**BROWARD COUNTY**

 Board of Rules & Appeals

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 **BOARD OF RULES AND APPEALS**

**January 9, 2014**

**Meeting Minutes**

**Call to order:**

Chair Gregg D’Attile called a published meeting of the Broward County Board of Rules and Appeals to order at 7:00 p.m.

**Roll Call**

Ron Burr

Gary Elzweig

Shalanda Giles Nelson

Bill Flett

Allan Kozich

Dan Lavrich

Jeff Lucas

Dave Rice

Dick Smith

Dave Tringo

Kenneth Wynn

Abbas Zackria

Gregg D’Attile - Chair

After roll call, the presence of a Quorum was announced by Chair Gregg D’Attile.

**Approval of Minutes**

Mr. Wynn made a motion to approve the October 10, 2013 meeting minutes. The motion was seconded, and the minutes were approved as submitted.

**CONSENT AGENDA**

1. **Certifications – Staff Recommended**

**MR. KOZICH MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. LUCAS.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**REGULAR AGENDA**

 **1.a Request of Mr. Alexander Mancas to be recertified as Building Inspector with the City of Fort Lauderdale**

Board Member, Mr. Jeff Lucas had a conflict and recused himself from the vote. Mr. Lucas left the room.

Staff Report was given by Bill Dumbaugh – Chief Structural Code Compliance Officer.

Mr. Dumbaugh noted that every license that was active, he went on-line and double checked it, and checked to see if they had business tax receipts. We discovered Mr. Mancas has an active Certificate of Competency with a business name of “Almco, Inc.” that is located in Hollywood, Florida.

It is the opinion of both the Staff and the Board attorney that a conflict still exists. The Board previously addressed this issue in 1998, Mr. Dumbaugh referred to pages 17 and 18, of the agenda packet, the minutes from that meeting, the Board voted 12 – 1 that an inspector cannot hold or use an active certificate or license in Broward County (and the key word here is “hold”).

Mr. Mancas says he is not using his license but he does have it located in Broward County, and based on that 1998 opinion, I did not approve Mr. Mancas’s recertification. It is Staff’s recommendation, and the recommendation of the Board attorney that the Board deny Mr. Mancas’s re-certification until such time as the business either closes or relocates outside of Broward County.

As a point of information, the Administrative Director, Jim DiPietro stated that the Board has used the affidavit, and BORA maintained for many years that the license should be inactive as long as it is within Broward County. The Director requested that the Board attorney research this item further and inform the staff of his findings.

Mr. Mancas was sworn in and addressed the Board, and noted that he was aware of the requirements. He made mention of the fact that he had performed more than 53,000 inspections for the City of Fort Lauderdale over a period of twenty-one years, and is the owner and the qualifying agent of Almco, Inc.

Board attorney Mr. Kramer pointed out that Mr. Marcus’s affidavit lacked proper notarization, declaring it a defective document, and recommended it be struck.

Mr. Dumbaugh added that if we didn’t have a tax receipt, we would not have certification issues.

The general Board Member discussion centered around the fact that there was no written policy stating that an inspector could not have an active Certificate of Competency or Tax Receipt registered in Broward County. All we have in writing is from 71-575 (4)b requiring that any inspector who holds a Certificate of Competency shall not engage in free enterprise thereby competing against persons or firms whose work he may also inspect. Some Board members felt that it made no sense to move a license out of Broward County because that would not prevent a license holder from working in Broward County.

Director, Mr. DiPietro added that right or wrong, the practice has been that this applies to anyone working as an inspector in any discipline in Broward County and the Board can make any decision it desires. This evening, however, following discussion among Board members a Motion was made.

**MR. ELZWEIG MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. TRINGO.**

**THE MOTION PASSED WITH A VOTE OF 9 – 3.**

**Dissenting votes:**

**Mr. Flett**

**Mrs. Giles Nelson**

**Mr. Kozich**

Subsequent to the vote, Board Member, Mr. Richard Smith suggested that the Board may need to re-work the verbiage of the affidavit going forward. Board member, Mr. Jeff Lucas was called back into the Chambers, and the meeting resumed.

**2. Public Hearing – Modifications to Existing Amendments to the 2010 Florida Building Code, Residential Code Section P2903 and Plumbing Code Section 604**

Otto Viñas – Chief Code Compliance Officer Plumbing addressed the Board and presented his staff report.

Board member, Richard Smith commented that we have gone back and forth with Miami-Dade County 1.5 gallons in Broward but only 1.2 in Dade. Manufacturers knew this was a problem and realized they have to conserve water. The manufacturers are not allowed to make the product unless it has that label. We are asking you to approve and ratify.

***At this time, the Chair opened up the Public Hearing. Having no speakers from the public, the Public Hearing was closed.***

**MR. SMITH MADE A MOTION TO SUPPORT THE RECOMMENDATION AND APPROVE, THE MOTION WAS SECONDED BY MR. FLETT.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**Separate vote on state process:**

**MR. SMITH MADE A SECOND MOTION THAT WE ACCEPT THE**

**EXPLANATIONS OF THE STATE ON WHY WE ARE ASKING FOR THIS**

**CHANGE AND WAS SECONDED BY MR. KOZICH.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**3. 2010 FBC Formal Interpretation – Installation of 100% wireless network low voltage alarm**

 **Systems (A Proposed Local Amendment Was Tabled from the October 10, 2013 Meeting)**

Lou Marks – Chief Electrical Code Compliance Officer addressed the Board and presented the staff report. Mr. Marks made reference to the September Electrical Committee meeting where this item was brought forward.

Board member Abbas Zackria expressed concern about misinterpretation of whether or not it is plugged into the wall it is not 100% wireless. Mr. Marks addressed this concern, and added that we can have language that says it is acceptable to have the device plugged in as it is with tablets or television.

Board member, Dave Rice added that they all work the same with a central device such as a modem plugged in through a receptacle. There are no other wires. Inspectors and contractors at the meeting were all familiar with these types of systems, and were very clear on how the systems operate and what the requirements were. Mr. Rice went on to say he did not see a need for special language.

**MR. ELZWEIG MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MRS. GILES NELSON.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **4.** **2010 FBC Formal Interpretation – Residential Section P2718.1 Clothes Washing Machine.**

Otto Viñas – Chief Plumbing Code Compliance Officer introduced the item. Mr. Viñas said that the code does not specify what size it is. The Florida Building Code – Plumbing has some changes. Mr. Viñas made reference to the fact that the BOAF has two (2) separate interpretations on page 6 and page 7 that do not apply to the Residential Code, and on page 9 Section 406.3 says that the washer standpipe shall be a minimum of two inches, and added that the Plumbing Committee voted unanimously to that effect.

Board member, Mr. Richard Smith added that three inches was intended for commercial, not for the typical household washing machine. Mr. Smith said that the Board should take the recommendation of the Plumbing Technical Committee in the form of an Interpretation.

**MR. SMITH MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MRS. GILES NELSON.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**5. Mandatory Permitting Guidelines for Fog Effect Systems**

Former Board Chair Phil London addressed the Board. Mr. London brought to the Board’s attention that entertainment stages are utilizing cryogenic liquid nitrogen C02. Without getting into specific chemical interactions, there is a potential for adverse health and safety concerns. Mr. London added that it can affect oxygen and nitrogen within a confined space, and further stated that at the present time there are no guidelines. There should be a measure for concern and a need for due diligence and referred the Board to the information outlined in the agenda packet. Mr. London went on to give the Board some history, and directed the Board to look at the recommendations from Miami-Dade on page 19. Mr. London also noted that Mr. Allan Kozich helped put together a final version in October of 2013, however, as of today there are still no specific guidelines in place. Miami-Dade has put several requirements into place similar to those in Las Vegas.

Mr. Tringo inquired whether there had been any injuries reported, and Chief Lucas asked Bryan Parks to report the results, and Bryan Parks – Fire Chief Code Compliance Officer addressed the Board. Mr. Parks informed the Board that after canvassing three clubs, he had John Preston, Fire Marshal from Oakland Park conduct tests and determined there was no oxygen pollution. After subsequent reviews, the fire marshals concluded that the spaces were too large for the C02 to have negative effects. There could be possible negative effects in a smaller space. As a precaution, Mr. Parks supported Mr. London’s recommendations. After further discussion regarding language a motion was made.

**MR. ELZWEIG MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. LAVRICH WITH THE PROVISION THAT THE LANGUAGE BE CHANGED TO READ “LICENSED PROFESSIONAL ENGINEER.”**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**6. Revisions to Broward County Board of Rules and Appeals Policy# 06-01, Minimum Standards**

 **for Permanent Residential Stand-By Generators Permitting Electrical Checklist.**

Staff report was presented by Lou Marks – Chief Electrical Code Compliance Officer. Mr. Marks noted the addition of the 2008 National Electrical Code, Article 702 with an effective date of July 1, 2009 to be consistent with the current 2010 Florida Building Code.

Mr. Marks discussed some verbiage changes to the policy, among those some grammatical changes – Mr. Marks suggested omitting the work “wire” and replacing it with the word “conductor.” Mr. Marks also suggested that under manual transfer switch and automatic transfer switch, deleting the word “Options” in the Transfer Switch section.

**MR. LUCAS MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. TRINGO.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **7. Revisions to Broward County Board of Rules and Appeals Policy# 06-03, Minimum**

 **Code Requirements for Permanent Residential Type Stand-By Generators.**

Staff report was presented by Rolando Soto – Chief Mechanical Code Compliance Officer. Mr. Soto reported that basically the intention was to update the requirements to be consistent with the current Florida Building Code 2010.

There was brief discussion among Board members.

**MR. LAVRICH MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MRS. GILES NELSON.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **8. Amendment to Agreement for Legal Services.**

Jim DiPietro, Administrative Director addressed the Board and brought to their attention that Russell White, who has been the Board attorney of record for the past four years is moving to Memphis, Tennessee for family reasons. Attorney Charles Kramer will be the new attorney of record. Mr. DiPietro recommended that the Board acknowledge and accept the amendment to the agreement for legal services and welcome Mr. Kramer as Board attorney.

Mr. Lavrich said he would like to accept the amendment to the agreement for legal services and welcome Mr. Kramer as the lead attorney. Mr. Lavrich said he also wanted to recognize all the good work the firm has done for the Board.

Other board members expressed their satisfaction with the firm of Rogers, Morris & Ziegler and a motion was made.

**MR. LAVRICH MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. LUCAS.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **9. Request of Board Member Allan Kozich to obtain Board direction for calling a meeting of the**

 **Certification Review Committee – Building**

Mr. Kozich, Board member and Chair of the Certification Review Committee - Building discussed the status of the committee, and noted that there have been no meetings for the past 7 months. Mr. Kozich informed the Board that there are certification requirement issues waiting to be addressed.

Administrative Director, Jim DiPietro addressed the Board and stated that the committee should be reactivated; the City Managers asked for this committee, the League of Cities did not. It was agreed by all parties that the meetings should go forward, and the Broward League of Cities’ invitation to attend should be restated.

Mr. Elzweig noted that a fresh look at the requirements and the criteria is overdue, and recommended that we proceed and not wait on the League of Cities. Mr. Lucas inquired as to how many members we currently have on the committee, and noted that Sunrise is not represented. Mr. DiPietro said we agreed on one large city, over 50,000 and one small city, and went on to say that we still can have a quorum without making any changes.

Mr. Smith suggested that we restate the invitation, set a date and re-request that the League of Cities provide membership and to be sure the members are advised of the meeting. Mr. Smith continued that he expects they will attend the meeting. Mr. Lavrich suggested we resend the invitation also; let them know our intent to move forward, and that we would like their participation and their input. Mr. Tringo concurred.

Mr. Elzweig proposed we proceed with the committee as planned, take a fresh look a Chapter One and rewrite sections of Chapter One that deal with criteria and qualifications; reaffirm our invitation to the League of Cities and request they attend the meeting and continue to make selections for the committee.

**MR. ELZWEIG MADE A MOTION TO PROCEED WITH THE CERTIFICATION COMMITTEE AS PLANNED AND TO RESTATE OUR INVITATION TO THE LEAGUE OF CITIES. THE MOTION WAS SECONDED BY MRS. GILES NELSON.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **10. 2014 Board Meeting Calendar**

Mr. DiPietro made the observation that this is a routine item, and added that the calendar may also be found on the Board’s website. There was some discussion about changing the December meeting to the first Thursday of the month rather than the second. Members agreed to leave the calendar as is and a motion was made.

**MR. LAVRICH MADE A MOTION TO ADOPT THE CALENDAR AS SUBMITTED AND THE MOTION WAS SECONDED BY MRS. GILES NELSON.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **11. Salary Adjustments for Four Employees**

Mr. DiPietro brought to the Board’s attention that a year ago in August we had zero funds, and to date the Board has a surplus. We look at the County position which has been to give no raises to top management. Basically for three to four years there have been no raises and thirty (30) days of furloughs. Mr. DiPietro continued that he felt that the best approach was to look at his report on pages 2 and 3. Four (4) employees are more out of step on the spectrum as compared to everyone else in the organization. Three out of four of them are the lowest paid in the organization. Mr. DiPietro added that we should not give the top people, including himself, any kind of adjustment at this time. However, the lower paid employees should receive an adjustment. That is the essence of the proposal. We are nine months away from the next salary increase which would be October 1st. Mr. DiPietro maintained that assuming the reserves continue to build, he would be comfortable recommending some kind of adjustment in October. Those are some of the considerations.

Mr. Zackria reiterated some of Mr. DiPietro’s points and supported the recommendation.

**MR. ELZWEIG MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. ZACKRIA.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

 **12. Longevity/Merit Bonus for Longest Serving Employee**

Mr. DiPietro addressed the Board and explained to them that our longest serving employee did not get his longevity bonus two years ago. Mr. DiPietro continued to point out to the Board that this is not a salary increase; this is a bonus. Very briefly – first we suspended one year of longevity bonuses. We also had thirty days of furloughs. We ran out of money and the program was discontinued, then we stopped it for a second year. We stopped it for a total of two years. Then we were a little better off financially. I recommend the bonus be authorized; this would replace the merit/longevity bonus for 2011 that the employee did not receive. The Board Chairman and I are in agreement of the request, which is subject to the Board vote.

**MR. SMITH MADE A MOTION TO APPROVE AND THE MOTION WAS SECONDED BY MR. FLETT.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

**13. Director’s Report**

 Mr. DiPietro briefly discussed the chickee hut issue. The only thing we need to do from a professional standpoint is to acknowledge receipt of the DEC statement for the record. The Commission backed up the majority of the staff’s position. Most of us believe that chickee huts should not have any attachments and be exempt from permitting. Ultimately that is how the Building Commission ruled, when they issued the DEC statement in December. The DEC statement has been distributed to the Building Officials. Our objective going forward is 100% compliance.

**14. Attorney’s Report**

**15. Committee Reports**

**16. General Board Member Discussion**

**17. Public Comment**

**18. Board Nominations and Election of 2014 Chair and Vice-Chair, Effective January 2014**

 **19. Passing the Gavel**

**MR. ELZWEIG MADE A MOTION TO NOMINATE RON BURR AS CHAIR. MRS. GILES NELSON SECONDED THE MOTION.**

**MR. BURR NOMINATED JEFF LUCAS TO SERVE AS VICE-CHAIR. MR. SMITH SECONDED THE MOTION.**

**THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 – 0.**

Mr. Burr accepted the nomination as Chair, and the gavel was passed. Chief Lucas accepted the nomination for Vice-chair. A plaque was presented to Mr. D’Attile along with the Board’s appreciation for his service as Chair and the meeting was adjourned.

 **20. Adjournment**

Having no further business to go before the Board, Mr. Zimmer made a motion to adjourn. The meeting adjourned at 9:00 p.m.

 

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Gregg D’Attile – Chair