

DRAFT



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
April 20, 2004**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Acting Chairman Nicholas "Nick" D'Andrea at 8:00 a.m. on Tuesday, April 20, 2004, at the Rosen Centre Hotel, Orlando, Florida.

COMMISSIONERS PRESENT:

Nicholas "Nick" D'Andrea, Acting Chair
Christopher P. Schulte
Randall J. Vann
Michael C. McCombs
Hamid J. Bahadori
Craig Parrino
Herminio Gonzalez
George J. Wiggins
John Calpini
Christ T. Sanidas
Peter Tagliarini
Richard Browdy
Stephen Corn
Dale Greiner
Paul D. Kidwell
Jeffrey Gross
Joseph "Ed" Carson
Suzanne A. Marshall

Steven C. Bassett
Diana B. Richardson
Doug Murdock, Adjunct Member

COMMISSIONERS ABSENT:

Raul Rodriguez, Chairman
Leonard N. Lipka
Do Y. Kim

OTHERS PRESENT:

Rick Dixon, Executive Director
Ila Jones, DCA Prog. Admin.
Jim Richmond, Legal Advisor
Richard Shine, Legal Advisor
Jeff Blair, FCRC

WELCOME

Chairman D'Andrea called the meeting to order at 8:07 a.m. He welcomed the Commission members and the public stating Chairman Raul Rodriguez would not be in attendance due to illness. Chairman D'Andrea then extended appreciation to the Commission members for their work during the rule development workshop at the March meeting which implemented the Commission's approved Florida-specific amendments to the Florida Building Code and integration of the International Family of Codes.

REVIEW AND APPROVAL OF AGENDA

Mr. Blair conducted a brief review of the meeting agenda as presented in each Commissioner's Agenda Packet.

Commissioner Greiner moved approval of the meeting agenda. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND APPROVAL OF MARCH 1 & 2, 2004 MEETING MINUTES

Chairman D'Andrea called for additions or corrections to the minutes from the March 1 and 2, 2004 Commission meeting.

Commissioner Bassett expressed concern stating his name was misspelled on the first page, page 11 states Steve Pfiefer was representing the Florida Building Commission which he was not, page 13 states "Mr. Blair replied any Commission vote on any issue requires 75% favorable vote," which should reflect an exception for accessibility waivers and declaratory statements. Commissioner Bassett then directed the Commission to the last page where it states "Steve Bassett, Member of Core of Engineering Society," should be corrected to state "Member of Florida Engineering Society." He then stated he was not comfortable approving the minutes because of missing information at the end of the document. It was agreed the minutes would be revised and corrected to reflect the entire meeting content and then approved as amended.

Chairman D'Andrea suggested approving the completed portions of the minutes with the revised sections to be brought before the Commission in June for final approval as amended.

Commissioner Wiggins moved approval of the completed sections of the March 1 and 2, 2004 Commission meeting minutes. The motion was seconded. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair then directed the Commission to the Facilitator's Summary Report and called for comments or a motion to approve the report.

Commissioner Corn moved approval of the Facilitator's Summary Report from the March 1 and 2, 2004 Commission meeting. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND UPDATE OF COMMISSION WORKPLAN

Mr. Dixon directed the Commission to pages 7 and 8 of the agenda packet for amendments to the workplan. He then conducted an overview of the Commission's workplan as amended.

Commissioner Gonzalez moved approval of the updated Commission workplan. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman D'Andrea announced the appointment of Bob McCormick to the Education TAC replacing Commissioner Marshall. He also stated Commissioner Tagliarini has been appointed to the Code Administration TAC.

REVIEW PENDING BUILDING CODE LEGISLATION

Mr. Richmond reported there is an amendment to one of the primary building code related issues that has been filed and is being heard during the current Commission meeting. He stated the primary building code legislative items were contained in a combined bill in the Senate which has procedurally passed through the Comprehensive Planning Committee and was removed from two other committees of reference. Mr. Richmond continued stating the bills are relatively consistent with the positions determined during the March Commission meeting. He further stated there was a significant change relating to swimming pools and their representation on or before the Commission in the form of a Technical Advisory Committee.

Commissioner Wiggins asked if the related bill does not pass could the Swimming Pool TAC still be created through the Chairman's or the Commission's action.

Mr. Richmond replied the TAC could be formed if it would be the desire of the Commission and the Chair. He added it was basically a compromise position from adding the swimming pool qualifier to unrepresented seats on the Commission. He continued stating it was also suggested that the Commission delete or diminish the committee membership requirement from ten.

Mr. Richmond added Product Approval has gone through multiple significant changes with the result being a moratorium on local product approval until July 1, 2005, creating a review committee to consider the requirements currently in the rule and

statutes and make recommendations in 2005.

Commissioner Greiner asked who was initiating the Swimming Pool TAC development.

Mr. Richmond responded stating he was uncertain how the idea was developed and by whom. He stated it had been advocated before the Legislature by Senator Dudley on behalf of the Florida Pool and Spa Association.

Mr. Dixon added, that individuals who have represented the Pool and Spa Association before the Commission indicated they were not sponsors of or necessarily in favor of the Swimming Pool TAC.

Commissioner Wiggins offered clarification stating there was originally a request that a representative of the swimming pool industry be added to the membership of the Florida Building Commission and a compromise was proposed to create a TAC for representation of the swimming pool industry.

Mr. Richmond stated there were other issues which had been proposed before the Comprehensive Planning Committee which were not approved for adoption by the committee. He stated the sponsors of some of the amendments may bring them forward again for approval. Mr. Richmond explained the issues included the integration of unvented attic provisions in the Florida Building Code which will now be presented before the International Code Council for integration into the international codes. He stated the new legislative approach would be to identify the issue and require the Florida Building Commission to initiate rule making within 60 days of the International Code Council adopting those provisions to incorporate the changes within the Florida Building Code. Mr. Richmond expressed concern that the process could interrupt the usual amendment cycles and creates a bad precedent for the Commission.

Mr. Richmond then addressed an additional amendment which has been included in the House bill which pertains to installation of lawn storage sheds and the requirement that a contractor install the buildings. He explained the issue is a licensing issue which is adverse to DBPR's concerns.

Mr. Richmond stated there had been an issue raised in Broward County concerning an increase in the standard for impact resistance for essential facilities which imposes a higher level of impact resistance raising the test from 50 mph to 80 mph for missile impact. He explained the issue had been brought forward by a product manufacturer making the product.

Mr. Richmond reported the issue of the Rehabilitation Code has been considered and had been approved through all the committees of reference in the House. He stated there are like provisions in the Senate Bill as well with the code taking effect July 1, 2004.

Mr. Richmond further stated the Construction Practices Review is still under consideration in House Bill 1479 and 1328, having been successful in each of the committees of reference.

Commissioner Bassett requested clarification regarding the bill numbers.

Mr. Richmond responded stating 520 and 494 is the primary bill in the Senate. He stated 911 is the primary bill in the House with other issues being addressed in SB 1344 and HB 1109 Hospice Facilities, 1328 and 1479 relating to the Construction Practices Review. Mr. Richmond explained there are a number of legislative issues in a variety of bills being submitted and considered during the legislative session currently under way.

Commissioner Browdy asked if the Florida Existing Building Code has an accelerated adoption date of July 1, 2004 with the entire family of codes being adopted January 1, 2005, would the Existing Building Code then be adopted twice and were there changes made to the Existing Building Code that were not made during the rule process.

Mr. Madani stated the way the Existing Building Code is currently written it will work in harmony with the International Building Code as revised. He continued stating if the rehab code is accelerated to be implemented July 1, 2004, then it must be reconsidered to be consistent with the 2001 Florida Building Code.

Commissioner Wiggins asked if HB 1479; SB 1328 Construction Practices Review will be deferred to the Florida Building Commission to review the process.

Mr. Richmond replied the Construction Practices Review bills have a great likelihood of being passed since they are on the floor. He stated it does defer to the Florida Building Commission for review and report to the Legislature by January 15, 2005.

Mr. Richmond then reported there was a decision concerning the Florida Pools challenge case in which the District Court of Appeal overturned the Administrative Law Judge finding the rule as adopted by the Commission to be valid without further consideration.

Mr. Richmond addressed the case of Mr. Dragomericki and the Town of Ponce Inlet stating their dispute has been brought before the Florida Building Commission once again through an amended petition which was filed with the Commission. He briefly reminded the Commission of the case stating the Town of Ponce Inlet had not used the terms "immediate adverse effect to health, safety and welfare" which would have divested the Commission of jurisdiction over hearing the appeal. He continued stating the case had been deferred to the Division of Administrative Hearings and may appear under a recommended order from the Administrative Law Judge around August 2004.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Mr. Mellick presented the waiver application that was recommended for approval without conditions:

#3 Quantik Engineering & Logistics Corporation

Commissioner Browdy moved approval of the Council's recommendation to approve the request for waiver based on evidence of extreme hardship. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Mellick then presented waiver applications which were recommended for conditional approval:

#1 Tampa Bay Amphitheatre

Mr. Mellick explained the applicant is requesting waiver from providing vertical accessibility to all rows of seating in a new \$17 million, 9,900 seat auditorium. He stated the Council unanimously recommended approving the request based on extreme hardship with the condition that the companion seats be placed on the outside of the rows next to the accessibility seats.

Commissioner Browdy moved approval of the Council's recommendation to approve subject to the conditions set by the Council. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#2 Tampa Museum of Art

Mr. Mellick stated the applicant is requesting waiver from providing vertical accessibility to all rows of seats in a new 296 theatre included in a 5-story, \$44 million cultural arts center. He stated the Council unanimously recommended approval based on extreme hardship with the condition they shift two inner most seats in the row toward the center and install all appropriate companion seating with revised plans to be submitted to DCA staff prior to the issuance of the order.

Commissioner Richardson moved approval of the Council's recommendation to approve the waiver subject to the conditions set forth by the Council. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 News Journal Lively Arts Center

Mr. Mellick stated the applicant is requesting waiver from providing vertical accessibility to all rows of seats in a new \$23 + million facility that includes two theatres, one with seating capacity of 850, the other 250 seats. He stated the Council unanimously

recommended approval based on extreme hardship with the condition that 2 additional accessible seats be installed with companion seats in the 850 seat theatre.

Commissioner Wiggins moved approval of the Council's recommendation to approve the waiver with conditions. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#8 Division of Administrative Hearings Office

Mr. Mellick stated the applicant is requesting a waiver from providing vertical accessibility to two 6-inch platforms in a judge's area as well as the accessible judge's area. He stated the Council unanimously recommended approval based on occupiable spaces not open to the public and house less than five persons. He continued stating the Council recommended hard wiring be provided for future platform lifts when necessary.

Commissioner Richardson moved approval of the Council's recommendation to approve the waiver with conditions. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Mellick then presented the requests for waiver applications recommended for deferral:

#5 Stock Exchange Restaurant

Mr. Mellick stated the applicant is requesting waiver from providing vertical accessibility to two raised platforms that were constructed without a permit in a \$60,000 alteration. He stated the Council recommended deferring the request because the applicant did not provide details for what the 20% would be applied nor did they provide estimates for accessing the two platforms.

Commissioner Richardson moved approval of the Council's recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#7 Sutran Lounge

Mr. Mellick explained the applicant is requesting a waiver from providing vertical accessibility to a mezzanine. He stated the applicant was not present and the application did not provide information for what the 20% would be applied.

Commissioner Corn moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Mellick presented the last request which was recommended for denial:

#6 Community Park Concession Trailer

Mr. Mellick stated the applicant was requesting the ability to provide equivalent facilitation by using a bell in lieu of providing a ramp to the concession trailer. He stated the Council recommended the request be denied based on lack of jurisdiction.

Commissioner Richardson moved approval of the Council's recommendation to deny the request. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

LEGAL REPORTS AND CONSIDERATION OF PETITIONS FOR DECLARATORY STATEMENT:

Mr. Richmond first stated there was a change in Senate Bill 520. He stated there was a significant change to the update procedure and the process the Commission is currently undergoing. He continued stating the primary change is the ICC model codes are specifically identified as the base code that will be used. He explained there are still procedural issues in terms of making changes and integrating those changes into the model codes. He stated it is statutorily intended that every change to the model codes be re-evaluated every three years. Mr. Richmond then extended appreciation to the interest groups who have considered the Commission's actions and supported them throughout the state. He stated binding interpretation language currently being considered gives deference to the local Board(s) of Rules and Appeals.

Chairman D'Andrea directed the Commission to Mr. Shine for discussion and Commission action regarding declaratory statements.

Second Hearings-

DCA03-DEC-334 by Gerald L. Hill

Mr. Shine presented the request for declaratory statement as it appeared in each Commissioner's packet. He stated it was recommended that the declaratory statement be approved.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA-04-DEC-022 by Adolf Amrhein

Mr. Shine explained the petitioner's request as it appeared in each Commissioner's packet which concerned a fire rating issue.

Commissioner Bassett asked if the Commission could advise the petitioner what the fire rating should be in relation to his request.

Mr. Madani interjected the question concerns interpretation which must be determined by the building official. He stated Chapter 4 does not allow the fire rating requested however in Chapter 7 it is allowed in Table 704.

Commissioner Corn asked if the case is now subject to building official interpretation.

Commissioner Greiner offered clarification stating the question was whether Section 411, which concerns a hanger next door to a residence, would apply in the case of the petitioner, who has a hanger underneath the residence. He explained the only other option would be regulations based on Table 704 since 411 does not address it specifically.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion resulted in 1 opposed (Bassett). Motion carried.

DCA04-DEC-030 by Palm Beach County BCAB Building Code Advisory Board

Mr. Shine stated the petition asked if the load on the bottom board of the metal plate connected roof truss be as permitted under Section 2309.2.2, 10 pounds per square inch total, or is it required to be as specified in building code Table 1604.1, 10 pounds live load, and if so is it concurrent with the maximum live load. He explained the response presented referenced Section 101.4.9 of the Florida Building Code, Table 1604.1 requirements superceded those of ANSI, TPI 1-1995 Appendix B. He stated the requirements of ANSI TPI 1-1995 are advisory and not mandatory in nature.

Commissioner Wiggins moved approval of the declaratory statement. Commissioner Greiner seconded the motion.

Commissioner Parrino offered clarification stating the correct calculation would be 10 psf rather than 10 psi.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-034 by Borjen Yeh, P. E. of APA

Mr. Shine stated the petitioner requested clarification regarding whether glued laminate timber products manufactured in accordance with ANSI AITCA 190.1 meets the intent of the Florida Building Code and should be exempt from product approval under the Florida Building Code Product Approval System. He stated the response referenced

Section 2301 and 2314 of the Florida Building Code provide for specification standards for structural glued laminate timber and require that the products must be manufactured, inspected, and marked. He continued stating according to Section 553.842(5) F.S., local approval of structural glued laminate timber may be achieved through building plans review and inspection providing that such products are inspected by an approved inspection agency.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

First Hearings-

DCA03-DEC-325 by Art Kamm, P. E. of KAMM Consulting, Inc.

Mr. Shine presented the case stating the petitioner asked 5 questions and addressed each question and the TAC recommendation as follows:

- 1) If the roof is insulated with fiberglass batt insulation strapped to the underside of the roof sheathing with the R-value required to meet Chapter 13 of the Florida Building Code and the space below the roof is air conditioned, is it still considered an attic? Mr. Shine stated the TAC voted 12-3 No, a conditioned space located beneath an insulated roof meeting the thermal and equipment efficiency requirements of Chapter 13 of the Code is not an attic.
- 2) If the space is air conditioned does soffit ventilation or mechanical ventilation still need to be provided with outside air? Mr. Shine stated the TAC voted 12-3 No, based on determination that the space is not an attic.
- 3) Can the air conditioning system used to air condition the building be shared to also provide air conditioning for the inner sidal space that was once considered an attic or must the air conditioning system be a separate dedicated system? Mr. Shine stated the TAC voted 12-3 Yes, the system may be shared with a system used to air condition the building.
- 4) If the underside of the roof is insulated with fiberglass batt insulation to meet Chapter 13 of the Florida Building Code and the area below the roof is ventilated in accordance with Section 2326.3.2.2, will 6 air changes per hour into the air conditioned house and return 6 air changes per hour into the area under the roof deck meet compliance? Mr. Shine stated the TAC voted 12-3 that the question does not require a response.
- 5) If a homeowner decided not to install a sheetrock ceiling leaving the wood trusses visible to the occupants, can the insulation be installed on the under side of the roof deck where the truss space would also be cooled and would attic ventilation be required? Mr. Shine stated the TAC voted 12-3 no response is necessary.

Commissioner Bassett offered clarification stating the TAC decisions for the last

two questions were made because the issues were addressed in questions 1 through 3.

Chairman D'Andrea called for public comment.

Commissioner Corn moved approval of the TAC recommendation. Commissioner Wiggins seconded the motion.

Commissioner Wiggins asked if the declaratory statements could be limited in the number of questions.

Mr. Shine responded stating the rule does not specify a minimum number of questions. He stated Mr. Richmond is making every effort to minimize the content and advise the applicants the topics should be concise.

Commissioner Gonzalez asked if the responses for the declaratory statement are specific to a single residence, and if the issues are in compliance with the International Code which will be adopted in January 2005.

Mr. Madani responded stating the answer is specific to a single-family dwelling and the language in the International Building Code is similar, however, the declaratory statement will not be applicable to the IBC because it is based on the 2001 Florida Building Code. He stated declaratory statements will need to be revisited upon adoption of the International Building Codes.

Commissioner Wiggins offered comment stating all the declaratory statements which have been issued through January 2005 will not be applicable after January 2005. He then asked if there is any process for the declaratory statements that would be applicable to be valid with the IBC or if all declaratory statements will require reconsideration.

Mr. Shine replied stating to the extent that the language in the portion of the Florida Building Code and the underlying rule that the declaratory statement was based upon, the declaratory statements may be applicable for their site-specific locations and applicants. He stated the applicability of each declaratory statement would ultimately fall under the jurisdiction of the local building official.

Commissioner Sanidas stated some of the declaratory statements are merely product approvals and should have been addressed through the product approval process.

Commissioner Bassett reminded the Commission has in the workplan a committee that is being formed to address the declaratory statement issue.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion resulted in 3 opposed (Sanidas, Gonzalez, Schulte). Motion carried.

DCA03-DEC-026 by Gregory Harris of Capri Engineering, Inc.

Mr. Shine stated the case does not meet the criteria and was recommended for dismissal.

Commissioner Calpini moved approval to dismiss. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-040 by Ralph Ward of Sarasota County

Mr. Shine stated the petitioner requested whether the building official was responsible to conduct the annual testing and inspection of backflow prevention assemblies. He stated the TAC recommended No, annual inspection and testing must be in accordance with rule and procedure established by Section 403.853 F.S. and Rule 62-555 Florida Administrative Code, as adopted by the Department of Environmental Protection.

Ruth Terrado, Florida Association of Plumbing, Heating and Cooling Contractors

Ms. Terrado directed the Commission to Chuck Vaughn, IRC Chairman and Instructor for Backflow and Cross Connection.

Chuck Vaughn, IRC Chairman, Certified Backflow and Cross Connection Instructor

Mr. Vaughn apologized for not presenting the case before the TAC then expressed support for the TAC response of No, however he stated he disagreed with the reason for the response. He stated the Safe Drinking Water Act was approved by Congress in 1972 and was re-authorized by President Clinton with all language relating to cross connection control removed. He explained under F.S. 403 assigns the Department of Environmental Protection with specific duties with no language relating to cross connection. Mr. Vaughn stated there is a rule, 62-555 Florida Administrative Code, which does address cross connection control in relation to public property, not private property. He recommended the Commission to revisit the language for the response.

Mr. Richmond offered further comment regarding the TAC recommendation stating the answer should appropriately be no but the jurisdiction determination is beyond the authority of the Commission.

Commissioner Greiner moved approval to accept the TAC recommendation provided the language is modified to a simple No. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-051 by Al Roettger of Broward Hurricane Wrol-UP

Mr. Richmond stated the petitioner requests clarification regarding whether signed and sealed drawings will be required each time permit drawings are submitted, even though state approval for the product has been obtained. He stated the TAC recommendation stated local jurisdiction is only authorized to obtain proof of state approval for products that have obtained statewide approval. He continued stating the TAC determined the petitioner is not required to submit signed and sealed drawings for such products.

Commissioner Greiner moved approval of the TAC recommendation. Commission Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-064 by Charles Danger of Miami-Dade County Building Dept

Mr. Richmond explained the issue pertained and the inspection of sprinklers in buildings by the building official and was previously addressed in a declaratory statement by the state Fire Marshal's office. He stated there are certain licensing issues for which the Commission has no authority and recommended for dismissal.

Mr. Dixon added the law directs the Commission to the state Fire Marshal to eliminate any conflicts between the two codes. He stated since 1998 the Commission and staff have worked directly with the state Fire Marshal's office to reconcile any conflicts and administrative matters. Mr. Dixon suggested that the Commission not only dismiss the case without prejudice referring it back to the local dispute resolution processes that are contained within the law, but additionally provide encouragement to the local boards to find a way of interleaving the various inspection processes to maximize the use of each official's staff. He continued by recommending the Commission conduct a follow-up project in conjunction with the state Fire Marshal's office to evaluate the overlaps between the two codes and determine appropriate corrective action.

Steve Randall, Florida Fire Sprinkler Association

Mr. Randall stated in Miami-Dade the inspections being conducted by the Mechanical Inspector are overlapping the inspections by the Fire Marshal's office and requested direction for corrective action in the duplicating of services, time, and money.

Commissioner Bassett moved approval of the recommendation to dismiss the declaratory statement. Commission Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval to conduct the joint project with the Commission and the state Fire Marshal's office to resolve conflicts between the two codes. Commissioner Vann seconded the motion.

Commissioner Greiner asked what project the joint committee would pursue.

Mr. Dixon responded stating the committee would bring recommendations back to the Commission and the state Fire Marshal regarding corrective action for the direct overlaps between the two codes.

Commissioner Browdy stated the issue was discussed briefly during the Budget Committee meeting as a possible funding issue. He continued stating if there is a requirement for funding the Budget Committee would like to see proposals from other agencies concerned.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion resulted in 15 in favor; 3 opposed (Bahadori, Parrino, Gonzalez). Motion carried.

DCA04-DEC-066 by Lisa Blackstone of Close It!, L.L.C.

Mr. Richmond stated the petitioner has a product that is a self-closing, self-latching device to be added to existing sliding glass doors to meet the requirements contained in 424.2.17 Swimming Pool Barriers and asks if the product would be subject to state approval pursuant to 9B-72. He stated the TAC recommended the products are not covered within the definition of structural components and state approval is not available.

Commissioner Parrino moved approval of the TAC recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-067 by John K. McCall, PhD, P.E.

Mr. Richmond explained the petitioner requested declaratory statement regarding whether window shutters are required for a single-family dwelling designed as partially enclosed and located in the windborne debris region, Exposure Category C, 130 mph. He stated the TAC recommendation stated protection from hurricane missiles is per 1606.1.4 of the Florida Building Code and impact resistant covering is not required since the project is designed as partially enclosed resisting internal pressures.

Jaime Gascon, Miami-Dade County Product Control

Mr. Gascon expressed concern with life safety issues in terms of not requiring impact resistant window coverings because the frame of the structure is designed for high winds. He urged the Commission to consider the focus of the Code which is life safety.

Commissioner Parrino moved approval of the TAC recommendation. Commissioner Browdy seconded the motion.

Commissioner Wiggins offered clarification stating the option for designing partially

enclosed structures is imposed by Florida Statute, not by the Florida Building Code.

Mr. Richmond responded stating the statutory provisions are embodied in the Florida Building Code with alternatives available through the Code.

Commissioner Parrino noted the project in the declaratory statement is located in a mandatory evacuation zone in the event of a hurricane.

Commissioner Gonzalez added the primary concern of the Florida Building Commission is protecting the citizens of Florida and if there is a chance the structure would be occupied he could not support the declaratory statement.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion resulted in 16 supporting; 2 opposed (Gonzalez, Calpini). Motion carried.

DCA04-DEC-069 by Bob Boyer of Palm Beach County Building Division

Mr. Richmond stated the petition contained 18 questions with some being resolved and some being deferred to the next Commission meeting. He presented the questions the TAC made recommendations for as follows:

2) Request clarification whether or not a low slope metal roofing panel applying for state product approval under 9B-72 must comply with only the Florida Building Code Chapter 15 requirements, only Chapter 16 structural load requirements, or both. He stated the TAC recommended both chapter requirements must be met.

Commissioner Browdy moved approval for TAC recommendation concerning question #2. Commissioner Corn seconded the motion.

Jaime Gascon, Miami-Dade County Product Control Division

Mr. Gascon requested clarification regarding the declaratory statement and how procedurally each vote would be affected if there is a vote on the declaratory statement in its entirety.

Mr. Richmond responded stating any issues with individual items contained in the declaratory statement should be amended to create a consensus recommendation for the overall declaratory statement.

Commissioner Browdy recommended re-structuring the numbering of the declaratory statements and their content.

Commissioner Kidwell asked how the deferred questions pertaining to the declaratory statement would come back to the Commission for review and consideration.

Mr. Richmond stated the deferred questions would be presented as a revision to the declaratory statement and resolved by a supplemental order under the same case number.

Commissioner Bassett asked why the questions were not given individual numbers.

Mr. Dixon responded that the committee worked with Palm Beach County through a series of workshops in an attempt to answer the questions. He explained that working on the Code required an enormous amount of time and the questions required language sufficient to meet the requirements of Chapter 120. He extended regret that the organization of the presentation was not better planned however explained that time was of the essence.

Mr. Blair then reviewed the process to be followed in order to approve the content of the declaratory statement individually then approve the declaratory statement in its entirety.

Question #1

Mr. Richmond stated question #1 had been deferred. No Commission action needed.

Question #2

Mr. Richmond readdressed question #2 in the declaratory statement.

Commissioner Bassett moved approval to defer the entire declaratory statement.

Chairman D'Andrea called for a vote on the motion which was on the floor to approve TAC recommendation for question #2. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett then re-entered his motion to defer the entire declaratory statement. Commissioner Gonzalez seconded the motion.

Commissioner Parrino expressed opposition to defer action regarding the declaratory statement stating the POC spent extensive time and consideration regarding the declaratory statement and making recommendations which will be useful in clarifying important issues relating to the petition.

Commissioner Greiner stated the Commission may wish to address the issue of multiple declaratory statements in future meetings. He added as long as staff has compiled the information and presented it for consideration by the Commission procedure should be followed and Commission action continued.

Commissioner Kidwell expressed opposition to the deferral.

Commissioner Browdy expressed opposition regarding the deferral.

Commissioner Carson expressed opposition regarding the deferral stating the petitioners have been waiting more than six months for an answer to their request.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion to defer resulted in 17 opposed; 1 in favor (Bassett). Motion failed.

Question #3

Mr. Richmond stated the TAC had responded to the question in declaratory statement DCA04-DEC-070 and asked for a motion to incorporate the same result into the subject declaratory statement.

Commissioner Greiner moved approval to incorporate the same result as DCA04-DEC-070. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #4

Mr. Richmond stated the question requests clarification relative to whether the verbiage subject to standardized field testing procedures contained in 9B-72.0401(b) requires a field test for each permit issued with the product that uses this method of compliance to obtain local product approval. He stated the TAC recommended the field test may be required as required in the standards referenced in the Florida Building Code.

Commissioner Parrino moved approval of the TAC recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #5

Mr. Richmond stated the question requests the Commission determine whether the definition of structural component within 9B-72.010(28) includes a pre-engineered air conditioner stand attached to a structure. He stated the TAC recommended stated the pre-engineered A/C stand attached to the structure meets the definition of a structural component.

Commissioner Wiggins suggested placing Yes at the beginning of the TAC recommendation. It was agreed Yes would be placed at the beginning of the response for clarification.

Commissioner Corn moved approval of the POC recommendation. Commissioner McCombs seconded the motion. Vote to approve the motion resulted in 16 in favor; 2 opposed (Browdy, Bassett). Motion carried.

Question #6

Mr. Richmond stated the question requests clarification regarding the requirement of a product certification agency to review and approve and/or supply the certification label used to demonstrate compliance with 9B-72 as it relates to windows. He stated the POC recommendation stated per 1707.4.2 of the Florida Building Code the approval of the label is by the authority having jurisdiction and as required by 9B-72.010(19) the label can be provided by a nationally recognized testing lab, inspection agency, or other organization concerned with product evaluation.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #7

Mr. Richmond stated the question requested clarification whether a state approved product must have a reference on its certification label identifying the products limitations of use and the product as state approved. He stated the POC recommendation stated with the exception of windows, which must have a performance rating pursuant to Chapter 17, the label does not have to list limitations of use nor does the label have to identify the product as being state approved.

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

Question #8

Mr. Richmond stated the question was determined to be outside of the scope of Rule 9B-72 as it pertained to clarification relative to guidance regarding how a field inspector can verify if the installation instructions supplied in the field for state approved windows are specific to the product tested to demonstrate compliance with 9B-72. He stated the POC recommended dismissal.

Commissioner Corn moved approval of the POC recommendation to dismiss. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #9

Mr. Richmond stated the question requests clarification relative to whether or not a window manufacturer's installation instructions must have fastener spacing and type equal to that used in testing for certification to AAMA 101/IS 2 97 posted on the Building Code Information System. He stated the POC recommendation stated depending on the method used; i.e., certification method, No, installation instructions are not required; test report method, Yes, the space must be equal to the test and posted on the BCIS; evaluation report method, No, such spacing may vary based on the evaluation.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #10

Deferred

Question #11

Mr. Richmond stated the question requests clarification whether the Department of Community Affairs and the Florida Building Commission require original signed and sealed copies of the substantiating data evaluated or validated by an engineer as required by the Board of Professional Engineers be on file with the state for a product in 9B-72.080 to be valid. He stated the POC recommendation stated, Yes, the original engineered signed and sealed copy of the substantiating data for evaluation are on file.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #12

Deferred

Question #13

Mr. Richmond stated the question pertains to clarification relative to whether the product validation entity for optional state product approval is restrained from reviewing test results to the referenced standards when validating a product to be in compliance with Rule 9B-72.080. He stated the POC recommendation stated the validation entity for optional state product approval is not restrained from reviewing the test results to the referenced standards when validating a product to be in compliance.

Commissioner Wiggins moved approval of the POC recommendation. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous.

Motion carried.

Question #14

Mr. Richmond stated the question was determined to be outside the scope of Rule 9B-72 and recommended for dismissal.

Commissioner Parrino moved approval of the POC recommendation to dismiss. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #15

Deferred

Question #16

Mr. Richmond stated the question pertains to the reference in Rule 9B-72 that does not allow the evaluation of validation for state product approval to be done by the same architect or engineer. He stated the POC recommendation stated 9B-72.110(4) does not permit Florida registered architect or professional engineer performing an evaluation to have or acquire a financial interest in any other entity involved in the approval process of the product.

Commissioner Wiggins requested clarification regarding the answer to the question stating the answer does not appear to accurately represent the issue. He then recommended the word "No" be placed before the response. It was agreed No be placed in the beginning to the response.

Commissioner Parrino moved approval of the POC recommendation. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #17

Mr. Richmond stated the question refers to Rule 9B.72.110(3)(4) asking whether the receipt of a professional fee constitutes a financial interest for services rendered by an architect or engineer which forbids them from performing an evaluation. He stated the POC recommendation stated the fee for services rendered to a manufacturer or a company does not constitute a financial interest in the manufacturer or company.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Question #18

Deferred

Mr. Richmond then called for a motion to approve the declaratory statement in its entirety.

Commissioner Parrino moved approval of the declaratory statement as individually considered and voted by the Commission. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA04-DEC-070 by Jimmy Worley of Ruffin Building Systems

Mr. Richmond stated the petitioner requests clarification relative to whether or not their product falls under any of the subcategories of Rule 9B-72. He stated the POC recommendation stated the buildings in question are custom fabricated buildings in accordance with 553.842(11) F.S. not requiring separate approval for individual buildings, however the steel deck diaphragm, siding sheathing, windows, doors, and other structural components listed in 9B-72 are subject to the requirements of the rule.

Commissioner Carson moved approval of the POC recommendation. Commissioner Kidwell seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Appeal-

DCA03-BC-330 Dragomirecky v. Town of Ponce Inlet

Mr. Richmond stated the appeal had been referred to Division of Administrative Hearings with no Commission action necessary.

Audrey Harris, Town Attorney's Office, Town of Ponce Inlet

Ms. Harris stated a motion had been filed prior to receiving the letter of referral. She explained the original petition was brought before the Commission with a hearing held with both parties present to argue the issue of jurisdiction. She stated during the meeting the Commission recommended the petition be dismissed with leave to amend and the petition was subsequently amended recently upon receiving the petition and a response was drafted. She continued stating there was no formal notice of the hearing with the Town of Ponce Inlet under the impression there would be opportunity to address the issue of jurisdiction prior to the Commission making any final recommendation. Ms. Harris stated in the amended petition the petitioners admit that their building permits were issued prior to March 1, 2002, in fact they were first issued in 1998. She continued stating there is reference to a code that was used by the Board of Adjustments and Appeals in rendering the order that is now being appealed. She further stated the

petitioners failed to mention that the demolition order that was appealed to the Board of Adjustments and Appeals listed the applicable codes which were the 1994 Standard Building Code. Ms. Harris reported there was a motion filed which may be included in each Commissioner's packet that includes an Appendix A, Notice of Unsafe Building and Order to Vacate and Demolish. She then requested the Commission either stay the referral to DOAH or rescind the referral to allow both parties to be present to address the jurisdiction issue.

Mr. Richmond responded stating the general process is to review petitions received for facial sufficiency prior to referral to DOAH which was performed for the subject petition. He stated the petition was found to be deficient on its face which was brought forward for dismissal during the last Commission meeting. He continued stating an amended petition was received which was found to be facially sufficient and referred to DOAH. Mr. Richmond explained the referral does not prejudice the town in any way and the jurisdictional items may be argued at the DOAH level if desired.

BREAK

Chairman D'Andrea called for a 5-minute break at 10:25 a.m.

CONSIDERATION OF APPLICATIONS FOR PRODUCT AND ENTITY APPROVAL

Commissioner Carson presented applications recommended for entity approval:

Standards Council of Canada

Commissioner Corn moved approval of the POC recommendation to recognize as an accreditation body. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

GeoScience Ltd

Commissioner McCombs moved approval of the POC recommendation to approve as a test laboratory. Commissioner Schulte seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Radco Inc

Commissioner Greiner moved approval of the POC recommendation to approve as a validation entity. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Approval for Existing Product Approvals

Commissioner Parrino moved approval to allow existing product approvals with the conflict of the engineer evaluation and validation problem six months to be corrected. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair conducted a review of the process of Commission action for each consent agenda group of applications or individual applications as presented. He then presented the application numbers for specific products in consent agenda groups according to the four Code Compliance Methods:

Certification Mark or Listing:

Recommended Approval

Product #'s 200, 677, 732, 1311, 1499, 1557, 1607, 1610, 1628, 1671, 1739, 1814, 1826, 1906, 1916, 1933, 1935, 1942, 1943, 1946, 1949, 1950, 1951, 1952, 1953, 1954, 1956, 1960, 1967, 1969, 1977, 1984, 1987, 1996, 2019, 2020, 2025, 2045, 2047, 2052, 2054, 2055, 2056, 2059, 2060, 2061, 2062, 2072, 2073, 2074, 2077, 2078, 2080, 2081, 2082, 2083, 2085, 2088, 2089, 2090, 2091, 2099, 2110, 2116, 2117, 2119, 2127, 2128, 2129, 2138, 2142, 2146, 2149, 2150, 2151, 2161, 2167, 2170, 2178, 2182, 2198, 2209, 2254, 2262, 2271, 2272, 2277, 2286, 2292, 2297, 2305, 2306, 2307, 2309, 2311, 2313, 2314, 2316, 2322, 2323, 2325, 2326, 2328, 2329, 2331, 2332, 2333, 2335, 2336, 2337, 2339, 2340, 2342, 2346, 2348, 2349, 2361, 2363, 2367, 2368, 2369

Commissioner Wiggins moved approval of the consent agenda as recommended by the POC. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 1315

Commissioner Carson explained may have been some confusion regarding the status of product # 1315. He stated there was much debate during the POC meeting with a split decision. He then stated the POC finally recommended denial of product # 1315.

Commissioner Bassett moved approval of the POC recommendation to deny. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product # 1870

Mr. Blair explained the POC recommended conditional approval of product # 1870 with the condition that the applicant remove reference to TAS 135.

Commissioner Carson moved approval of the POC recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 2009

Commissioner Carson moved approval of the POC recommendation to defer. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2046

Mr. Blair stated the POC recommended denying product # 2046 stating it is not in compliance with ASTM E 1300 or the Plastics Standards Chapter 26.

Commissioner Parrino moved approval of the POC recommendation to deny. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2048

Mr. Blair stated the POC recommended denial based on the same reasons as product # 2046.

Commissioner Bassett moved approval of the POC recommendation. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2049

Mr. Blair explained the POC recommended denial based on the same reasons as product #'s 2046 and 2048.

Commissioner Bassett moved approval of the POC recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2064

Mr. Blair stated the POC recommended denial based on same reasons as product number's 2046, 2048, and 2049 and because the test was not performed by an engineer.

Commissioner Browdy moved approval of the POC recommendations. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2065

Mr. Blair stated the POC recommended denial of product # 2065 because the test reports did not include all the anchors on the application.

Commissioner Carson moved approval of the POC recommendation to deny. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2068

Commissioner Browdy moved the recommendation of the POC. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2189

Mr. Blair stated the POC recommended denying product 2189 because ASTM E

1300 was not included.

Commissioner Browdy moved approval of the POC recommendation to deny. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Evaluation Report from a Florida Registered Architect or Florida Professional Engineer

Recommended Approval

Product #'s: 131, 1492, 1652, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 4754, 1779, 1794, 1838, 1861, 1885, 1909, 1910, 1911, 1912, 1913, 1915, 1970, 1974, 1975, 1976, 1978, 1980, 1986, 2024, 2031, 2103, 2147, 2155, 2186, 2193, 2201, 2202, 2204, 2205, 2207, 2208, 2210, 2224, 2249, 2250, 2251, 2267, 2287, 2291, 2294, 2298, 2300, 2301, 2334, 2360, 2362

Commissioner Parrino moved approval of the POC recommendation to approve the consent agenda. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 1621

Mr. Blair explained the POC recommended deferring product # 1621 until the next meeting allowing time for the applicant to select a validation entity different from the engineer of record and list appropriate standards on the application.

Commissioner Parrino moved approval of the POC recommendation to defer. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 1626

Mr. Blair stated the POC recommended denying because test reports were not included and the large missile test was used to extrapolate results.

Commissioner Carson moved approval of the POC recommendation to deny. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product # 1677

Mr. Blair stated the POC recommended conditional approval for product # 1677 because the validation entity was not accredited to perform the test and legal determination must be made.

Ted Berman, Miami-Dade County Office of Code Compliance

Mr. Berman offered comment stating the entity is a testing laboratory that has been approved by the Commission as a validation entity. He stated the entity has been accredited by Miami-Dade County as a laboratory to perform a single test on wood connectors. Mr. Berman continued stating the entity is validating products for many other areas of testing for which they have not been accredited and should not be allowed to validate.

Mr. Richmond stated the rule does not provide a similar scope of approval of validation entities that it does for the approval of other entities; i.e., test labs, etc. He stated there have been products approved in the past that have been validated by entities acting outside the scope of their accreditation leaving room for interpretation if the Commission desires to limit the scope. Mr. Richmond stated he would be supportive of past practices and also approving the subject product incorporating a change to the rule to limit validation entities who are approved by virtue of being approved evaluation entities or test labs and leaving their authority confined to their accreditation.

Commissioner Parrino moved approval of legal's recommendation to approve Product # 1677. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1712

Commissioner Parrino moved approval of product # 1712 based on the same legal recommendation as product # 1677. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1714

Commissioner Parrino moved approval of product # 1714 per legal recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1802

Mr. Blair stated the POC recommended conditional approval because the evaluation report does not indicate the test performed requiring verification by staff.

Commissioner Corn moved approval of the POC recommendation. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1904

Mr. Blair stated the POC recommended conditionally approving product # 1904 because the validating standards were not listed requiring verification by staff.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1905

Mr. Blair stated the POC recommended conditionally approving product # 1905 for the same reason as product # 1904.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 1941

Mr. Blair stated the POC recommended deferring product # 1941 based on the same engineer conducting the evaluation and validating the application.

Commissioner Bassett asked if the evaluation and validation must be two separate engineers working for different companies or could they work for the same company.

Mr. Richmond responded the issue would require additional research. He stated if the company was an evaluation entity or if the engineers were validating the work on the basis of their P.E.

Commissioner Bassett added generally the engineers are validating the work on an individual basis.

Mr. Richmond expressed concern with the financial independence issue and stated it would require additional research.

Commissioner Parrino offered clarification regarding the issue stating a registered engineer conducted the evaluation and another engineer performed the validation, both

engineers are employed by the same company. He then moved approval of the POC recommendation to defer. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1945

Commissioner Parrino moved approval of the POC recommendation to defer. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product # 1965

Mr. Blair stated the POC recommended conditional approval because the validation entity is not accredited, however, based on previous action a motion to approve the product per legal recommendation would be appropriate.

Commissioner Parrino moved approval of product # 1965. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 1994

Mr. Blair stated the POC recommended deferral based on the same issue as product # 1945.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 2102

Mr. Blair stated the POC recommended deferring product # 2102 because there is no design pressure rating and anchorages included with the application.

Commissioner Greiner moved approval of the POC recommendation to defer. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product #'s 2115, 2148, 2152

Mr. Blair stated the POC recommended conditional approval based on the validation entity not being accredited. He stated a motion to approve the products would be appropriate based on the Commission's previous action.

Commissioner Greiner moved approval to approve product #'s 2155, 2148, and 2152 per legal recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2200

Mr. Blair stated the POC recommended denial because the application shows no anchoring and sufficient details are lacking.

Commissioner Corn moved approval of the POC recommendation to deny. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 2255

Commissioner Greiner moved approval of the POC recommendation to deny. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product # 2268

Mr. Blair stated the POC recommended conditional approval based on the validation entity issue and a motion to approve the product would be appropriate.

Commissioner Corn moved approval of product # 2268 per legal recommendation. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2283

Mr. Blair stated the POC recommended denial based on the product not being tested to the HVAC and for plastics and water infiltration requirements in the high velocity hurricane zone.

Commissioner Parrino moved approval of the POC recommendation.

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

Evaluation Report from a Product Evaluation Entity

Recommended Approval

Product #'s: 723, 1008, 1045, 1143, 1350, 1392, 1511, 1544, 1585, 1606, 1644, 1645, 1849, 1867, 1893, 1896, 1908, 1917, 1918, 1964, 1966, 1989, 1997, 1998, 1999, 2000, 2016, 2023, 2033, 2075, 2121, 2188, 2196, 2197, 2206, 2225, 2226, 2227, 2228, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2247, 2253, 2257, 2258, 2259, 2289, 2304, 2319, 2320, 2324, 2330

Commissioner Browdy moved approval of the POC recommendation to approve the consent agenda. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Approval

Product #'s: 1269, 1299, 1603, 1629, 1778, 1930, 2001, 2007, 2246, 2252, 2276, 2338, 2364, 2366

Commissioner Browdy moved approval of the POC recommendation to approve the consent agenda. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 650

Mr. Blair stated the POC recommended deferring product # 650 because the anchors were not part of the testing.

Commissioner Parrino moved approval of the POC recommendation to defer. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 700

Commissioner Carson moved approval of the POC recommendation to deny. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 702

Commissioner Parrino moved approval of the POC recommendation to deny. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 1283

Commissioner Greiner moved approval of the POC recommendation to deny. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Conditional Approval

Product # 2139

Mr. Blair stated the POC recommended conditional approval because validation was performed by the engineering firm rather than the engineer requiring staff verification.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product # 2187

Commissioner Parrino moved approval of the POC recommendation. Commissioner Gross seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended Deferral

Product # 2265

Mr. Blair stated the POC recommended deferring action until staff obtains verification regarding the correct nail size and decking.

Commissioner Parrino moved approval of the POC recommendation. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Recommended to Deny

Product # 2352

Commissioner Parrino moved approval of the POC recommendation. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

COMMITTEE REPORTS AND RECOMMENDATIONS:

ACCESSIBILITY TAC

Commissioner Richardson stated there were two recommendations from the Accessibility Technical Advisory Committee which require Commission action. (See *Accessibility Technical Advisory Committee Meeting Report April 19, 2004* Attachment.)

Commissioner Browdy moved approval to pursue formatting and clarification changes in Chapter 11 to resolve errors and typos and to develop a two-hour accessibility course. Commissioner Gross seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Greiner moved approval to accept the TAC report and recommendations. Commissioner Gross seconded the motion. Vote to approve the motion was unanimous. Motion carried.

BUDGET COMMITTEE

Commissioner Browdy presented the report from the Budget Technical Advisory Committee. (See *Budget Technical Advisory Committee Meeting Report April 19, 2004* Attachment.)

Commissioner McCombs moved approval to award for the contract for printing the Code books to the ICC. Commissioner Kidwell seconded the motion.

Commissioner Parrino asked if any of the prices included the Code for presentation on CD-ROM and if so suggested it be included in the discussion regarding pricing.

Ms. Jones responded stating the price would be the same for the printed or CD-ROM versions.

Commissioner Bassett expressed opposition for the ICC to print and deliver the Code.

Chairman D'Andrea called for a vote to approve the motion. Vote to approve the

motion resulted in 1 opposed (Bassett). Motion carried.

Commissioner Browdy then stated the Budget Committee recommended the Commission not subsidize the purchases of Code books for each local jurisdiction and the local jurisdiction purchase the Code books at the member price.

Commissioner Greiner requested clarification regarding the member price and if the member is of the ICC.

Commissioner Browdy added the issue is whether the Florida Building Commission would become a member of the ICC and purchase the bulk volumes to avail the Commission the benefit of the member price at the maximum discount based on quantity purchase.

Commissioner Bassett offered comment stating the member price varies and the Code should be provided to the citizens of Florida at the member discount.

Commissioner Browdy interjected discussion with the ICC is still open in terms of price. He stated the only issue being considered in the vote is the award of printing and delivery. He then continued his review of the report of the Budget Committee.

Commissioner Carson moved approval of the Budget TAC report. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ENERGY TAC

Commissioner Corn stated a joint meeting of the Energy and Structural TACs was held and reported no Commission action was required. (See *Fire Technical Advisory Committee Meeting Report April 19, 2004* Attachment.)

PLUMBING TAC

Commissioner Greiner presented the report of the Plumbing Technical Advisory Committee Meeting. (See *Plumbing and Swimming Pool Technical Advisory Committee Meeting Report April 19, 2004* Attachment.)

Commissioner Schulte moved approval to accept the report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

STRUCTURAL TAC

Commissioner Parrino stated there was no Commission action required. (See *Structural Technical Advisory Committee Meeting Report April 19, 2004* Attachment.)

Commissioner Schulte moved approval to accept the report. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

PRODUCT APPROVAL / PROTOTYPE BUILDING / MANUFACTURED BUILDINGS PROGRAMS OVERSIGHT COMMITTEE (POC)

Commissioner Carson presented the report of the Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee. (See *PAPBMB Programs Oversight Committee Meeting Report April 19, 2004* Attachment.)

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

Commissioner Carson offered comment stating the workload involved with the product approval applications has been enormous. He then requested the Commission authorize staff to begin the process of contracting with a third party to perform the technical review of the product applications.

Commissioner Parrino stated the biggest problem with the workload is the time devoted sorting through applications that should have not gotten through the validation step. He stated there has been poor performance in terms of the validations being done and opened for discussion during the next POC regarding how to obtain properly validated applications.

Commissioner Carson expressed dissatisfaction with the process and the time involved urging the Commission to provide some relief from the workload. He then moved approval to authorize staff to contract a third party for technical review of the product applications. Commissioner Calpini seconded the motion.

Mr. Dixon interjected Commissioner Carson had asked many times for staff and the Committee to further review the applications for the quality of the validations being submitted. He concurred the POC is spending unnecessary time in eliminating the inadequate applications and staff is currently searching for an option in conducting closer review for sufficiency.

Chairman D'Andrea called for a vote on the motion to authorize staff to contract a third party technical review of the product applications.

Commissioner Browdy offered an amendment to the motion requesting staff provide the Commission with a draft RFP for the purposes of technical review of product approval to allow members of the Commission together with the POC opportunity to review for determination of sufficiency of the request.

Commissioner Carson accepted the amendment.

Mr. Dixon offered clarification stating it is important that technical review be clarified as sufficiency of the application in compliance with the requirements of the rule.

Chairman D'Andrea called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Richardson offered comment regarding the website stating in terms of Accessibility it is out of date and requested a review and update as soon as possible.

Mr. Dixon responded stating there is a project underway to review the entire website and its construction and updating. He then directed the Commission to Ms. Jones for clarification.

Ms. Jones added the process will begin in July which will include the entire system being reconstructed.

RULE ADOPTION HEARING ON 9B-3.047, FLORIDA BUILDING CODE

Chairman D'Andrea stated during the March Commission meeting the Commission conducted a rule development workshop for Rule 9B-3.047 implementing the Commission's approved Florida-specific amendments to the Florida Building Code and the integration of the international family of codes. He continued stating the Commission voted unanimously to adopt the 2003 International Family of Codes subject to modifications by provisions considered and approved during the course of the rule development as the 2004 Florida Building Code. Chairman D'Andrea further explained the Commission had additionally voted unanimously to proceed with rule adoption for Rule 9B-3.047 adopting the 2004 Florida Building Code effective January 1, 2005, including publication of Notice in the Florida Administrative Weekly for the hearing scheduled for the current meeting. He then directed the Commission to Hearing Officer Jim Richmond to call the hearing to order.

Mr. Richmond opened the hearing regarding the 2004 edition of the Florida Building Code to be adopted by reference in Rule 9B-3.047 Florida Administrative Code.

Chairman D'Andrea called for public comment, directing the Commission to Mr. Blair to conduct the hearing. (*See Comments Received on the Draft 2004 Florida Building Code, Rule Adoption Hearing April 20, 2004 and Comments Received on the Draft 2004 Florida Building Code, April 15, 2004 Attachments.*)

PUBLIC COMMENT

Michael Goolsby, Miami-Dade County

Mr. Goolsby stated he had been asked to conduct an editorial review of the roofing provisions of the high velocity hurricane zone and following the review there were errors discovered. He explained there were six glitch changes that were incorporated into the 2003 edition of the Code that did not carry forward into the 2004 Draft. Mr. Goolsby continued stating he had additionally found eight Code cycle changes that were approved by the Commission which did not appear in the 2004 Draft. He further stated there were six sections that were either deleted in their entirety or partially deleted and following close examination, he discovered the reason for the deletions stem from the consistency issue regarding Rule 9B-72. He explained the six sections contain the term "product control division" which should be changed to "certification agency" in order to maintain consistency with Rule 9B-72 in lieu of deleting the sections. Mr. Goolsby stated he had forwarded the issues to Mr. Madani prior to April 15, 2004 however unsuccessfully. He explained he resubmitted the items on April 16 to Mr. Madani who has the documents and requested the Commission accept the editorial issues into the 2004 Draft.

Ed Fernandez, Miami-Dade County Office of Code Compliance

Mr. Fernandez presented editorial corrections referencing the Florida Residential Code, Chapter 44. He stated the incorrect cross-reference and table numbers had been used and submitted to Mr. Madani corrected numbering.

Randall Shackelford, P.E., Simpson Strong-Tie Co.

Mr. Shackelford stated he had submitted a proposal to Mr. Madani which appears on page 80 of the *April 15 Comments* document and is listed on page 17 of the *Comments April 20* document. He stated by using the figures reflected in his proposals it would assist in clarifying the Code by presenting tables that are much easier to use.

Jon Hamrick, Florida Department of Education

Mr. Hamrick stated the Draft edition of the Code that is available for the public there are numerous errors of items that have been approved by the Commission to be included which do not appear as well as there are deletions that were not authorized. He posed it will be difficult to understand what the impact of the Code will be to the public without an accurate Draft copy of the Code which will be enforced in six months. He then referenced his comments which had been submitted and appear on pages 25 through 62 of the *April 15 Comments* document. Mr. Hamrick then addressed comments which had been presented by the American Forest Paper Association which are substantial Code changes and are being presented through the wrong venue. He recommended the comments go back to the TACs to go through the formal process.

Mr. Hamrick then addressed issues relating to Section 903.2.2(1) dealing with the fire sprinkling of any educational facility with over 20,000 square feet in area. He explained the issue impacts new construction as well as existing public education existing

buildings substantially. (See *Fire Sprinkler Systems Requirements for Educational Buildings Attachment*.)

Tony Apfelbeck, Florida Fire Chief's Association

Mr. Apfelbeck stated he supported the approach for compromise presented by Mr. Hamrick however disagrees with the argument supporting the compromise stating the language in 903.2.2 is not a fire sprinkler system threshold requirement, rather fire area which is a completely different term than that utilized under the former Code. He stated fire areas are defined as separation by fire walls or fire rated assemblies. Mr. Apfelbeck continued stating the requirement for an educational occupancy is a two-hour wall to create separate fire areas.

Commissioner Greiner asked Mr. Apfelbeck if the compromising language allows the option of not sprinkling or adding fire walls.

Mr. Apfelbeck replied the exception would be the single room exception, which is in part 1 and when adequate water supply is not in place.

Commissioner Greiner requested clarification in the compromising language stating there is an exception where adequate water supply does not exist and the single room size exceeds 20,000 square feet, and exempt existing education buildings until 50% of aggregate area of buildings is being remodeled.

Mr. Apfelbeck responded explaining there are two separate exceptions. He stated the first exception addresses the single room and the 20,000 square feet adequate water supply issue and the second exception is the issue addressing the 50% area being remodeled.

Commissioner Calpini asked if the issue has been discussed with the State Fire Marshal's office and if so what was their recommendation.

Mr. Apfelbeck responded the issue had been discussed with a representative from the State Fire Marshal's office and their office is comfortable with the proposed compromise language.

Al Hardy, Collier County School District

Mr. Hardy expressed support for DOE's position relating to 903.2.2.

Gary Parker, Director of Facilities Design & Construction, Lake County Schools

Mr. Parker expressed support for the compromise language presented by DOE.

Jack Dunlop, Building Official for the School District of Volusia County

Mr. Dunlop expressed support for the modification to 903.2.2 and requested Commission support.

Frank Frael, Pinellas County Schools

Mr. Frael expressed support for modifications to 903.2.2 as discussed.

Gail Beidleman, Technical Services Director, Florida Roofing & Sheet Metal Contractors

Ms. Beidleman stated on March 25, 2004 an email was submitted to Mr. Madani concerning the adoption of the International Building Code. She requested the Commission consider a housekeeping issue and integrate Florida Building Code Section 1511.7 Mechanical Units, Table 1511.7 Clearance Below the Raised Roof Mechanical Units, into the International Building Code. Ms. Beidleman continued stating the high velocity wind zone in the IBC addresses mechanical units.

Hilton T. Meadows, Registered Landscape Architect, Jacksonville, Florida

Mr. Meadows stated he had submitted comments in connection with language proposed relative to 106.1 and has spoken to Mr. Madani regarding adopting "and/or" then requested the Commission retain consistency with the language in the latter part of the proposed paragraph with the previous language relating to signing and sealing for architects and engineers as it pertains to landscape architecture. He noted a typographical error in the proposed paragraph stating 481.303(b) should be 481.303(6).

Kurt Grundahl, Wood Truss Council of America

Mr. Grundahl offered comment relating to pages 111 and 112 of the *April 15 Comments* document. He stated there is reference to HRB 91 which is no longer available to the industry. He then asked how the change could be made to BCS I1-03. He continued stating there is language in the HVAC Code Section 2319 which conflicts with the Professional Engineering law concerning how trusses are to be designed. He asked then how the issue may be reconciled. Mr. Grundahl further stated also in Section 2319 there is conflict between understanding how to design trusses using the base code, the ICC Code, and with 2319 Section. He recommended the Commission seek consistency and posed how the issue would be resolved.

C.W. Mackenberg, Building Code Advisory Board, Palm Beach County

Mr. Mackenberg stated Modification # 349 had been submitted and approved with staff recommendations to add Section 2304.5.3 in the Florida Building Code as new Section 2304.11.10 in the IBC. He explained he had reviewed the Draft 2004 Code on the website discovering Section 2304.11.10 is Foam Plastic Insulation and requested

clarification on where Modification # 349 would have been added.

Tony Apfelbeck, City of Altamonte Springs

Mr. Apfelbeck asked how staff's recommendation would be addressed during the meeting.

Mr. Dixon responded stating staff would ask for authorization to make editorial corrections, resolve text location issues, and identify conflicts created by provisions specifically adopted by the Commission.

Robert Fine, Representing Florida Alliance for Construction Education (FACE)

Mr. Fine addressed the modification for Section 1609.1.1, the adoption of a book by the AAF regarding aluminum standards which was placed in Chapter 16 as a deemed to comply document. He stated the adoption of the book would be an invalid exercise of delegated legislative authority because of improper notice. He noted there had been sworn statements and affidavits submitted to counsel documenting the inability to get notice. Mr. Fine continued stating the AAF guide is a conservative standard resulting in more cost to contractors and consumers. He recommended removing the AAF guide from Chapter 16 as a deemed to comply document and place it in Chapter 20 as a reference document without the expressed language deemed to comply. (See *Letter to Jim Richmond, Department of Community Affairs from Greenberg Traurig Attorneys at Law dated April 14, 2004 Attachment.*)

Steve Randal, Florida Fire Sprinkler Association, Inc.

Mr. Randal directed the Commission to the association's position which is reflected in a document which was distributed to Commission members. (See *Letter to Raul L. Rodriguez, Chairman, from National Fire Sprinkler Association, Inc. dated April 15, 2004 Attachment.*)

Joe Belcher, JDB Code Services, Representing the Aluminum Association of Florida

Mr. Belcher noted the AAF guide is not an ultra-conservative document. He stated he was a building official in Florida for 10 years stating there is no jurisdiction which has mandated the use of SSTD-10 refusing to accept sealed engineering from an engineer. Mr. Belcher continued stating there had been a study conducted which addressed engineering practices currently being accepted by building officials. (See *Report to the Board of Professional Engineers Given December 4th, 2003, Tallahassee Attachment.*)

Tom Tefelsky, Specialty Structure Contractor, FACE member

Mr. Tefelsky stated the AAF guide is ultra-conservative and concurred with Mr.

Fine's comments urging the Commission not to elevate the document to a deemed to comply document.

Mike Delahose, Stated Certified Contractor, AAF Member

Mr. Delahose presented more than 250 signed petitions from aluminum contractors throughout the state of Florida opposing the AAF guide. He requested the Commission accept the petitions and take action accordingly.

Mr. Richmond requested clarification asking if Mr. Delahose is a member of FACE and if the relocation of the guide to Chapter 20 address the concerns raised by the petitions.

Mr. Delahose concurred the placement of the guide into Chapter 20 as a reference document satisfies the concerns of the petitions.

James Moore, SCC/CBC License Holder

Mr. Moore concurred with comments opposing the guide being used as a deemed to comply document based on material availability.

Earnie Sager, Aluminum Contractor, President, West Coast Chapter AAF

Mr. Sager expressed opposition to the guide stating it will benefit only a special interest group and not the overall industry or homeowners and citizens of Florida.

Ron Carmen, Aluminum Contractor

Mr. Carmen presented more than 100 signed faxes objecting to the adoption of the AAF guide.

Joseph Spalding, Aluminum Contractor

Mr. Spalding stated he is 72 years old being the fifth person in the state of Florida to begin an aluminum business. He expressed opposition to the AAF guide stating it is not necessary.

Fred Oppenheimer, Specialty Structure Contractor, Member AAF and FACE

Mr. Oppenheimer expressed support for entering the document into Chapter 20 as a reference document only.

Debbi May, Aluminum Contractor

Ms. May expressed support for moving the AAF guide to Chapter 20.

Jack Johnson, Aluminum Contractor

Mr. Johnson expressed support for moving the guide to Chapter 20 stating there are more members against the guide than members in the AAF.

Rick Davis, AAF, FACE

Mr. Davis expressed opposition to the guide.

James Armstrong, Registered Specialty Structure Contractor

Mr. Armstrong expressed opposition to the guide and supported moving the guide to Chapter 20 as a reference manual.

Steve Houck, Aluminum Specialty Contractor, Member AAF

Mr. Houck expressed support for moving the guide to Chapter 20 as a reference document not placed in Chapter 16 as a deemed to comply document.

Harold Lumpkin, Bay Area Aluminum Services, West Coast Chapter AAF, FACE

Mr. Lumpkin expressed opposition to the guide but supports the document as a reference guide in Chapter 20.

Allen Cooper, Certified Pool Contractor

Mr. Cooper expressed support for moving the guide into Chapter 20 as a reference document.

Michael Sonsini, Aluminum Specialty Contractor, President, AAF, Palm Beach Cty

Mr. Sonsini expressed support for entering the document into Chapter 20 stating he reviews many engineer specification sheets and none reach the requirements of the guide.

Blake Holenberg, Treasurer, AAF

Mr. Holenberg expressed support for the AAF guide as it was submitted. He then stated as of March 20, 2004 the Board of Directors and the membership voted in favor of keeping the guide in Chapter 16.

Joe Crum, Building Official, City of Port Orange

Mr. Crum expressed support for the guide either in Chapter 16 or in Chapter 20 as

a prescriptive document. He then stated there are items in the high velocity hurricane section of the Code that should be removed. He referenced Section 1203.2 Ventilation of Attic Spaces stating the high velocity hurricane section should be only for wind load issues. He then noted there were many items in the Residential Code High Velocity Hurricane section which should be removed; R44-09, R44-11, R44-12, etc., concerning wood supporting masonry, protection of wood, fire retardant wood, fire retardance of shakes and shingles, gypsum board and plaster, and plastics. Mr. Crum suggested staff review the items and correct the sections as necessary.

Randall Shackelford, On behalf of Carrie Hebrank, Florida Building Materials Ass.

Mr. Shackelford read for the record a letter he received from Carrie Hebrank, Florida Building Materials Association:

The Florida Building Materials Association lobbied for and supported action for the Florida Building Commission to adopt the International Building Code, the International Residential Code, as the base code for the FBC. Your leadership was instrumental in assuring adoption of the IBC and the IRC and for that we thank you. However, as you further refine the Florida Building Code through the rule adoption process there are some troubling provisions that the Commission will be considering as part of the new Code that are in direct conflict with the IBC and the IRC. Specifically, Florida Building Materials Association is opposed to the following proposed Code changes; Section 503.2 which requires party walls to be rated at four hours, Section 503.1.2 that deletes the exception for low hazard industrial occupancy, Section 507.8 that requires fire resistance in walls in group E even when equipped with fire sprinklers, Table 601 and 602 that have been modified to increase the fire resistance requirements in conflict with the IBC, Section 705.1 that requires fire walls to be rated at four hours, Section 705.4.1.1 which revises townhouse separation requirements, Section 708 which restores the one hour separation requirements in group B and S, Section 716.5.4 that was modified to include duct protection requirements for penetration of fire rated walls, Chapter 9 which removes some exceptions for fire alarms in stand pipes when buildings are equipped with fire sprinklers.

The International Building Code limits fire exposure of buildings in areas in a comprehensive manner and we believe the IBC should be maintained in its entirety with respect to fire exposure and fire resistance rating. Otherwise, an increase in construction costs will occur without any demonstrated need or increase in life safety. IBC and IRC are currently utilizing 44 states without any catastrophic fire loss and there is absolutely no data to support the proposed changes. Additionally, the proposed changes do not merit a Florida specific need as fire does not recognize geographical boundaries. A building fire in Florida is no different than a

building fire in California, New York, or neighboring Georgia. We respectfully request that you reduce the regulatory barriers to construction in Florida by remaining on track and utilizing the IBC and IRC as the base codes for Florida and rejecting proposed changes outlined herein.

Ted Berman, Miami-Dade County Office of Code Compliance

Mr. Berman expressed appreciation for the Commission's effort to protect the citizens of Florida, particularly in the high velocity hurricane zone in South Florida. He then addressed the issue of items included in the high velocity hurricane section of the Code stating they are there for the protection of materials that effect wood and roofing materials. He stated the Residential Code items are the same items in the Florida Building Code and is a matter of consistency.

Charles Everly

Mr. Everly recommended the AAF Guide serve as a reference document to Section 2002.4 as an alternative to the necessity for an engineer to perform the calculations that are required to comply.

Pete Quintela, Miami-Dade

Mr. Quintela offered comment relating to code changes concerning Section 903 of the Code. He stated there are sections referring to the building official as the person responsible for determining where the stand pipe should be located in a building. He explained those items should be referred to Chapter 633 in the Fire Marshal Code.

Mr. Shine closed the public comment portion of the hearing.

RECESS

Chairman D'Andrea called a recess at 12:35 p.m. to reconvene at 1:10 p.m.

RECONVENE RULE ADOPTION HEARING ON 9B-3.047, FLORIDA BUILDING CODE

Chairman D'Andrea reminded the Commission of the deliberative process utilized to reach the rule adoption phase for adopting Rule 9B-3.047 as well as the importance of not making additional changes which would require reviewing the criteria for making amendments approved by the Commission in May of 1999. He then directed the Commission to Mr. Richmond and Mr. Dixon for an overview and recommendations for proceeding with rule adoption.

Mr. Richmond explained issues had been raised which would be addressed through a Notice of Proposed Change and then considered. He stated in the past there

had been a notice published with an alternative for an additional hearing which is not mandated by Legislature. He continued stating additional hearings could create delays in the process if proposed changes were adopted. Mr. Richmond then stated it would be the desire of the Commission to make further decisions on additional hearings and the time frame for the process.

Mr. Dixon added there appear to be compromises to the controversial issues still outstanding. He stated that in order to remain on track with the notices to the public required implement the 2004 Code, rule adoption must be initiated. He continued stating he and staff recommend the procedure be that following the Notice of Proposed Change and required waiting period the be filed with no additional hearings. Mr. Dixon further stated there were issues regarding differences between Commission action and what was incorporated into the draft Code which the public has reviewed. He explained the draft must reflect Commission actions before a formal document is filed. He stated most editorial omissions and misplacements of requirements had been identified and would be corrected by staff upon Commission authorization. Mr. Dixon then stated there are issues and comments which may be outside the process and procedure in place and would be classified as Code amendments requiring returning to the 553(3)(6) amendment procedure and may not be considered by the Commission at this time. He recommended the Commission accept Mr. Madani and staff's recommendations as presented.

Chairman D'Andrea opened for Commission comment.

Commissioner Marshall offered comment concerning DOE comments and the industry compromise language which was read into the record specifically relating to 903.2.2, exceptions relative to the 20,000 square feet and the fire sprinklers.

Mr. Blair then summarized the action and discussion from public comment and explained the process as the hearing moves forward. He explained unless a Commissioner would move to pull any proposed change from the matrix for individual consideration, Commission action for a consent agenda is recommended.

Commissioner Greiner requested clarification regarding the recommendations or changes to the Code in terms of each item brought before the Commission during discussion providing a specific example with DOE's 903.2.2 proposed language.

Mr. Madani responded stating the language would be a modification to the Code because the language appears in the International Building Code.

Mr. Richmond explained proposed language relating to 903.2.2 is a modification to the base document which is different from the amendment process. He stated it becomes complicated when there are two processes at work with the policies being clear.

Commissioner Bassett offered comment stating Mr. Madani and staff provide accurate and correct recommendations, however, occasionally there could be errors and

a thorough review would be in order, which would require additional time. He proposed there be a Commission review of the document at the next Commission meeting.

Commissioner Parrino requested clarification concerning the process with regard to procedural changes asking if a change is made during the current meeting, a Notice of Proposed Change would then be filed leaving it open for any party to request a hearing at the next Commission meeting.

Mr. Richmond responded stating the Commission in the past has allowed additional hearings after publication of a Notice of Proposed Change which is beyond the requirements. He stated additional hearings are not required by Chapter 120 and most likely could not be appealed.

Commissioner Corn moved approval to make necessary changes to the base Code providing no additional hearings. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair conducted a review of the issues brought forward during public comment.

Commissioner Marshall then recommended the Commission accept the compromise position proposed by DOE and heard during public comment to be incorporated into the group of proposed modifications.

Commissioner Wiggins moved approval to accept the compromise language proposed by DOE into the group of proposed changes. Commissioner Corn seconded the motion.

Commissioner Browdy asked for clarification regarding the language requesting it to be repeated.

Commissioner Marshall read 903.2.2 Exceptions: "1) where adequate water supply does not exist and single room size exceeds 20,000 square feet; and 2) existing educational buildings until 50% remodeling is reached."

Commissioner Browdy requested clarification regarding the exemptions asking whether considerations were provided for frame and masonry construction and if the exemption applies for both types of construction.

Mr. Hamrick responded stating the exemptions apply to non-combustable construction types.

Commissioner Greiner recommended as a friendly amendment there be a limit to the language regarding "adequate water supply" adding "on site".

Commissioner Tagliarini offered comment stating "and single room size exceeds

20,000 square feet” is nebulous.

Commissioner Wiggins accepted the friendly amendment.

Chairman D’Andrea called for a vote on the motion. Vote resulted in 10 in favor; 7 opposed. Motion failed.

Mr. Blair and Mr. Madani continued a review of the issues brought forward from public comment.

Commissioner Bassett moved approval to duplicate the Table in 1511.7 along with text, which appears in the current edition of the Florida Building Code, Chapter 15, into the new edition of the Florida Building Code. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair and Mr. Madani continued a review of the issues brought forward from public comment.

Commissioner Browdy moved approval of staff recommendation concerning 106.1. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair and Mr. Madani continued reviewing of the issues brought forward from public comment.

Mr. Richmond stated the issue of the AAF guide has been raised with the potential for a rule challenge. He explained the issue has been brought before the Commission to relocate the guide to Chapter 20 to resolve the rule challenge. He stated the proposed language provided would require the creation of a new subsection, 2002.4 allowing design guides specifically identifying the AAF Guide to Aluminum Construction in High Wind Area as an alternative with specific language to read: “conforming to accepted engineering practice”.

Commissioner Wiggins moved approval for legal’s recommendation to include the AAF guide in Chapter 20, Section 2002.4 of the Florida Building Code. Commissioner Kidwell seconded the motion.

Commissioner Parrino asked what basis for a rule challenge exists by placing the guide in Chapter 16.

Mr. Richmond offered clarification stating the substantive areas of discussion in terms of rule challenge have been concerning invalid exercise of delegated legislative authority, specifically concerning the availability of the guide to the general public. He stated many members of FACE contacted AAF in an attempt to obtain the guide and the guide was not available through AAF. He continued stating the guide was available

through Mr. Belcher, the proponent of the change. Mr. Richmond stated placing the guide in Chapter 20 does not concede to any of the allegations or arguments of those who have entered the potential to challenge the inclusion of the guide in the Code, as well as having little adverse impact on use of the document as a reference manual. He then stated the primary concern with a challenge would be the possible delay in adoption of the rule.

Commissioner Kidwell requested clarification regarding the motion asking if the intention was to place the guide in Chapter 16 or in Chapter 20.

Commissioner Wiggins restated the intention of his motion which was to accept the recommendation of legal counsel concerning the guide and place the guide into Chapter 20.

Commissioner Kidwell then withdrew his second.

Commissioner McCombs seconded the motion.

Commissioner Greiner expressed concern with the correct placement of requirements in the Code. He offered support for the motion begrudgingly.

Commissioner Corn offered support for legal's recommendation.

Chairman D'Andrea then called for a vote on the motion. Vote to approve the motion resulted in 15 in favor, 2 opposed (Kidwell, Parrino). Motion carried.

Commissioner Greiner expressed disappointment in the Commission's action to relocate the AAF guide into Chapter 20 under the basis of the threat of challenge to the rule. He reminded the Commission there was no action taken to assist DOE in their compromise for exceptions to language which will result in major expense to the state of Florida.

Mr. Blair and Mr. Madani continued the review of issues brought forward from public comment.

Commissioner Bassett offered comment stating ventilation of attics was inadvertently left in the high velocity zone section when the Code was revised. He then moved approval to remove ventilation of attics from the high velocity hurricane zone section of the Code. Commissioner Corn seconded the motion.

Open discussion ensued concerning whether the sections recommended for removal from the high velocity hurricane zone section of the Code appear in other sections or whether they are exclusive to the HVHZ section.

Commissioner Wiggins requested Mr. Crum repeat the list of items he recommended be removed from the high velocity hurricane zone section of the Code.

Commissioner Bassett stated the ventilation of attics does appear elsewhere in the Code and retained his motion to remove the language from the HVHZ section of the Code.

Commissioner Corn as seconder of the motion suggested staff review other requirements in the HVHZ section and if they are duplicative from other sections, remove them from the HVHZ section.

Commissioner Bassett accepted Commissioner Corn's recommendation to address all sections of the HVHZ section of the Code for duplicity under one motion.

Commissioner Gonzalez expressed concern with removing items from the High Velocity Hurricane Zone section of the Code in terms of integration of the Florida specific items into the International Building Code.

Mr. Madani responded to Commissioner Gonzalez's concerns stating the HVHZ requirements included in each section of the Code are not required to comply with the remaining requirements in the Chapter. He suggested the HVHZ section be left as presented.

Commissioner Schulte concurred with Mr. Madani and Commissioner Gonzalez. He addressed the attic space issue and stated the Commission voted to hold a workshop in July in reference to the issue and expressed concern with voting on the issue prior to the workshop.

Commissioner Bassett then withdrew his motion.

Commissioner Sanidas entered a motion to reconsider issues concerning 903.2.2. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion to reconsider carried.

Commissioner Sanidas then requested through the Chair that Mr. Apfelbeck provide additional information regarding the water supply issue and the compromise language concerning DOE.

Chairman D'Andrea concurred.

Tony Apfelbeck, Florida Fire Chief's Association

Mr. Apfelbeck stated the major concern is the issue relating to existing schools. He explained that under 423 there is no option for an existing public school to utilize the new Florida Building Code. He continued stating under the existing Code there is an exception which states that level 3 alterations apply at 50% of the aggregate area of the building. He further stated the request is that the 50% exception apply also to educational

occupancies. Mr. Apfelbeck then stated the Fire Chief's Association agrees with striking the language regarding the water supply and the 20,000 square feet issue which would leave only the exemption for existing buildings until 50% of the aggregate area of the building is being remodeled.

Commissioner Greiner moved approval of the recommended language. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair called for a motion to approve the amendment package as modified.

Commissioner Wiggins moved approval to accept the amendment package as modified. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair then called for a motion to proceed with rule adoption for Rule 9B-3.047 Florida Building Code, adopting the previously approved changes and filing the rule with the Department of State.

Mr. Richmond added the motion should include the Notice of Proposed Change would be published and the rule filed without an additional hearing.

Commissioner McCombs moved approval to proceed with rule adoption as provided by staff and legal. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

RULE DEVELOPMENT WORKSHOP ON RULE 9B-3.048, 3.049 AND 3.050

Chairman D'Andrea stated the Commission had voted unanimously to convene a rule development workshop to initiate rule making for sections of Rule 9B-3, other than 9B-3.047 in order to comply and correlate with statutory changes by repealing and revising sections of the rule. He directed the Commission to Mr. Richmond, hearing officer, to open the rule development workshop.

Mr. Richmond opened the workshop on rule 9B-3.048, 9B-3.049, and 9B3.050. He explained 9B-3.048 and 9B3.049 are provisions of Florida Administrative Code that continue to adopt the electrical and plumbing codes. He stated 9B-3.050 is a provision to require proponents of amendments to the Florida Building Code in future annual cycles to provide a rationale on the form used to submit the proposed changes. He continued stating the items are essentially editorial in nature with no public comment anticipated however welcomed.

Chairman D'Andrea then called for public comment.

Mr. Richmond closed the public comment portion of the rule development

workshop.

Commissioner Wiggins moved approval to proceed with rule adoption for Rule 9B-3.048, 9B-3.049, and 9B-3.050 adopting the approved changes including the publication of Notice of Proposed Change in the Florida Administrative Weekly. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

RULE DEVELOPMENT WORKSHOP ON RULE 9B-72, PRODUCT APPROVAL

Chairman D'Andrea stated the Commission unanimously voted to convene a rule development workshop for Rule 9B-72 as the first step in a plan to conduct an expedited rule amendment for the Product Approval System and complete the process in two meetings. He continued stating the next step will be the rule adoption hearing which will be held during the June Commission meeting. Chairman D'Andrea explained the Commission had approved in concept the following actions: 1) define the scope of the Rule 9B-72 system to be restricted to address the windstorm, i.e., hurricane related weather protection and structural performance properties of the components and cladding and main wind force resistance systems of buildings intended for human habitation and human occupancy; 2) pair down the system and clarify which subcategories of products and construction systems are covered by the rule; 3) additional issues identified by staff as having high potential for achieving consensus at a single rule development workshop. He then directed the Commission to Mr. Richmond to open the workshop.

Mr. Richmond opened the Rule Development Workshop for Rule 9B-72 as noticed in the Florida Administrative Weekly.

Chairman D'Andrea directed the Commission Mr. Dixon for a review of the discussion and action relating to the rule.

Mr. Dixon stated the Commission had approved a two stage plan addressing "quick fix" issues as well as more substantive issues. He continued stating there had been subsequent changes to the rule as well as comments received during the POC meeting which have been captured in a draft document which was provided to each Commission member. (See *Rule Chapter 9B-72 Department of Community Affairs Florida Building Commission Draft Attachment.*)

Commissioner Kidwell directed the Commission to subsection 29(g) for clarification suggesting the word "exterior" be deleted in exterior wall components.

Mr. Richmond stated the intent is to limit the definition of products by subcategory removing the word exterior would not be a legally available alternative. He continued stating many of the items fall under the subcategories that have been created and are subject to product approval by operation of statute.

Chairman D'Andrea then called for public comment.

Jaime Gascon, Miami-Dade County Product Control

Mr. Gascon applauded Commission efforts to move Rule 9B-72 forward with the changes being proposed specifically the "state" requirements. He recommended further refinements to the subcategories in terms of material types and how the products are categorized. He then addressed the issue of the qualifications of the validator. He stated there have been problems with obtaining approval for products due to conflicts of validators providing certification outside of the scope of their directive. He provided an example citing 9B-72.100, then stating validation entities are approved by the Commission after their approval as validation entities, test laboratories or certification agencies. Mr. Gascon stated the process for entities is vague and it would benefit everyone if the language was more refined.

Mr. Richmond closed the public comment portion of the workshop.

Mr. Dixon directed the Commission to the *Draft* document, page 145 (28), OPTION 1 and OPTION 2 then requested Commission action on either option.

Commissioner Kidwell moved approval for OPTION 2. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Dixon offered clarification stating the term "optional" has been eliminated from state approval. He stated the language proposed for consideration by the Commission would provide more responsibility to the state for verifying compliance documentation with emphasis placed in the local jurisdictions for additional effort to enforcing Code compliance for the products and their systems.

Commissioner Wiggins proposed the following amendments to rule 9B-72:

-Page 146 9B-72.030(1) should read "building plans review or inspection" rather than "and".

-Page 147 9B-72.040(3) should have a period punctuation at the end of the sentence rather than a colon.

-Page 148 9B-72.045(2) should read "Validation of the method of compliance may be accomplished by using the validation checklist in subsection ..."

Mr. Dixon stated the change relating to 9B-72.045(2) was a particularly controversial issue and recommended not making the change until the issue could be addressed through a forum to debate the issue again.

Mr. Richmond interjected the Joint Administrative Procedures Committee would not accept the change for May. He stated it must be a minimum requirement to be included in the rule.

Commissioner Carson moved approval to proceed with rule adoption for Rule 9B-72 Product Approval, adopting the approved changes including publication of Notice of Change in the Florida Administrative Weekly. Commissioner McCombs seconded the motion. Vote to approve the motion was unanimous. Motion carried.

PUBLIC COMMENT

Chairman D'Andrea called for public comment.

Joe Crum, Building Official, City of Port Orange

Mr. Crum addressed issues concerning TAC meetings stating TAC members serve voluntarily and should vote on all issues being considered during TAC meetings.

Scott Hamilton, Garage Door and Rolling Door Manufacturers, DASMA

Mr. Hamilton offered comment on behalf of Joe Hetzel, Technical Director for DASMA, stating the association urges the Commission not to rescind state product approvals that have been granted to date regardless of action which may effect the future of the Florida Product Approval program. He stated manufacturers have devoted much time and money to obtaining product approvals and their efforts should not be in vain. He asked that the results of all the positive efforts and progress which has been made in terms of products approvals not be ignored.

Jaime Gascon, Miami-Dade County Product Control

Mr. Gascon stated comments had been made regarding provisions for the high velocity hurricane zone being strictly wind related. He reminded the Commission retaining the high velocity hurricane zone issues as part of the Florida Building Code pertains to life safety issues which South Florida had in place in their building code.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR JUNE 2004 COMMISSION MEETING

Mr. Blair called for TAC chairs to state whether they need to meet during the June 2004 Commission meeting.

SUMMARY REVIEW OF MEETING WORK PRODUCTS

Chairman D'Andrea stated the Commission had updated the Commission's workplan, decided on Chair's discussion issues and recommendations, decided on Accessibility Waiver applications, reviewed pending building code legislation, decided on requests for Declaratory Statements, decided on applications for approval for products and entities, decided on Accessibility, Code Administration, Energy, Plumbing, and

Structural TAC reports and recommendations, decided on Product Approval Prototype Building Manufactured Buildings Programs Oversight Committee POC report and recommendations, conducted a rule development workshop on 9B-3.048, 9B-3.049, and 9B-3.050, conducted a rule development workshop on 9B-72 Product Approval, conducted a rule adoption hearing on Rule 9B-3.047 and reviewed assignments and issues for the June 2004 Commission meeting.

ADJOURN

No further business was discussed, Florida Building Commission Plenary Session adjourned at 3:02 p.m.