



**BROWARD COUNTY BOARD OF RULES & APPEALS**  
**NOVEMBER 14, 2019**  
**MEETING MINUTES**

**Call to Order**

Chairman Daniel Lavrich called a published meeting of the Broward County Board of Rules and Appeals to order at 7:00 p.m. The meeting was held in Room 422 of the Broward County Governmental Center East, 115 S. Andrews Avenue, Fort Lauderdale, Florida.

**Present:**

Daniel Lavrich, Chair  
Stephen E. Bailey, Vice Chair  
Ron Burr  
Gregg D'Attile  
Jeff Falkanger  
Daniel Rourke  
Robert Taylor  
Abbas H. Zackria

**Approval of Minutes – October 12, 2019**

Mr. Burr made a motion and Mr. Taylor seconded the motion to approve the minutes as submitted. The motion carried by unanimous vote of 8-0.

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Chairman Lavrich noted that Mr. Ulmer was significantly injured. He wished him a speedy recovery and hoped he would be back to the meetings soon.

**CONSENT AGENDA**

1. Certifications - Staff Recommended.

**BROWARD COUNTY (UNINCORPORATED)**

COPIL, KLAUS (TEMPORARY 120-DAY)

**CITY OF COOPER CITY**

BOSTWICK, JR., ALBERT, BUILDING OFFICIAL

**CITY OF HOLLYWOOD**

DEL CAMPO, CHRIS, FIRE INSPECTOR

SANCHEZ, ARMANDO, FIRE INSPECTOR

STEWART, JAMES, CHIEF ELECTRICAL INSPECTOR  
**CITY OF MIRAMAR**  
 FERNANDEZ, DEBORAH, FIRE INSPECTOR  
 RICKETTS, CLIFF, FIRE INSPECTOR  
**CITY OF PEMBROKE PINES**  
 GREENE, CHAD, FIRE INSPECTOR  
**CITY OF SUNRISE**  
 NEWMAN, MICHELE, FIRE PLANS EXAMINER  
**COUNTYWIDE**  
 CARRASQUEL, MARIO, STRUCTURAL PLANS EXAMINER  
 COBB, PAUL, ELECTRICAL PLANS EXAMINER  
 GARCIA, RAFAEL, MECHANICAL PLANS EXAMINER  
 LAURSEN, OLE HARTVIG, STRUCTURAL PLANS EXAMINER  
 LUFT, EUSEBIO, ELECTRICAL PLANS EXAMINER  
 RYDZ, JACOB, STRUCTURAL INSPECTOR  
 SANSONE, WILLIAM, ELECTRICAL PLANS EXAMINER

A motion was made by Mr. Falkanger and seconded by Mr. Rourke to approve all submitted certifications. The motion passed by unanimous vote of 8-0.

## REGULAR AGENDA

### 2. Code amendments for 1<sup>st</sup> reading

**“The Board will consider adopting Amendments to the Broward Local Fire Code Sections: New definitions (K thru U), Modifications Fire Marshal Certifications F-103.3.3, modifications Fire Plans Examiner Certification F-103.4.2 and F-121 Photovoltaic (PV) new code section F-124 Uniform Generator Code**

- a. Modifications Fire Marshal Certifications F-103.3.3, modifications Fire Plans Examiner Certification F-103.4.2 and F-121 Photovoltaic (PV) - Recommendation of the Fire Code Committee

And

- b. New code section F-124 Uniform Generator Code - Recommendation of the Joint Fire Code and Electrical Committee

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised that this was approved by the Fire Code Committee and the joint committee. He drew attention to a scrivener correction in Section F-103.3. In F-103.4.2, one and two family detached residential dwelling units subject to plan review was changed from “shall not” to “may”. This reference was also omitted from F-121, Photovoltaic. Both modifications are based on a Board Attorney legal opinion. In F-124, the objection is uniformity on the part of fire departments with respect to their procedures in reviewing plans and inspections for generators. The definitions have been revised accordingly.

- c. Board action

In response to Mr. Zackria, Mr. Parks advised that Florida statute indicates that fire personnel shall not enforce the life safety code on one and two family dwellings. They are limited to the authority spelled out in the fire code.

A motion was made by Mr. Bailey and seconded by Mr. Zackria to pass this item on first reading with the recommended modifications. The motion passed by unanimous vote of 8-0.

3. Code Amendment for 2nd reading to include Public Hearing, first adopted on October 10, 2019

a. **“The Board will consider adopting amendments to sections 107.3 and 110.3 of the Broward County Administrative Provisions for the FBC 6th Edition (2017) code regarding Photovoltaic inspections and plan review guidelines”.**

- a. Board Discussion - none
- b. Public Hearing

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

c. Board action

Mr. D’Attile made a motion and Mr. Falkanger seconded the motion approve the item on final reading as recommended. The motion passed by a vote of 8-0.

b. **“The Board will consider adopting amendments to sections 104.1 thru 104.16.3.3 of the Broward County Administrative Provisions for the FBC 6th Edition (2017) code, updating certification’s standards”.**

- a. Board Discussion - none
- b. Public Hearing

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

c. Board Action

Mr. D’Attile made a motion and Mr. Falkanger seconded the motion approve the item on final reading as recommended. The motion passed by a vote of 8-0.

c. **“The Board will consider proposed changes to Broward County Administrative Provisions for the 2017 FBC (6th Edition), section 105 Permits, subsection 105.3.2 Time Limitation, 105.3.2.5.1 due to changes to Florida Statute (FS) 553.79. that became effective October 1, 2019.**

a. Board Discussion

Mr. Falkanger noted a typographical error on page 5, Section 105.3.2.5.1(a)3(d), “1” should be deleted before “permit”.

b. Public Hearing

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

c. Board Action

Mr. Falkanger made a motion and Mr. D’Attile seconded the motion approve the item on final reading as recommended. The motion passed by a vote of 8-0.

#### 4. Formal Interpretation “Required signatures on the Broward County Uniform Permit Application”

##### a. Staff Report

Mr. Charles Kramer, Board Attorney, advised this is an interpretation of the noted Florida statutes. The question arose as to whether a signature is required by the owner or owner’s agent on the owner’s affidavit. He noted the additional information specified and pointed out the requirement for the owner’s signature is not contained anywhere in the statutes. The form provided specifies “owner or agent including contractor”. He has discussed this with the Florida Building Commission. They are allowing Broward County to make this decision. Currently, such signature is not being uniformly handled throughout municipalities in Broward which was the original intent of the code. He contended that it serves no purpose and was implemented years ago to provide some kind of security for private companies beginning to perform the building department functions. In conclusion a contractor signature is sufficient.

##### b. Public comment (2 minutes limit)

Ms. Sheila Oliver, Building Official, City of Deerfield Beach, indicated she is representing the City and was requested to note their opposition. In commercial buildings, tenants would be able to make modifications to private property without the owner’s knowledge. Further non-payment of a contractor would fall on the owner. She suggested an affidavit from the owner allowing the tenant to be the owner’s representative. She noted that even though she is employed by Calvin Giordano & Associates, she would disagree that this originated because of private companies beginning to perform building department functions. Rather it was because cities were having issues with tenants modifying the property without the owner’s knowledge.

In response to Mr. Kramer, Ms. Oliver outlined current practice of Deerfield Beach is to verify the owner’s name or allow the owner to provide a letter, stating that the tenant is allowed to sign as the owner for the scope of work the tenant is being allowed to do. Authenticity of the signature is the notary’s responsibility. Mr. Kramer questioned that this procedure prevent fraud until the owner is contacted. Ms. Oliver pointed out that a neighbor could pull a permit on someone’s residence and let it expire, for example. She felt the individual would come after the City that issued the permit. Mr. Kramer saw it as a civil issue.

Mr. James DiPietro, Administrative Director, noted that there are two things: 1) interpretation of the law and 2) request to change policy. If the Board supports as a matter of policy what staff has said the law is, there is nothing further to do. If the Board would like to consider code amendments and a different policy, then staff would present another policy at a future meeting.

In response to Mr. Zackria, Mr. Kramer believed that Florida Statute 553.71a would prevent a municipality from requesting additional information such as an owner affidavit because the statute calls for uniformity countywide. This is a Broward County permit,

not a city permit. Mr. Burr questioned whether the statute would extend to auxiliary forms a city may have. For example, the form required with respect to swimming pools and the Florida Child Safety Act has two signatures. Mr. Kramer advised that he is confining his comments to the permit application only. Mr. Burr noted that most cities have multiple documents to be signed in order to obtain a permit. Mr. Kramer did not know if all of the documents is part of the Florida Building Code, but the permit application is. Mr. D'Attile expanded on the logistical challenges in obtaining a signature and notarization. The notice of commencement which is signed by the owner serves the purpose of owner notification. Mr. Zackria did not think there is anything prohibiting a municipality from adopting an ordinance in their zoning code, requiring a signature on the application. Mr. D'Attile noted that the permit application now only calls for property owner or agent. Mr. Kramer clarified that his comments are purely limited to the Florida Building Code. He did not think a municipality could usurp the State's powers.

Ms. Oliver noted that the permit application indicates that an addendum may be attached. She asked if this would be a solution. Deerfield Beach has checked with other cities in the state and found that they also require either the owner or an owner's agent signature. Mr. D'Attile pointed out the municipality could contact the owner by registered mail, phone call, fax or email.

c. Board action

Mr. D'Attile made a motion and Mr. Rourke seconded the motion to approve the formal interpretation as submitted. The motion passed by a vote of 6-2 with Mr. Burr and Mr. Zackria voting no.

During discussion of the motion, Mr. Burr asked about other permit application documents addressed in the Florida Building Code that provide for owner and contractor signatures. Mr. Kramer asked for more detail in order to provide an opinion. This interpretation only refers to the Broward County Uniform Building Permit Application. Mr. Taylor indicated that he would be concerned as a homeowner signing something that provides that the homeowner is responsible. He felt it would be better to not have such language if it is not a requirement and the owner name and address is all that is required. Mr. D'Attile explained the owner, by their signature, takes on the responsibility of being the contractor for the particular project, whereas contractors already have that responsibility by statute.

In response to Mr. Zackria, Mr. Kramer advised that different from his initial opinion, his final interpretation is that there would be only one signature required. Chairman Lavrich drew attention to the last paragraph of the opinion which offers more clarity as to signatures.

Mr. Burr agreed with the Board Attorney as to a uniform building permit application. However, municipalities will be confused if the Board does not clarify the other forms.

The vote was called and carried by a vote of 6-2, with Mr. Burr and Zackria voting no.

5. Formal Interpretation for the Swimming Pool Safety Act FS 51527, Chapter I, 110.3A, #24, a.3

a. Recommendation of the Structural and Electrical Joint Committee

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, explained that electrical inspectors are making inspections relating to swimming pool alarms, however according to Chapter 1 of the Florida Building Code it is the responsibility of the structural inspector. This matter was reviewed at a joint meeting of the Structural and Electrical Committees who agreed with the interpretation.

b. Board action

Mr. D'Attile made a motion and Mr. Taylor seconded the motion to approve the formal interpretation as submitted. The motion passed by a vote of 8-0.

6. Board of Rules and Appeals contracts approval for electrical educational classes offered by the International Association of Electrical Inspectors

a. Staff Request

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, noted that this is a request for approval of two contracts with the International Association of Electrical Inspectors with respect to educational classes. Funding is available in the Board's educational program.

b. Board action

Mr. Falkanger made a motion and Mr. D'Attile seconded the motion to approve the contracts as submitted. The motion passed by a vote of 8-0.

7. Resolution of support for Broward County users' fee for plan review of Bi-Directional Amplifier Systems

a. Recommendation of the Administrative Director

Mr. James DiPietro, Administrative Director, explained historically this effort began with a request from the County Administrator. A code amendment was then developed, adopted and amended a number of times. Essentially the County wanted to do the plan review of bi-directional amplifier systems. The County then sought a funding source for that operation at which time the Board Attorney issued a legal opinion against using Board of Rules and Appeals' (BORA) funds. The County is now requesting BORA's support of a user fee which BORA staff had previously recommended.

b. Board action

Mr. D'Attile made a motion and Mr. Falkanger seconded the motion to adopt the resolution as submitted. The motion passed by a vote of 8-0.

8. **Proposed revision to “Broward County uniform data form for residential and light commercial air conditioning replacements”.**

a. Staff recommendation

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, described the revision that will add equipment size, measured in tons of air conditioning to the uniform data form. The revision was approved by the Mechanical and Smoke Control Committee Chairman. Also, it was requested by several chiefs.

b. Board action

Mr. Bailey made a motion and Mr. Falkanger seconded the motion to approve the revision as submitted. The motion passed by a vote of 8-0.

9. **Amendment to existing Board Policy #17-03, titled “Board of Rules and Appeals’ policy establishing a complimentary book loan program for persons authorized by the City or County Building Official to take Department of Business and Professional Regulations commercial inspector’s examinations, general plans examiner’s examinations, and Building Code Administrator,” which would allow BORA Advisory Committee Members to participate.**

a. Recommendation of the Administrative Director

Mr. James DiPietro, Administrative Director, advised that under current authority the book loan program is not available to Board of Rules and Appeals’ committee members. This amendment would make it permissible.

b. Board action

Mr. D’Attile made a motion and Mr. Falkanger seconded the motion to approve an amendment to Policy #17-03 as described above. The motion passed by a vote of 8-0.

10. **Consideration of maximum merit pay adjustments for staff effective October 6, 2019.**

a. Recommendation of the Administrative Director

Mr. James DiPietro, Administrative Director, reviewed information in his memorandum to the Board, dated November 14, 2019, including consideration for inflation.

b. Board action

Mr. Bailey made a motion and Mr. D’Attile seconded the motion to approve recommended merit pay adjustments for staff effective October 6, 2019 as delineated in the Administrative Director’s memorandum dated November 14, 2019. The motion passed by a vote of 8-0.

**11. One time 2% cash merit bonus for Chief Fire Code Compliance Officer**

- a. Recommendation of the Administrative Director

Mr. James DiPietro, Administrative Director, reviewed information in his memorandum to the Board, dated November 14, 2019.

- b. Board action

Mr. Bailey made a motion and Mr. D'Attile seconded the motion to approve the recommended one-time cash bonus as delineated in the Administrative Director's memorandum dated November 14, 2019. The motion passed by a vote of 8-0.

**12. Contract renewal for Administrative Director**

- a. Request of the Administrative Director

Mr. James DiPietro, Administrative Director, noted the period of time for this renewal and that there are no changes in the contract. The contract allows for either party to end the contract. Being at the top of the pay plan, there is no change to the salary amount.

- b. Board action

Mr. D'Attile made a motion and Mr. Zackria seconded the motion to renew the contract as presented. The motion passed by a vote of 8-0.

**13. Annual Leadership Performance Review for Administrative Director, consideration of one-time gross lump sum amount in lieu of pay change, and separate longevity/merit bonus.**

- a. Report of Board Chair Daniel Lavrich, P.E., S.I., SECB, FASCE, F.SEI

Chairman Lavrich indicated that he conducted a performance review for the Administrative Director which is included in this agenda item. He made complimentary remarks and noted his comments in the evaluation document that Mr. DiPietro continues to be an effective and efficient leader and a valuable asset to Broward County. He recommended a 3% cash bonus effective October 6<sup>th</sup> and a 20-year one-time longevity bonus of 2% effective January 3<sup>rd</sup>.

- b. If desired, motion granting one-time gross lump sum amount in lieu of pay change  
c. If desired, motion granting a one-time longevity/merit review bonus, per policy #95-1 (E), effective January 3, 2020

Mr. Rourke made a motion and M. D'Attile seconded by motion to grant the 3% cash bonus and 2% longevity bonus as described and detailed in the agenda memorandum of November 14, 2019. The motion passed by a vote of 8-0.

**14. Board Meeting Schedule**



- a. Staff Recommendation
- b. Board action

A motion was made by Mr. Zackria and seconded by Mr. Rourke to approve the schedule as submitted. The motion passed by unanimous vote of 8-0.

During discussion of the above motion, Mr. D'Attile asked about changing the meeting commencement time from 7 p.m. to 5 p.m. Chairman Lavrich noted that this item is about the calendar. Discussion of changing the meeting time could be raised under general board member discussion.

#### 15. Director's Report

Mr. James DiPietro, Administrative Director, advised that traditionally if there is a meeting in December, officers are elected at that time. If there is no meeting in December, the Board automatically meets in January to elect officers at a minimum. Information in the agenda backup shows who is eligible.

Mr. DiPietro referred the next item to Mr. Zackria. Mr. Zackria raised the idea of staff working toward the ability to offer contact credit hours for engineers, architects and contractors, not only inspectors. One example is the recent accessibility class. Chairman Lavrich indicated he would have no objection if it is possible without any added expense. It would be a good idea from the perspective of enforcement education. Mr. Zackria pointed out it would help to improve understanding of these professionals together with inspectors. Chairman Lavrich asked staff to look into the idea.

#### 16. Attorney's Report

##### John Madden vs. Broward County Board of Rules and Appeals

Mr. Kramer advised that Mr. Madden's petition for Writ of Certiorari was unanimously denied by the 17<sup>th</sup> Circuit Court, sitting in its appellate capacity. He elaborated upon the track record of such petitions. He went on to note that one of the judges is moving to the federal level. He believed that the pending case before the Civil Service Board to reinstate Mr. Madden to his former position will not be considered. Back pay, attorney fees or punitive damages will not be awarded.

#### 17. Committee Reports - none

#### 18. General Board Member Discussion

Mr. D'Attile wanted to know where it is indicated that contractors are required to include a copy of the signed contract with the permit application. Mr. DiPietro indicated that there was a provision added in Chapter 1. The building official can request a contract

as a spot check. The intent was to verify the amount of the permit. Mr. Burr agreed the city has the right to confirm the price, but the request for a copy of the contract with the owner's signature is occurring before the permit application is even reviewed. Mr. D'Attile emphasized that the concept is uniformity countywide. Chairman Lavrich asked staff to look into this matter.

Some discussion ensued about pricing and inclusion in the public record.

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

20. Adjournment.

Having no further business to go before the Board, the meeting adjourned at 8:35 p.m.

A handwritten signature in cursive script, reading "D. Lavrich". The signature is written in black ink and is positioned above a horizontal line.

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Daniel Lavrich, P.E. - Chair