

BROWARD COUNTY BOARD OF RULES & APPEALS
SEPTEMBER 9, 2021
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
Gregg D’Attile
Ron Burr
Jeff Falkanger
John Famularo
Shalanda Giles-Nelson
Robert Kamm
David Rice
Daniel Rourke
James Terry
David Tringo
Dennis Ulmer
Lynn Wolfson

A quorum was present.

Mr. Falkanger made a motion and Mr. D’Attile seconded the motion to approve the agenda with the deletion of “read” in Items 6a and 6b. The motion carried by unanimous vote of 13-0.

Approval of Minutes – August 12, 2021

Mr. Famularo made a motion and Mr. Tringo seconded the motion to approve the minutes as submitted. The motion carried by unanimous vote of 13-0.

CONSENT AGENDA

1. Certifications - Staff Recommended.

CITY OF COOPER CITY

YOUNG, MARC STUART AMEER, CHIEF STRUCTURAL INSPECTOR

CITY OF FORT LAUDERDALE

DESIMONE, EMILIO, JR., STRUCTURAL INSPECTOR (TEMPORARY 120-DAYS)

CITY OF MIRAMAR

ACOSTA, HECTOR J., CHIEF MECHANICAL INSPECTOR

HILTON, ADAM, CHIEF PLUMBING INSPECTOR

CITY OF WEST PARK

TRINGO, DAVID, CHIEF ELECTRICAL INSPECTOR

COUNTYWIDE

HENSLEY, KACY R., STRUCTURAL PLANS EXAMINER

SIMPSON, DARRYL, STRUCTURAL PLANS EXAMINER

THOMPSON, TIMOTHY A., PLUMBING INSPECTOR

Mr. D'Attile made a motion and Mr. Falkanger seconded the motion to approve the certifications as recommended. The motion carried by unanimous vote of 13-0.

REGULAR AGENDA

2. **Local amendments for 2nd reading to include a public hearing. Amendment to the Florida Building Code, 7th Edition (2020) Chapter 1, Section 118, entitled Emergency Responders Communications Enhancement System (ERCES).**

a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, indicated this is an update to Chapter 1 of the Florida Building Code to address changes in the State with adoption of new codes. One new section was added, Section 118.2.1, to help streamline the installation of antennas when dealing with elevator shafts. It is recommended by the BDA (Bi-Directional Amplifiers) Committee by unanimous vote.

b. Board Questions - none

c. Public Hearing - none

d. Board Action

Mr. Rice made a motion and Mr. Falkanger seconded the motion to approve the item on second and final reading as recommended. The motion carried by unanimous vote of 13-0.

3. **Director's Report**

a. Updates concerning the 40 Year Building Safety Inspection Program July 2019 audit, response date by 8-16-21

b. Updates concerning the 40 Year Building Safety Inspection Program July 2020 audit, response date by 7-20-21

c. Initial Survey regarding the 2020- 40 Year Building Safety Inspection Program, sent on May 24, 2021.

Mr. James DiPietro, Administrative Director, advised that this audit report is dramatically improved from what was presented a month ago. In the last few weeks the jurisdictions have sent out thousands of letters. He indicated that he anticipates being able to provide a more complete report in October. Staff will be sending out reminders to the cities that if there has not been any response from the condominium properties after sixty days, for example, that the cities send out follow-up letters, advising they have a remaining thirty days. The third audit will start in February for letters that went out in July of 2021, with a period of forty-five days for the cities to respond. He believed that it pays to conduct an audit every year. Cities will also be asked to provide a designated contact individual each year. Staff is working with the cities individually to resolve some inconsistencies in the

numbers. There may be more suggestions from staff than the A-E shown in the support documentation for this report.

Mr. D'Attile asked about accountability if a city does not comply in a timely manner. Mr. DiPietro advised that historically when staff speaks directly to a building official there has been an overwhelmingly good response. However, the Board of Rules and Appeals has the ultimate far-reaching authority. In such case he would ask city officials to come before the Board to explain something that the code requires is not properly being carried out in staff's opinion. With the Board's direction at that point, there is no question whatsoever about the authority.

Mr. Charles Kramer, Board Attorney, referred to the enabling legislation of the Board, and indicated that violations of Section 71-575, 4a, shall constitute a misdemeanor of the second degree, which actually contemplates incarceration. He brought this to the attention of a building official on a prior occasion and received immediate compliance. Mr. D'Attile asked what would happen if a building did not comply in a timely manner. Chairman Lavrich indicated that the building code (Policy 05-05) is clear as to methods of enforcement. The matter could go to a special magistrate or code enforcement board. The property could ultimately be designated as an unsafe structure and could go to an unsafe structures board for appeal. The building official has the power to cite the building as an unsafe structure. The building official has the responsibility of enforcing the building code. Mr. Kramer explained that the Board of Rules and Appeals is a governing agency, not the enforcing one. The Board has authority to take action against the city.

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

5. **Committee Report** - none

6. **General Board Member Discussion**

a. Board member suggestions for the 40-Year Building Safety Inspection program.

Mr. Charles Kramer, Board Attorney, referred to Board Member Burr's suggestion (August 4, 2021), that would establish a new department staffed by a building official, electrical chief and office staff as needed to oversee the 40-year Building Safety Inspection Program. The enabling legislation as well as the Broward County Charter do not give the Board of Rules and Appeals authority to create or supervise an independent department.

With reference to a suggestion of Board Member Rice, Chairman Lavrich indicated that the Florida Building Commission has created a committee to study the possible creation of a statewide inspection program. Mr. Rice commented that any code changes the Board would consider would need to be based on facts. It goes back to the cause of the building collapse, which is unknown. He is not convinced that any of the suggestions would help with respect to the original tragedy. He wanted to know how the Board of Rules and Appeals could obtain those facts. Chairman Lavrich advised that Miami-Dade County is not conducting an investigation, but rather only the National Institute of Standards and Technology (NIST). The evidence has been removed from the site and put into a secure warehouse. NIST is not giving out any evidence information to anyone else. He agreed with Mr. Rice that changes should not be considered until the Board has knowledge as to why the changes should be made.

Chairman Lavrich noted that Mr. Jaime Gascon is the Broward Administrative Director's counter-part in Miami-Dade County. Mr. Gascon of the Miami-Dade Board of Rules and Appeals, clarified that the Miami-Dade Police Department is the sole entity that has custody of all of the evidence and has only allowed NIST access to it. There is presently a receiver on the property. Once fully turned over from the Police Department to the Receiver, there will be access given to others. The forensic study and reporting of investigating why the building collapsed has fallen squarely on NIST. Miami-Dade County is not investigating. NIST reports will be relied upon.

Mr. Gascon went on to say that the Miami-Dade Board of Rules and Appeals has considered a handful of suggestions: requiring threshold level inspectors to conduct structural inspections on threshold buildings; advance notices of to especially condominiums (one and two years); duty to immediately report deficiencies to the building official in advance of the inspection findings report where evacuation may be triggered. Suggestions of this nature will be recommended to the Board of County Commissioners to make amendments to the Miami-Dade Building Safety Program. They also do not want to make things overly restrictive and not justified. The idea to reduce the program from forty to thirty years is something the Miami-Dade Board of Rules and Appeals would like sound justification for such a change in that it has worked for fifty plus years.

Chairman Lavrich commented on the difference in structure of the Board of Rules and Appeals in the two counties. He also went on to indicate that it is not uncommon with such an event for NIST to be conducting the investigation. In response to Mr. Rice, Mr. Gascon indicated that NIST was asked when a report would be finished, and their comment was that historically it could be as soon as two years or as long as seven.

Mr. Burr appreciated that the letters are going out however he felt the Board will need to concentrate on whether building issues are being corrected. Some discussion turned to the role of the building official in citing a building unsafe and that the unsafe structure board is actually an appeals board to the citation issued by the building official. Mr. Ulmer pointed out that this program is not about maintenance. Maintenance should be constant from the time a building is issued a certificate of occupancy.

b. BORA staff suggestions for the 40-Year Building Safety Inspection program.

No discussion

7. **Public Comment (3-minute limit per person) and written communications**

Mr. John Travers, Building Official, City of Fort Lauderdale, thanked Chairman Lavrich for serving on Broward County Mayor Geller's Condominium Structural Issues Committee and his effort to avoid knee-jerk reactions. He went on to indicate that he and Mr. Gascon recently made a presentation to the Florida City and County Managers Association concerning the Building Safety Inspection Program. At that time, they emphasized the importance of maintenance from issuance of certificate of occupancy and that such responsibility rests with the building association or management team to monitor throughout the life of the building.

8. **Adjournment**

There being no further business, the meeting adjourned at 7:54 p.m.

A handwritten signature in black ink, appearing to read "D. L. Lavrich". The signature is written in a cursive style with large, rounded letters.

Daniel Lavrich, P.E. - Chair