

BROWARD COUNTY BOARD OF RULES & APPEALS
APRIL 14, 2022
MEETING MINUTES

Call to Order

Chairman Daniel Lavrich called a published virtual meeting of the Broward County Board of Rules and Appeals to order at 7:00 p.m.

Present:

Daniel Lavrich, Chair
Ron Burr
Gregg D'Attile (arrived 7:31 p.m.)
Shalanda Giles-Nelson
Sergio Pellecer
Daniel Rourke
David Tringo (arrived 8:12 p.m.)
Dennis Ulmer
Abbas Zackria

A quorum was present.

Approval of Agenda

Mr. Zackria made a motion and Ms. Giles-Nelson seconded the motion to approve the agenda as posted. The motion carried by unanimous vote of 7-0.

Approval of Minutes – March 10, 2022

Mr. Ulmer made a motion and Mr. Zackria seconded the motion to approve the minutes as submitted. The motion carried by unanimous vote of 7-0.

CONSENT AGENDA

Certifications - Staff Recommended.

BROWARD COUNTY SHERIFF FIRE RESCUE

BOSSLE, JOSHUA, FIRE PLANS EXAMINER
RAMIREZ, ANTONIO, FIRE PLANS EXAMINER

CITY OF COCONUT CREEK

ROSE, JOHANN, FIRE PLANS EXAMINER

CITY OF DANIA BEACH

BENDAVID, ANDRE, ASSISTANT BUILDING OFFICIAL

CITY OF FORT LAUDERDALE

BOURGEOIS, JOHN, FIRE PLANS EXAMINER

CITY OF LIGHTHOUSE POINT

CONKIE, DANIEL, CHIEF ELECTRICAL INSPECTOR

CITY OF MARGATE

SCHOLL, DAVID, FIRE CODE OFFICIAL

CITY OF MIRAMAR

PLA, YAIQUIMI ALBERTO, PLUMBING INSPECTOR (TEMPORARY 120-DAY)

COUNTYWIDE

ENCARNACION, JOSE L., STRUCTURAL INSPECTOR

MARTINEZ, LEONARDO, STRUCTURAL PLANS EXAMINER

RODRIGUEZ, ROLANDO, STRUCTURAL PLANS EXAMINER-LIMITED

VIEIRA, PEDRO P., ELECTRICAL INSPECTOR

Mr. Pellecer made a motion and Mr. Burr seconded the motion to approve the certifications as recommended. The motion carried by unanimous vote of 7-0.

REGULAR AGENDA

1. **Request of Mr. Vesa Karttunen for an extension to close out open and ongoing permits through July 14, 2022**

a. Staff Report

Mr. Jack Morell, Chief Structural Code Compliance Officer, noted that this is the first extension request due to unforeseen delays. The request is to the July Board meeting, July 14th.

b. Request of Mr. Karttunen

Mr. Karttunen was sworn in.

Mr. Karttunen indicated the delays are associated with product delivery.

c. Board Questions - none

d. Board Action

Mr. Burr made a motion and Mr. Zackria seconded the motion to grant the extension to July 14, 2022. The motion carried by unanimous vote of 7-0.

2. **Request of Mr. Jose L. Encarnacion to appeal Staff's denial of his application for Structural Plans Examiner**

a. Request of Mr. Encarnacion

Mr. Encarnacion was sworn in.

Mr. Encarnacion indicated he is requesting the Board to consider his application for structural plans examiner which was denied by Staff. The denial is based on not meeting the minimum five-year experience. The documentation he has provided shows he has been a professional engineer for five years in the State of Florida, specifically Broward County.

b. Staff Report

Mr. Michael Guerasio, Chief Structural Code Compliance Officer, advised that the application was received on February 17th. Staff replied to the Building Official and Chief Structural Inspector the same day on shortfalls in the submittal. Additional information was submitted wherein Staff re-reviewed and could not confirm the requisite five years of practicing engineering under Mr. Encarnacion's license. He went on to enumerate the experience submitted and detailed in the agenda memorandum. Staff spoke with Mr. Encarnacion's former employer, Mr. Gregorio Batista, who indicated that Mr. Encarnacion did not perform any design work. Mr. Batista reported Mr. Encarnacion's scope of work as follows: 50% on inspections; 20% managing construction part of the company and 30% ascertaining details for plans.

c. Board Questions

Chairman Lavrich referred to the backup information provided the Board, "VII. PRIVATE PRACTICE OF ENGINEERING IN FLORIDA" and asked the dates and for whom was Mr. Encarnacion working on the thirty listed permits. Mr. Encarnacion indicated that these are when he was in private practice. The date range is 2016 to 2022 before he started with the City of Pompano Beach. In further response to Chairman Lavrich, Mr. Encarnacion advised that these permits are for work he performed while also working for Mr. Batista. Mr. Batista was aware of this. Mr. Encarnacion indicated he would be willing to provide the dates for each of the permits. Chairman Lavrich asked if Mr. Encarnacion was also working for Clear Choice Concrete Restoration and Waterproofing at the same time. Mr. Encarnacion advised it had to do with a design/build collaboration. He was not an employee of Clear Choice however he was qualifying them to do engineering work. There was no direct payment to him from Clear Choice.

Ms. Giles-Nelson pointed out that the first two digits of the permit number typically reflect the year the permit was pulled. The bulk of the work started in 2020 and 2022. There are four outliers dating as far back to 2009.

Mr. D'Attile arrived at approximately 7:31 p.m.

In response to Mr. Zackria, Chairman Lavrich indicated that one does not have to be doing design work in order to qualify as a practicing engineer experience however he would not consider drafting as engineering. Chairman Lavrich went on to raise concerns about the application documentation, i.e., Mr. Encarnacion was engaged in private practice for his own firm while employed by other two firms. He was concerned that information could not be verified. Mr. D'Attile was also concerned with the information. He referred specifically to the job duties listed while Mr. Encarnacion was employed by Batista and that Mr. Batista indicated that Mr. Encarnacion did not perform any structural design or calculations.

Mr. Encarnacion advised that he worked for Mr. Batista from 2015 to 2022 in Florida doing special inspections and other work that would fall under the practice of engineering. He also can produce and prove that he signed and sealed documents during that time for himself, but it was not required for Mr. Batista. In response to Chairman Lavrich, Mr. Encarnacion advised that some information was supplied to Staff after the initial application. Mr. Guerasio clarified that when the application was initially denied, he notified Building Official Rada and the supplemental information was provided for the Board meeting. He did not have the information for his review. Perhaps Mr. Encarnacion could compile a complete packet of information with dates, etc. and it could be re-reviewed at the staff level.

Mr. Jeffrey Massie, Chief Structural Inspector, City of Pompano Beach, was sworn in. He believed the discrepancy has to do with what is considered engineering practice pursuant to

Florida statute. While signing and sealing engineering systems is one of some eight things involved in engineering practice it begs the question that Mr. Encarnacion has been involved in engineering practice for more than five years and his application should be considered favorably. Chairman Lavrich asked if Mr. Massie knows what work Mr. Encarnacion did or simply what he submitted. Mr. Massie advised that he knows what Mr. Encarnacion submitted. Mr. Massie went on to comment that anyone who holds himself out as an engineer is considered engineering practice. He questioned what more experience Mr. Encarnacion could attain as a structural inspector in Pompano Beach other than satisfying a narrow interpretation of engineering practice.

Chairman Lavrich indicated that he does not think it is a narrow interpretation. The questions are valid. Not all of the information was provided with the original application submittal. He agreed with Mr. Guerasio that the complete information provided for re-review by staff. He pointed out that all of the information was not provided before the Board deadline. Mr. Zackria agreed with Mr. Massie that signing and sealing plans is not a complete definition, therefore all of the experience should be reviewed holistically and presented to the Board for reconsideration.

Mr. James DiPietro, Administrative Director, advised that the May 12th Board meeting deadline for submittal of information is April 25th.

d. Board Action

Mr. Zackria made a motion and Mr. Ulmer seconded the motion to accept Staff's recommendation to re-review all information submitted. The motion carried by unanimous vote of 8-0.

3. **Formal Interpretation #30 – Fee Simple Townhouses designed and constructed according to Florida Building and Residential Codes are exempt from the Building Safety Inspection Program**

a. Staff Report

Mr. James DiPietro, Administrative Director, noted with a vote this evening, no further action would be necessary. The accompanying next item is to add this information to Chapter 1 of the Building Code which would require two readings.

Mr. Michael Guerasio, Chief Structural Code Compliance Officer, explained the purpose is to clarify that fee simple townhouses are exempt from the Building Safety Inspection Program. There are condominiums that are townhouse like trying to be exempt from the Program. Fee simple townhouses are basically single family by definition. They are structurally independent of each other. It will help uniformity of the Program's enforcement throughout the county. This formal interpretation will take precedence until the following code amendment is done.

b. Board Questions - none

c. Public Comment – none

d. Board Action

Mr. D'Attile made a motion and Ms. Giles-Nelson seconded the motion to approve Formal Interpretation #30 as recommended. The motion carried by unanimous vote of 8-0.

4. **First Reading of Amendment to Section 110.15, Chapter 1, Florida Building Code, 7th Edition – Adding Fee-Simple Townhouses designed and constructed according to definitions and requirements for townhouses in the Florida Building and Residential Codes to the Building Safety Inspection Program Exempt Properties**

- a. Report of Administrative Director

Mr. James DiPietro, Administrative Director, reiterated this is a clarification as reflected in the previous item that will be codified.

- b. Board Questions - none
- c. Board Action

Mr. D'Attile made a motion and Mr. Burr seconded the motion to approve the code amendment on first reading as recommended. The motion carried by unanimous vote of 8-0.

5. **Local Amendment to Florida Fire Prevention Code for 2nd Reading – New Code Section F-108.9.3, Entry Gates recommended by Fire Code Committee**

- a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised that there have been no changes to this proposal since the first reading. Mr. James DiPietro, Administrative Director, advised the proposed effective date would be April 25, 2022.

- b. Board Questions – none
- c. Public Hearing

Chairman Lavrich opened the public hearing. Please see discussion below.

- d. Board Action

In response to Mr. D'Attile, Mr. Parks advised that all emergency vehicles including police would be able to open the entry gate from their vehicle. Existing applications will be given one year to comply coordinated through the local Authority Having Jurisdiction (AHJ). In response to Mr. Zackria, Mr. Parks indicated that most vehicles have existing equipment that reacts with the gate. This would largely have to do with new entry gates. Mr. Zackria was concerned that all implementation details should be worked out before the one-year compliance period is put into motion. Mr. Parks indicated this has come through the fire marshals and fire chiefs. They are all in agreement that it can be started now. The objective primarily is uniformity.

Ms. Lori Hastings, Chair of Fire Prevention Committee, Fire Chiefs Association of Broward County, explained that there are multiple brand names for these universal gate access systems, however they basically all function in the same manner. There is agreement on the manner or method, but it is the discretion of each (AHJ) to determine cost differential etc. Only the method is proposed to be specified. Mr. Zackria wanted more specificity in the code language. Mr. Zackria asked if there is a certification standard that could be applied to the universal gate access systems. Mr. Parks was not aware of any one applicable standard. He clarified that it is not a complete system; it is an audio sensing device that is placed into the system. Ms. Hastings mentioned police and public works vehicle access could also be possible in this keyless system. This only allows access to the gated area.

Mr. Zackria felt the item needs more specificity from a contractor's perspective.

Chief Jeffrey Lucas, Fire Code Official, City of Fort Lauderdale, explained that the Florida Fire Prevention Code is quite vague when it speaks to access control by the AHJ. The Fire Chiefs Association wanted to avoid procurement process obstacles. Going forward it can be clarified when the AHJ comes forward with an installation.

Mr. Burr felt this is a life safety issue and consequently he wanted to move forward with the item this evening.

Mr. Pellecer made a motion and Mr. D'Attile seconded the motion to approve the code amendment on final reading as recommended. The motion carried by unanimous vote of 8-0.

6. **Local Amendment to Florida Fire Prevention Code for 2nd Reading – New Code Section F-121, Automatic External Defibrillator and Stop the Bleed Kit recommended by Fire Code Committee**

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised that there have been no changes to this proposal since the first reading.

- b. Board Questions - none
- c. Public Hearing

Chairman Lavrich opened the public hearing but there was no one wishing to speak.

d. Board Action

Mr. Pellecer made a motion and Mr. D'Attile seconded the motion to approve the code amendment on final reading as recommended with an effective date of April 25, 2022. The motion carried by unanimous vote of 8-0.

7. **Request of Administrative Director to ratify the appointment of the new Board of Rules and Appeals Chief Plumbing Code Compliance Officer**

a. Report of Administrative Director

Note: Mr. Tringo arrived at approximately 8:12 p.m.

Mr. James DiPietro, Administrative Director, requested the Board ratify the appointment of Mr. Jose Cruz-Vellon as the new Chief Plumbing Code Compliance Officer. He noted that there were two comprehensive recruitment efforts with five applications in each. Mr. Cruz-Vellon was one of two finalists chosen independently by a screening committee. He interviewed both extensively and in his opinion Mr. Cruz-Vellon has the professional background, experience and temperament to be a great asset to the Board of Rules and Appeals. He has the ability to work very well with people in the industry and the public. He provided a brief outline of his professional background and listed the screening committee members. A start date is planned for some time in May after background checks etc.

- b. Board Questions - none
- c. Board Action

Mr. D'Attile made a motion and Mr. Pellecer seconded the motion to accept the recommendation and ratify the appointment of Jose Cruz-Vellon. The motion carried by unanimous vote of 9-0.

Mr. Cruz-Vellon thanked the Board for the vote of support.

8. **Update concerning the Building Safety Inspection Program audits for 2019, 2020 and 2021**

a. **Report of Administrative Director**

Mr. James DiPietro, Administrative Director, pointed out that the backup information shows that municipalities have received 13,416 (93.3%) engineering reports and, or have code enforcement actions pending out of 14,372 buildings covering audit years of 2019, 2020 and 2021. Also, a different kind of audit is now being performed to confirm that 13,416 is the correct number of notices that should have been mailed.

b. **Board Questions**

c. **If desired, motion accepting update**

9. **Director's Report** - none

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

11. **Committee Reports** - none

12. **General Board Member Discussion**

Administrative Director Search

Chairman Lavrich recapped the Screening Committee's first meeting on March 18th including the mission statement and timeline. There are approximately 77 applications to date.

Board Open Discussion

Mr. Burr noted the upcoming Board open discussion meeting on April 20th.

13. **Public Committee (3-minute limit per person) and written communications** - none

14. **Adjournment**

There being no further business, the meeting adjourned at 8:19 p.m.



Daniel Lavrich, P.E. - Chair