

BOARD OF RULES AND APPEALS
NOVEMBER 9, 2017 MEETING MINUTES

Call to order:

Chair Jeffrey Lucas called a published meeting of the Broward County Board of Rules and Appeals to order at 7 p.m. The roll was called and the following members were present:

Present:

Jeffrey Lucas, FM, CFI, CFEI, Chair
Kenneth Wynn, Vice Chair
Ron Burr
John Famularo
Shalanda Giles-Nelson
Daniel Lavrich, P.E.
David Rice, P.E.
Daniel Rourke
Robert Taylor
Dennis A. Ulmer
Stephen E. Bailey, P.E.
Steven Feller, P.E.
Jeff Falkanger

After the roll call, the presence of a quorum was announced.

Mr. Bryan Parks, Chief Fire Code Compliance Officer, announced at the Florida Fire Marshals and Inspectors Association conference yesterday Daniel Perez from Coral Springs and Parkland was named fire inspector of the year; Bruce Britten from Miramar was elected second vice president to the Association's board; and Chairman Jeff Lucas was appointed as the southeast regional coordinator and named fire marshal of the year.

Mr. James DiPietro, Administrative Director, requested approval of a revised agenda to include Andy Gregg Howard as a structural inspector on the consent agenda item 1a as recommended by staff and inadvertently not shown; change agenda item 4 title to indicate signal booster systems; and add the fiscal years (2018, 2019 and 2020) to agenda item 5. He also requested on behalf of Board member Abbas Zackria that agenda item 4 be deferred to later in the meeting as he will be arriving late this evening and this item was included on the agenda at his request.

MR. LAVRICH AND SECONDED BY MR. ROURKE TO APPROVE THE REVISED AGENDA. THE MOTION CARRIED BY UNANIMOUS VOTE OF 13-0.

Approval of Minutes – October 12, 2017

MS. GILES-NELSON MADE A MOTION AND MR. LAVRICH SECONDED THE MOTION TO

APPROVE THE OCTOBER 12, 2017 MEETING MINUTES. THE MOTION CARRIED BY UNANIMOUS VOTE OF 13-0.

CONSENT AGENDA

1. Certifications – Staff Recommended

MR. LAVRICH MADE A MOTION AND MR. FALKNAGER SECONDED THE MOTION TO APPROVE ALL SUBMITTED CERTIFICATIONS. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

1.a. Request of Mr. Andy Gregg Howard to be certified as a Structural Plans Examiner.

a. Board Discussion

Ms. Giles-Nelson abstained from discussion and voting on this item. A memorandum of voting conflict was filed by Ms. Giles-Nelson on November 11, 2017 and is attached to these minutes.

Mr. Michael Guerasio, Chief Structural Code Compliance Officer, explained Mr. Howard does not meet the letter of the law, Section 104.10.1. In speaking with the Miami-Dade Board of Rules and Appeals, it was determined that Mr. Howard was certified prior to the end of 1993 when there was no requirement for anyone to possess a state license. The records only go back to 2005 which indicate he was certified at that time as a plans examiner/inspector. Requirements for a plans examiner are two years of experience as an inspector but only thirteen months have been verified. Mr. Howard has indicated he has fourteen months, which would mean he is shy ten or eleven months. He was employed by a private provider that has no contracts with municipalities and Mr. Howard feels that time should qualify.

Mr. Howard was sworn in.

Mr. Howard indicated he worked for the City of Miami Beach from November of 1993 through February of 2005 as a structural plans examiner for nine months and a field inspector for seven months; and North Bay Village in 2005-2006 as a structural plans examiner and inspector. Pursuant to Section 104.10.1.2, he does not meet the strict definition of twenty-four months as an inspector. He has fourteen months with a municipality plus nine months as a plans examiner typically rated above an inspector. Additionally, he has thirty-five years in the construction industry: a state general contractor and state roofing contractor licenses; a P.E.; a Bachelor's degree in mechanical engineering from the University of Florida and a Master's degree in civil engineering from Florida International University. He has taken the International Code Council examinations for certified building official and possesses that license as well as a certified plans examiner and building inspector licenses. He feels that he is qualified for this position. He elaborated upon his construction work experience in Miami-Dade and Broward and referred the Board to the documentation in the agenda backup he provided. He further indicated that Section 104.10.1.2 should have been checked on his application in that he qualifies under that section as well as Section 104.10.1.1.

Mr. Charles Kramer, Board Attorney, indicated that while he is impressed with Mr.

Howard's background, he does not see any provision in the building code that allows the Board to grant any equivalency. Mr. James DiPietro, Administrative Director, advised that in about ten months he would automatically qualify to be on the consent agenda.

Mr. Feller supported using his experience as a general contractor and Chairman Lucas pointed out that equivalency is one of the issues being deliberated now by the Certification Committee. In response to Chairman Lucas, the Board Attorney advised that approval based on his application would be in derogation of the code. Mr. Feller felt it is the responsibility of the Board to interpret the code. Mr. Lavrich pointed out there is a distinct difference between changing and interpreting the code. Chairman Lucas felt this is something that the Certification Committee needs to examine. Mr. Feller felt whatever is necessary should be done in short order to review the situation and try to expedite approval because he is qualified and qualified individuals are not easy to come by.

b. Board Action

MR. TAYLOR MADE A MOTION AND MR. RICE SECONDED THE MOTION TO DENY THE REQUEST. THE MOTION PASSED BY A VOTE OF 10–2. CHAIRMAN LUCAS AND MR. FELLER VOTED NO AND MS. GILES-NELSON ABSTAINED FROM VOTING. HER MEMORANDUM OF VOTING CONFLICT IS ATTACHED TO THESE MINUTES.

A brief discussion followed concerning the Building Certification Committee and their agenda is to look at all possibilities to make the process simpler. Chairman Lucas suggested that the Committee review this case, and consider creating an equivalency path.

2. Proposed change to the 6th edition of the Florida Building Code (2017) Broward County Chapter I Sections 107.3.4.0.1 and 107.3.4.0.3, effective January 1, 2018.

a. Public Hearing

Mr. Michael Guerasio, Chief Structural Code Compliance Officer, advised that this is a language cleanup and update the construction cost values. It is recommended the values be updated from \$5,000 and \$10,000 to \$15,000 and \$30,000.

b. Board Discussion

Chairman Lucas opened the public hearing.

Mr. Sanjeev Mangoli, Assistant Director of Gold Coast School of Construction, referred to the previous agenda item 1a. He referred to Section 107.3.4.0.8 and noted it allows electrical contractors to self-certify their drawings. Plumbing contractors are also allowed to self-certify their drawings. The three sections are directly in conflict with not only the statute but the Board's code amendments as well. The code in multiple locations clearly states that an authority having jurisdiction (AHJ) can request any drawing, therefore he did not see any logic in creating an additional clause that imposes a burden on the consumer.

Mr. Sean Flanagan, representing the Broward County Building Officials Association,

emphasized that engineers and architects are the design professionals and contractors are the construction professionals. He was not in favor of any departure from this platform.

Mr. James DiPietro, Administrative Director, clarified the agenda item has to do with threshold levels.

There being no one else wishing to speak, Chairman Lucas closed the public hearing.

c. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. FELLER TO APPROVE THE RECOMMENDED CODE AMENDMENT. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

3. Proposed change to the 6th edition of the Florida Building Code (2017) Broward County Chapter 1, Sections 112.1 and 112.2, effective January 1, 2018.

a. Public Hearing

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, indicated during consideration of this section, Chairman Lucas requested language in 112.1 and 11.2 be clarified. Now the building official is authorized to designate the appropriate trade person to connect the energy, fuel or power system.

Chairman Lucas opened the floor for public comment but there was no one wishing to speak.

b. Board Discussion

Mr. Bailey briefly reviewed the intent of the change.

c. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. BAILEY TO APPROVE THE RECOMMENDED CODE AMENDMENTS. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

4. 2018, 2019 and 2020 Fiscal Year approval in Concept of classes to be Offered by the National Fire Protection Association (NFPA) for inspectors, plans examiners, chiefs, building officials and fire marshals.

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, reviewed the information provided the Board on this item. This proposal covers classes staff would like to offer over the next three years.

In response to Mr. Lavrich, Mr. James DiPietro, Administrative Director, indicated the

request is for authorization to move forward with the program in concept, working with the Purchasing Division to negotiate a contract. The Purchasing Division staff has indicated they have authority to issue a three-year contract for this kind of dollar amount. If there are any changes to the class itinerary, it would be presented to the Board. Mr. Parks added that the prices shown in the agenda item are not firmed up in any way. There is an opt-out provision if needed.

b. Public Comment

There was no one wishing to speak.

c. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MS. GILES-NELSON TO APPROVE IN CONCEPT STAFF'S RECOMMENDATION OF A THREE-YEAR PROGRAM. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

4. Request of Board member Abbas Zackria, CSI to discuss scope of authority with respect to formal interpretation entitled "Two-Way Radio Communication Enhanced Public Safety Signal Booster Systems"

a. Board Discussion

Board member Mr. Zackria discussed the implementation methods that vary from municipality to municipality and the testing results. He also noted that there is a conflict between the Florida statutes, the National Fire Protection Association (NFPA) and the building code. The statutes only speak about high rises whereas the NFPA and building code speaks about all buildings such as restaurants and day cares. Broward County's Chapter 1 was prior to the state statute. There is significant cost and no standards for design. As more devices are installed, there are conflicts between them in adjacent buildings.

b. Board Action

Mr. Rice agreed with Mr. Zackria. He believed that fire inspectors follow the NFPA. He touched on the testing process that is performed before a certificate of occupancy is issued. Chairman Lucas suggested a declaratory statement might be useful. Mr. Parks explained that 11.10 of the NFPA calls for all buildings to be addressed except for one and two family. In last year's legislative session, Galt Ocean Mile convinced the legislature to add language to the statutes. There is a different compliance date on condominiums and apartment buildings. If existing high rises are found to be needing, they have a better timeline for compliance whereas the others, under 11.10, the Authority Having Jurisdiction (AHJ) can require compliance within a year. Fire is mandated by the minimum code to enforce the Florida Fire Prevention section. He believed the intent is already clear. Mr. Feller believed there is an option for high rises that if they have a two-way communication system, the fire alarm system can be eliminated which provides some relief in terms of cost. He believed the Board needs to do a little more work on this. The best time to do it is at the construction shell timeframe. He did not see the point of requiring a call system in low rise buildings if they already have a fire alarm system. Chairman Lucas indicated that the life safety code specifies all buildings. Not all buildings have fire alarm systems. Mr.

Rice pointed out another factor is where the building is located in relation to an antenna. Often in a large school, there is no communication in the middle of the building. The path of egress defines the area.

Mr. Feller wanted to refer the matter back to the Committee. It was suggested that Mr. Zackria should be on the Committee. Mr. Rice suggested a joint committee effort with the BDA Committee and the Fire Code Committee. There was consensus approval for a joint committee to be formed and that it meet sometime in January.

6. **One-day course on accessibility for structural and plumbing inspectors proposed by Mr. Jeffrey Gross and Mr. Larry Schneider.**

a. **Staff Report**

Mr. Otto Vinas, Chief Plumbing Code Compliance Officer, reviewed the information provided the Board on this item. This proposal has to do with providing more continuing education for inspectors, plan reviewers and chiefs on accessibility that was requested by the advisory board on individuals with disabilities. The course will focus on building and plumbing. The total cost would be \$3,000 divided equally between the two instructors. One hundred participants can be accommodated at no charge.

b. **Board Action**

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. WYNN TO APPROVE THE STAFF RECOMMENDATION. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

7. **Policy #17-05 – Waiver of recertification processing for those individuals who have been given their initial certification November 1 through December 31 of the second year of a recertification cycle.**

a. **Staff Report**

Mr. Cris Fardelmann, Chief Structural Code Compliance Officer, reviewed the information provided the Board on this item.

b. **Board Action**

A MOTION WAS MADE BY MR. FELLER AND SECONDED BY MS. GILES-NELSON TO APPROVE THE STAFF RECOMMENDATION. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

8. **Proposed 6th Edition Florida Building Code (2017) Formal Interpretation #13, “Ceiling Grid Lighting Fixture Support Method” effective January 1, 2018.**

a. **Staff Report**

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, reviewed the information provided the Board on this item. He explained this interpretation is

already in existence and is recommended for re-adoption in the new 6th edition code cycle.

b. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. FELLER TO RE-ADOPT THE RECOMMENDED FORMAL INTERPRETATION. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

9. Consideration of providing each city and the county with one complimentary set of the Florida Building Code 6th Edition (2017) and one copy of the 2017 Florida Fire Prevention Code 6th Edition.

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, reviewed the information provided the Board on this item. He offered some history on the topic. With the Board's reserve approaching \$5 million, he felt a rate cut should be considered. However beforehand, he felt sensible expenditures should be considered. The proposal is to issue one set of code books to each city and the County.

b. Board Action

A MOTION WAS MADE BY MR. FELLER AND SECONDED BY MR. LAVRICH TO APPROVE THE RECOMMENDATION. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

10. Consideration of merit pay adjustment for staff effective October 8, 2017.

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, reviewed the information provided the Board on this item.

b. Board Action

A MOTION WAS MADE BY MR. FELLER AND SECONDED BY MR. LAVRICH TO APPROVE THE MERIT PAY ADJUSTMENTS AS DESCRIBED IN THE AGENDA ITEM. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

11. One-time cash equivalent merit bonus for Chief Fire Code Compliance Officer.

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, reviewed the information provided the Board on this item. In response to Mr. Feller, Mr. DiPietro indicated that on occasion the County recognizes a non-unionized employee in this fashion. Chairman Lucas explained it is a cash bonus that does not raise the pay plan ceiling.

b. Board Action

A MOTION WAS MADE BY MR. FELLER AND SECONDED BY MR. FAMULARO TO APPROVE THE CASH MERIT BONUS OF 2% AS DESCRIBED IN THE AGENDA ITEM. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

12. Leadership performance review for Administrative Director, designation of pay range, salary adjustment and longevity/merit bonus.

a. Report of Board Chair Jeff Lucas, FM, CFI, CFEI

Chairman Lucas indicated that he conducted a performance review for the Administrative Director which is included in this agenda item. He highlighted activities of the past year. He went on to note that over the years the percentage difference between the administrative director and the chief code compliance officers has fallen. The proposal is to make an adjustment in that regard.

Complimentary remarks were made by the Chair and various members of the Board.

b. Establishment of pay range

c. Salary adjustment effective October 8, 2017

A MOTION WAS MADE BY MR. FELLER AND SECONDED BY MR. LAVRICH TO APPROVE A SALARY ADJUSTMENT (3.438%) AND PAY RANGE ADJUSTMENT SO THAT THERE IS A 28.5% DIFFERENTIAL FROM THE CHIEF CODE COMPLIANCE OFFICERS EFFECTIVE OCTOBER 8, 2017 AS RECOMMENDED BY THE CHAIR. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

d. Merit longevity bonus effective January 3, 2018

At the Chair's request, Mr. James DiPietro, Administrative Director, drew attention to the Broward County personnel action form as well as the Board voted longevity/merit program provided in the agenda item. He noted that his eighteenth-year anniversary is January 3, 2018.

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. FELLER TO APPROVE THE MERIT LONGEVITY'S BONUS AS DESCRIBED IN THE AGENDA ITEM. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

13. Director's Report

Mr. James DiPietro, Administrative Director, indicated last year there was legislation to reduce the size of the Florida Building Commission. The Broward County Building Officials Association is seeking the Board's support on this matter.

Mr. Sean Flanagan, representing the Broward County Building Officials Association, requested the Board's support in opposing 2018's House Bill 299. The subcommittee is recommending membership be reduced from 27 to 15. The Association believes this will limit the reliable voices of professionals in the construction industry. Some of the members proposed to be eliminated are fire prevention professionals, plumbing contractor, municipal, county or district official, finance director, county code enforcement (official), and mechanical and electrical engineer. This reduction would be a detriment to the construction industry. He asked if the Board would allow their staff to follow this subcommittee (careers and competition). He is not familiar with the reasoning behind the bill in that he was made aware of it just today. Chairman Lucas commented that the Fire Marshals Association of Florida and the Fire Chiefs Association are both paying attention to this matter also. Mr. Bryan Parks, Chief Fire Code Compliance Officer, noted the proposal includes eliminating the fire protection engineer and fire representative. They are also talking about extending the new code cycles. There is a proposal to even further reduce the membership to eleven. It is money motivated.

Chairman Lucas asked Mr. Flanagan to supply the Administrative Director with any information that would be helpful to the Board. Mr. DiPietro indicated that the Building Officials Association would like the Board to approve a staff member to travel to Tallahassee. Mr. Flanagan advised that all expenses would be covered by the Building Officials Association.

14. **Attorney's Report** - none

15. **Committee Reports**

Chairman Lucas reiterated previous direction about the Bi-Directional Amplifiers (BDA) Ad-Hoc Committee (including the Fire Committee).

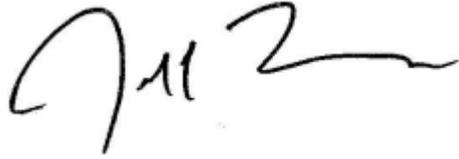
Mr. Feller noted that the Chief Mechanical Code Compliance Officer is looking to set a Mechanical/Smoke Control Committee meeting to discuss existing smoke control systems. Old technology systems are expensive to maintain. The goal would be to find a method to update those systems because people are essentially relying on systems that are non-functioning. The target timeframe would be January.

16. **General Board Member Discussion** - none

17. **Public Comment (3-minute limit per person) and written communications** - none

18. **Adjournment**

Having no further business to go before the Board, the meeting adjourned at 8:34 p.m.

A handwritten signature in black ink, appearing to read "J. Lucas". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeffrey Lucas, FM, CFI, CFEI – Chair

