
Post on website	6/26/02
TAC's consider	8/12/02
Post TAC recommendations on website	8/26/02
Commission consider TAC recommendations/rule workshop	10/28/02
Rule hearing on amendments	12/10/02
Notice of Proposed Changes to noticed rule changes published	1/10/03
Consider comments on notice of changes to amendments	2/25/03
Effective date of amendments	6/30/03

2004 Update of the Florida Building Code:

Amendment submittal cutoff (independent submittals)	4/18/03
Post on website (independent/base code updates/local amends)	4/23/03
TAC's consider	6/16-18/03
Post TAC recommendations on website	7/3/03
Commission considers	8/25-27/03
Rule development workshop	10/14/03
Rule adoption hearing	11/18/03
Effective date of first update	7/01/04

Adopt Revised Chapter 34 for Existing Buildings

Schedule:

Residential and Commercial building rehab committees established	Mar 2002
Draft code amendments completed	Dec 2002
Draft revisions to law completed	Dec 2002
Report to the Legislature completed (<i>recommended expedited adoption</i>)	Dec 2002
Rule development workshop(<i>contingent of Legislature's approval to expedite adoption</i>)	May 2003
Rule adoption hearing (<i>contingent of Legislature's approval to expedite adoption</i>)	Jul 2003
Standards adopted and effective	Sep 2003
<i>Contingency: Propose adoption through 2004 update process</i>	<i>4/18/03</i>
<i>Effective date</i>	<i>7/01/04</i>

Develop Code Commentaries:

Plan:

Identify commentary documents to reference from website and do not adopt by rule.

Amend rules of procedure to require submittal of “rationale” for proposed amendments.
 Capture rationales for proposed amendments, declaratory statements and advisory opinions in BCIS to provide “commentary”.

Schedule:

Initiate rule amendment to require submittal of rationale	Apr 2003
Revise BCIS to include provision for providing rationale	Apr 2003

Voluntary Standards for Building Departments [HB 4181/s.553.76(5), F.S.]

Plan:

Establish a joint development project with the state building officials association, (BOAF),

with BOAF as lead.

Schedule:

Initiate project at BOAF board meeting	Aug 2002
Select contractor (deferred to FBC/BOAF committee and DCA)	Mar 2003
First draft of standards for public review completed	Jul 2003
Public comment and finalize draft	Aug-Dec 2003
Standards finalized	Jan 2004

Appeals Procedures [98-287, LOF/ss.553.73 & .77 & 2000-141, LOF/s.120.80,FS]

Schedule:

Assign to Code Administration TAC for review	Sep 2002
Develop any necessary Code amendments and/or changes to law	Sep-Dec 2002
Submit for 2003 Code amendment cycle	Apr 2003
Effective date	Jul 2004

ISO Ratings Program for Building Departments [s.553.77(1)(n),F.S.]

Ongoing: Addressed by establishment of policy on updating the FBC. ISO ratings dependent upon building codes being kept current with national standards.

Building Code Training Program

Core Curricula:

Develop administrative core curricula

Ed TAC develops recommendations	Apr-Jul 2003
---------------------------------	--------------

Develop technical core curricula

Ed TAC meets with licensing board representatives to develop recommendations	Apr-Jul 2003
--	--------------

Revise Building Code Training Program Rule 9B-70 to reflect core curricula and advanced code course criteria

Rule development workshop (after legislative session)	Oct 2003
Rule adoption hearing	Nov 2003
Rule effective	Dec2003

Report to Legislature

Jan 2004

Coordinate with licensing boards on establishing building code specific CE hour requirements

Ed TAC meets with board representatives to develop recommendations	Jan-Nov 2003
Boards approve	Dec 2003
Report to Legislature	Jan 2004

**Develop and implement voluntary accreditation program for building code courses
(Depends on program authorization by Legislature)**

Finalize recommendation to 2003 Legislature	Dec 2002
System concept development	Feb-Apr 2003
Rule development workshop (after legislative session)	May 2003
Rule adoption hearing	Jul 2003
Rule effective	Sep 2003
Report to 2004 Legislature	Jul 2004

Establish procedures for advisory opinions and adopt by rule:

Schedule:

Consider partnership with BOAF	May 2002
BOAF/Staff develop proposed procedures	May-Jun 2002
Approve procedures	July 2002
Procedure goes into effect (law allows effective before rule)	Aug 2002
RFP issued and contractor hired	Dec 2002
Rule development workshop	May 2003
Rule hearing	Jul 2003
Rule effective	Sep 2003

Review the implementation of s.553.891, F.S., Alternative Plans Review and Inspections, and report to the Legislature on or before January 1, 2004:

Schedule:

Consider timing of study and determine whether to recommend additional time and/or authorize RFP <u><i>Delay of report recommended to Leg</i></u>	Dec 2002
Review and approve RFP to hire contractor	Jan 2003
Select contractor and initiate study	(Note: dates change if report delay is authorized) Jun 2003
Complete study and begin TAC review	Oct 2003
Commission reviews draft support	Nov 2003
Complete report to the Legislature	Jan 2004

**Establish standards and criteria for foundation permits and other “specialty permits”:
(CS/CS/SB 336 & 180, 2001)**

Schedule:

Assign to Code Administration TAC	Sep 2002
Recommendations for criteria	Feb 2003

Submit for 2004 FBC edition amendment
Effective (2004 edition of FBC)

Apr 2003
Jul 2004

Amend Product Approval Rule Schedule:

TAC workshop 1
TAC workshop 2
Rule development workshop
Rule adoption hearing
Rule effective
System mandatory as required by law

Nov 2002
Dec 2002
Jan 2003
Apr 2003
May 2003
Oct 1, 2003

ATTACHMENT 4

COMMISSION'S RESOLUTION SUPPORTING THE FLORIDA CONFLICT RESOLUTION CONSORTIUM

Resolution

WHEREAS, the Florida Building Commission was constituted by the Florida Legislature and appointed by the Governor to develop and maintain the new state-wide Florida Building Code System; and

WHEREAS, the Florida Building Commission has developed the Florida Building Code System through a participatory consensus-building process designed and facilitated by Florida State University's Florida Conflict Resolution Consortium; and

WHEREAS, the Florida Building Commission remains committed to developing important State policy decisions utilizing Florida State University's Florida Conflict Resolution Consortium's consensus-building process; and

WHEREAS, the Florida Conflict Resolution Consortium has always represented Florida State University's commitment to education and public service in a highly visible and professional manner; now

THEREFORE, BE IT RESOLVED, that the Florida Building Commission at its public hearing held in Orlando, Florida May 14, 2003 voted unanimously to respectfully request that the Florida State University continue supporting the important public policy consensus-building offered by Florida State University's Florida Conflict Resolution Consortium.