



BROWARD COUNTY

# Board of Rules & Appeals

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<http://broward.org/codeappeals.htm>

## **BOARD OF RULES AND APPEALS**

**JUNE 14, 2018**

### **MEETING MINUTES**

#### **Call to order:**

Chair Daniel Lavrich called a published meeting of the Broward County Board of Rules and Appeals to order at 7:34 p.m. The roll was called and the following members were present:

#### **Present:**

Kenneth B. Wynn, Vice Chair  
Ron Burr  
Jeff Falkanger  
Bill Flett  
Robert A. Kamm  
David Rice, P.E.  
Daniel Rourke  
John Sims  
Robert Taylor  
James Terry  
Dennis A. Ulmer

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

#### **Approval of Minutes**

Mr. James DiPietro, Administrative Director, announced on page three there is an 8-3 vote for the attorney's contract, however four names were listed. Ms. Giles-Nelson should not be shown.

**MR. RICE MADE A MOTION AND MR. FALKANGER SECONDED THE MOTION TO APPROVE THE MAY 10, 2018 MEETING MINUTES AS CORRECTED. THE MOTION CARRIED BY UNANIMOUS VOTE OF 11-0.**

### **CONSENT AGENDA**

#### **1. Certifications – Staff Recommended**

**MR. RICE MADE A MOTION AND SECONDED BY MR. FALKANGER TO APPROVE ALL SUBMITTED CERTIFICATIONS. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.**

#### **2. Agreement between Broward County Board of Rules and Appeals and Charles M.**

**Kramer, Esquire, for legal services**

**a. Staff Report**

Mr. James DiPietro, Administrative Director, explained that as directed, he and the Chair negotiated this contract. All parties agree. The rates are about twenty percent less. The last page shows a May date, where June should be substituted.

**b. Board Action**

Mr. Burr's question about a new category of associates being added was clarified.

**MR. \*07:38:14 MADE A MOTION AND MR. \*07:38:14 SECONDED THE MOTION TO APPROVE THE AGREEMENT WITH THE SINGLE CORRECTION NOTED ABOVE AS RECOMMENDED. THE MOTION PASSED BY UNANIMOUS VOTE.**

3. **Proposed Formal Interpretation #21. Alteration of existing smoke evacuation or smoke control systems based on 6<sup>th</sup> Edition (2017), FBC Existing Building, Chapter 14, Performance Compliance Methods; FBC Building, Chapter 4, Special detailed requirements based on use and occupancy; FBC Building, Section 909 Smoke Control Systems.**

**a. Staff and Committee Reports**

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained the Mechanical Committee was approached by an individual that performs smoke control system recertifications with the request to explore the possibility of altering or eliminating existing systems. There are buildings that today do not require such systems, but the existing systems are so old that they cannot be properly maintained. The interpretation states that an alteration, including elimination, is possible under certain conditions. The interpretation was unanimously approved by the Committee. Essentially a design professional must evaluate the building. Result of the alteration or elimination must maintain or increase the degree of public safety, health and general welfare. The work must be permitted and inspected. Systems currently required by the Florida Building Code or Florida Fire Prevention Code cannot be eliminated.

**b. If desired, motion adopting Formal Interpretation #21**

**MR. KAMM MADE A MOTION AND MR. FALKANGER SECONDED THE MOTION TO ACCEPT THE PROPOSED INTERPRETATION. THE MOTION PASSED BY UNANIMOUS VOTE.**

4. **Request from Attorney General's opinion by Board of Rules and Appeals for interpretation of restrictions on building inspectors using their certifications to engage in free enterprise**

**a. Recommendation of Certification Review Committee**

Mr. James DiPietro, Administrative Director, noted this is a unanimous recommendation

of the Certification Review Committee. It is requesting a non-binding opinion from the Attorney General. Upon becoming an inspector, individuals can no longer use their contractor licenses. Mr. Charles Kramer, Board Attorney, indicated that his interpretation of Special Act 71-575 is that an individual not use their contractor license to engage in free enterprise while employed as an inspector, chief or plans examiner. There was unanimous agreement on framing of the issue so that there is no influence on the answer. Mr. DiPietro added that there is a question whether the restriction applies outside of the county. The Board's vote and Mr. Kramer's opinion are clear that it does apply. However, there is agreement to seek another opinion.

Vice Chairman Wynn opened the floor for public comment.

Mr. Keven Klopp, Director of Development Services, City of Hallandale Beach, indicated divisions in this department include building. He urged the board to seek this Attorney General opinion. The current interpretation puts Broward County at a competitive disadvantage. Inspectors and plans examiners have been lost to Miami-Dade County.

The public hearing was closed as there was no one else wishing to speak.

#### **b. Board Action**

**MR. ULMER MADE A MOTION AND MR. TERRY SECONDED THE MOTION TO AUTHORIZE SENDING THE PROPOSED LETTER TO THE FLORIDA ATTORNEY GENERAL. THE MOTION PASSED BY UNANIMOUS VOTE.**

**\*7:52:07who is speaking)** Further discussion ensued on the current position of the board, including that an individual certified in Broward County cannot use their contractor license anywhere or use their license to qualify another company.

#### **5. Approval of Board of Rules and Appeals sponsored classes by Coral Springs Regional Institute of Public Safety for an amount not to exceed \$22,500 for inspectors, plan examiners and fire marshals**

##### **a. Staff Reports**

Mr. Bryan Parks, Chief Fire Code Compliance Officer, reviewed what has been accomplished since the board authorized a contract with NFPA in 2018 to provide classes to both fire and building certified individuals. Staff has been approached about state certification classes. He believes there will be a balance in the current budget of about \$40,000. He would like to use that funding for three classes with Coral Springs Fire Academy (Coral Springs Regional Institute of Public Safety). He reviewed cost information per student for this proposal in comparison with the NFPA classes. Staff will be proposing fourteen classes in fiscal year 2019 also in association with Coral Springs.

##### **b. Board Action**

Mr. James DiPietro, Administrative Director, responded to Mr. Rice's question and indicated there is a surplus in funds budgeted for classes this year that will be used for these classes.

**MR. RICE MADE A MOTION AND MR. SIMS SECONDED THE MOTION TO APPROVE THE PROPOSAL AS RECOMMENDED. THE MOTION PASSED BY UNANIMOUS VOTE.**

**6. Hearing Officer charges for hearing held on January 11, 2018 and related matters**

**a. Staff Report**

Mr. James DiPietro, Administrative Director, explained that the Board Attorney cannot represent both the staff and to conduct the hearing in the John Madden matter. Mr. John Hearn was selected. He will also represent the staff at the October hearing and make a recommendation to the Board for their final decision. The cost through April 16, 2018 is \$6,032. The rate is approximately \$200 per hour. It could be considered a partial public service.

**b. Board Action**

**MR. FALKANGER MADE A MOTION AND MR. ULMER SECONDED THE MOTION TO AUTHORIZE PAYMENT OF THE INVOICE (\$6,032) AS RECOMMENDED. THE MOTION PASSED BY UNANIMOUS VOTE.**

**7. Director's Report**

Concerning the previously authorized NFPA (National Fire Protection Association) classes, Mr. James DiPietro, Administrative Director, announced two classes that will be held this month.

**8. Attorney's Report – none**

**9. Committee Report – none**

**10. General Board Members Discussion**

Mr. Falkanger indicated he recently encountered a situation where there was a prohibition in the Florida Building Code but state statute allowed it. He posed the question of whether state statute supersede the building code to the Board Attorney and the answer was in the affirmative. Mr. Kramer \*(how do we refer to him))) advised that the building code is incorporated in the state statutes and derives its power from the statutes but the statutes also determine how the building code is applied.

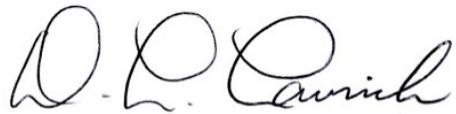
Mr. Burr commended staff on the new newsletter. It is a step in the right direction in letting people around the county know what the Board does. Mr. Falkanger agreed. \*\*is this Falkanger???

Mr. \* thanked staff for 0:39:23:0

**11. Public Comment (3-minute limit per person) and written communication**

12. **Adjournment**

Having no further business to go before the Board, the meeting adjourned at 8:09 p.m.

A handwritten signature in cursive script, appearing to read "D. L. Lavrich".

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Daniel Lavrich, P.E. – Chair