

Broward County Board of Rules and Appeals Meeting Agenda

April 13, 2023

Time: 7:00 PM

Zoom Meeting Information:

<https://broward-org.zoomgov.com/j/1611237320>

Meeting ID: 161 123 7320

I. Call Meeting to Order

Vice Chairman Gregg D'Attile called a published virtual meeting of the Broward County Board of Rules and Appeals to order at 7 p.m.

II. Roll Call

Gregg D'Attile, Vice Chairman
Ron Burr
Shalanda Giles-Nelson
R. Art Kamm
Daniel Rourke
Robert Taylor
David Tringo
Dennis Ulmer
Derek Wassink
Lynn E. Wolfson
Abbas Zackria

III. Approval of Agenda

Dr. Ana Barbosa, Administrative Director, noted that the relevant minutes for Item 1 were provided to the Board members yesterday.

Mr. Zackria made a motion, and Mr. Tringo seconded the motion to approve the agenda as noted. The motion was carried out by a unanimous vote of 10-0.

IV. Approval of Minutes – March 9, 2023, Regular Meeting

Mr. Wassink made a motion, and Mr. Zackria seconded the motion to approve the March 9, 2023, minutes as submitted. The motion was carried out by a unanimous vote of 10-0.

V. Public Comment (Except public hearing items on this agenda) - none

Public comments are limited to 3 minutes each.

VI. CONSENT AGENDA

1. Certifications – Staff Recommended

TOWN OF DAVIE

Ryanning, Chad, Fire Inspector

CITY OF FORT LAUDERDALE

Delano, David S., Plumbing Inspector – Temporary 120-Day

CITY OF HALLANDALE BEACH

Bostwick, Albert, Jr., Building Official

CITY OF HOLLYWOOD

Clinton, Christopher R., Fire Code Official

TOWN OF LAUDERDALE-BY-THE-SEA

Bias, Jonathan, Fire Inspector
Mangin, Andrew, Fire Inspector

CITY OF MIRAMAR

Martinez, Jonathan I., Structural Inspector – Temporary 120-Day
Perez, Rafael, Fire Plans Examiner

CITY OF PARKLAND

Crisanti, Anthony John, Structural Inspector – Temporary 120-Day

TOWN OF PEMBROKE PARK

Pizzillo, Stephen J., Building Official
Ripoll, Joel, Chief Structural Inspector

CITY OF POMPANO BEACH

Beaudreau, Brandon, Fire Inspector

CITY OF TAMARAC

Palacios, Otoniel, Assistant Building Official

COUNTYWIDE

Castellanos, Leandro A., Structural Plans Examiner
Olsen, Jay, Structural Plans Examiner
Thoner, Robert, Electrical Inspector
Vieira, Pedro P., Electrical Plans Examiner
Zambrana, Kevin, Structural Inspector

Mr. Tringo made a motion, and Mr. Kamm seconded the motion to approve the certifications as recommended. The motion was carried out by a unanimous vote of 11-0.

VII. REGULAR AGENDA

1. **First reading of revisions to Chapter 1, 2020 Florida Building Code, 7th Edition; Section 104.1.1, Appointment of Building Official, and Section 104.3, Appointment of Chief Electrical, Mechanical, Plumbing, and Structural Inspectors, eliminating the prescriptive requirement of physical presence during regular business hours at building departments and reinstating previously approved code language stating that the Building Officials and Chief Inspectors do not have to be personally present at the government department as long as he or she is available and can perform his or her duties.**

a. Staff Report

Dr. Ana Barbosa, Administrative Director, indicated that an ad hoc committee was formed to secure input from building officials as well as Cap Government and Calvin Giordano & Associates. The recommendation of the committee was to remove the previously approved code language. Physical presence would not be required, but they would still have to be available and able to perform their duties. The grandfathering of individuals serving in multiple jurisdictions is also recommended to be changed from April 2023 to the recertification cycle.

b. Board Questions

Mr. Burr indicated that it appears this relieves the building official from being in the building department at any time. Mr. Zackria noted that the code previously stated the building official

did not have to be physically present. The proposal is for that language to be maintained in that there are various communication instruments available. Two points were 1) how many jurisdictions an individual could serve in; and 2) that the individual had to be at a certain place for a certain number of hours. It would be impossible for the Board to control how many hours someone would be in a certain place. It would depend on their workload. The proposal is to allow the building officials and chiefs to manage their own time with a limitation of two jurisdictions. For more than two jurisdictions, the individual would need to seek approval from the Board, which would only be valid for one certification cycle. Individuals that are currently approved for more than two jurisdictions would continue until the recertification cycle.

Mr. Burr felt this would weaken the Board's role. He questioned how a consumer could reach out to a building official. Mr. Zackria pointed out that the language indicating the individual did not have to be physically present in the jurisdiction was already in the code. Mr. Burr commented that particular language may not be appropriate in that he questioned how an individual could manage a department without ever being there. Mr. Zackria indicated that a building official for two jurisdictions could address something in one jurisdiction while present in the other jurisdiction. Mr. Burr indicated that he simply does not agree with the recommendation.

Mr. Wassink felt there are two separate issues: 1) an individual may serve multiple jurisdictions, and 2) an individual must be present at the jurisdictions. Dr. Barbosa explained that the Board of Rules and Appeals does not dictate how a building official runs his or her building department. It is a matter between the building official and the city manager. The only impact is on the small cities that contract for services and pay for an individual to be physically present even if the city is not using the individual. She continues to expect all building officials to be ethical and present. If that is not the case, she will get involved with the pertinent city managers.

Vice Chairman D'Attile did not think it was the role of the Board of Rules and Appeals to manage the building official, but rather to certify that the individual has the correct qualifications as well as the department and its inspectors. He agreed that it is the city manager's job to manage the building official.

Mr. Rourke agreed with Mr. Burr. If an individual is responsible for two jurisdictions, they should be able to be present in both locations. He also raised the concern of a consumer needing to speak with the building official, and that should occur in the jurisdiction where the concern exists. Mr. Zackria did not feel it is necessary for an individual covering two jurisdictions to travel to the jurisdiction where the concern exists when it could be handled with an email, text, or cell phone. There is no way for the Board to enforce a specified number of hours an individual is present in a jurisdiction or how they will manage the job.

Vice Chairman D'Attile noted that this affects not only the building officials, but the chief inspectors for all of the disciplines.

Mr. Rourke cited an example in Miami-Dade County where he must make an appointment to go to the building department to resolve an issue because it is impossible to reach anyone on the phone. He questioned how he would be served in Broward County under this proposal. Ms. Giles-Nelson indicated as a previous contractor; she understands the frustration with reaching staff in the jurisdiction in general. However, it is not the responsibility of the Board of Rules and Appeals. The Board steps in when the building official or chief fails to respond in a timely fashion or is negligent in performing their duties. If an individual has agreed to work for two cities. It is a matter between the city manager and the individual. Vice Chairman D'Attile pointed out that contractors manage multiple jobs. Ms. Giles-Nelson commented that most cities designate a period of time when individuals may meet with building department employees.

c. Board Action

Mr. Tringo made a motion, and Ms. Giles-Nelson seconded the motion to approve the amendment on the first reading. The motion was carried out by a vote of 8-3. Mr. Burr, Mr. Ulmer, and Mr. Rourke voted no.

2. **First reading of proposed revision to Board Policy #16-01, Reduction of Paperwork for Building Officials and Chief Inspectors seeking to serve in multiple jurisdictions or moving from one jurisdiction to another; changing the deadline from April 1, 2023, to the next recertification for individuals holding certifications issued by BORA for the permanent position of Building Official or Chief Inspector in more than two (2) jurisdictions.**

a. Staff Report

Dr. Ana Barbosa, Administrative Director, explained this is on the same subject. It changes the deadline from April 1, 2023, to the next recertification cycle for individuals serving in multiple jurisdictions. Individuals would be required to obtain Board approval to serve in more than two jurisdictions.

b. Board Questions – none

c. Board Action

Mr. Tringo made a motion, and Mr. Zackria seconded the motion to approve the policy revision on the first reading. The motion was carried out by a unanimous vote of 11-0.

3. **First reading of proposed revisions to Section 110.15, Building Safety Inspection Program, Chapter 1, 2020 Florida Building Code, 7th Edition and Policy #05-05, Building Safety Inspection Program.**

a. Staff Report

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, explained when this policy was updated in September. There were a few questions that were subsequently addressed by an ad hoc committee. It was decided that the policy should be closer to the state statute on the subject. For example, milestone inspections were not addressed. The ad hoc committee addressed challenges with the 3-mile (coastal) line.

b. Board Questions

In response to Mr. Burr, Mr. Castronovo advised that the State's timeline was 25 years for buildings within three miles of the coastline. Beyond the 3-mile marker, it was 30 years, and thereafter it mimicked Broward County. The cost for a 3-mile determination would be in the range of \$80,000 and could take up to a year to produce. It was also pointed out that by having an inspection at 25 years, potential disasters and more work in the future are avoided. Ultimately the cost to the property owners would be less. Mr. Burr felt the change from 40 to 25 years is significant. He felt the cost for a 3-mile determination should be borne by the cities. Mr. Castronovo explained the Board administers the program. If it were left to the municipalities, each municipality would contract for the work. Mr. Burr felt a huge burden was being placed on a lot of people. In response to Vice Chairman D'Attile, Mr. Castronovo advised that the inspection scope would be the same at 25 or 40 years. After the 25-year inspection, an inspection would be required at ten-year intervals, in further response to Mr. Burr, Dr. Ana Barbosa, Administrative Director, indicated that Miami-Dade County is ignoring the 3-mile line. They are waiting until next year when the house bill is signed.

Vice Chairman D'Attile asked how many more inspections would be necessary. Mr. Castronovo indicated there are currently around 200-250 annually, but it would be difficult to say how many more inspections would be needed at the 25-year initial threshold.

Mr. Castronovo clarified the definition of minor buildings or structures where a gross area of less than 3,500 square feet and “any building or structure, regardless of size...” are described in definitions of Section 110.15, E. Reference to regardless of size has to do with an accessory to a condominium for example, but because it is a support building, it would need to be inspected.

Mr. Burr recalled that initially, it was felt Broward would mirror Miami-Dade County. He questioned why this is being rushed when Miami-Dade is holding back. Mr. Castronovo explained the goal is to correlate with the State. However, Broward and Miami-Dade forms are 90% the same. Mr. Zackria pointed out that when the ad hoc committee compared Broward and Miami-Dade requirements, they removed what was considered unnecessary. One example is the infrared scanning that the ad hoc committee felt to be an unnecessary cost burden. In further response to Mr. Burr, Dr. Barbosa indicated that Miami-Dade had not done anything with the 3-mile radius this past year.

Ms. Giles-Nelson referred to Section E.,3., Reporting Procedures, and asked who is responsible for ensuring each condominium unit owner receives the report. Mr. Castronovo advised that state statute provides that the condominium management company is responsible for providing a copy to every unit owner. Mr. Zackria indicated that the legislature mandated in the legislation that all unit owners receive the report. There could be litigation on this point, but it has nothing to do with the Board of Rules and Appeals. Dr. Barbosa added that there is language providing that regardless of the notice requirement, the condominium and co-op homeowner associations are nevertheless responsible for being aware of when their inspections are due. Mr. Michael Guerasio, Chief Structural Code Compliance Officer, referred to Section C.,4, and indicated it provides that the building owner or association is required to procure the required inspection and any necessary repairs. As to Ms. Giles-Nelson’s reference, he advised that the provision was previously in the policy, and it is in the state law. It is something to help the building officials to be able to enforce this type of program.

c. **Board Action**

Mr. Kamm made a motion, and Mr. Zackria seconded the motion to approve Section 110.15 and Policy #05-05 revisions on the first reading. The motion was carried out by a vote of 10-1. Mr. Burr voted no.

4. Director’s Report

Dr. Barbosa asked if any Board member is interested in receiving the agenda and backup materials electronically, please notify her via email.

5. Attorney’s Report

Mr. Charles Kramer referred to the Plantation Inn access road that was denied by the Board and indicated they had filed an appeal with the 17th Circuit Court. He feels very good about successfully handling the matter. He went on to say that the attorneys for the City of Plantation filed an amicus brief, and the court denied Plantation Inn’s request for oral argument, which he believed was a good sign.

With respect to the My Amelia case concerning virtual inspections, he advised it affects all municipalities. My Amelia would like to conduct virtual inspections for every type of inspection. The Board of Rules and Appeals prevailed twice in circuit court; however, My Amelia has filed an appeal in the Fourth District Court. He noted that because the City Attorney for the City of Hollywood responsible resigned without notice, he is preparing the arguments for the Board of

Rules and Appeals and the City of Hollywood, which will have to be approved by a representative of Hollywood at some point. The Board's brief is due on June 5th. He feels strongly about succeeding.

6. **Committee Reports** - none

7. **General Board Member Discussion**

Electronic Permitting

Mr. Zackria noted that the Board has been advocating for full electronic permitting by Broward municipalities. He had a recent experience where the permitting was electronic, but the city asked that all documents be printed so that they could be on-site. The municipalities need to be encouraged to take the next step by having the documentation available for their inspectors on electronic devices. He asked staff to follow up on this with the municipalities.

Accessibility of Handicapped Restrooms to People with Digestive Diseases

Ms. Wolfson asked what needs to be done to make the handicapped restrooms at the airport more accessible to people with digestive diseases, which would be a hook by the toilet five feet above the floor and a shelf between the toilet and the wall by the toilet paper for medical supplies. She would like to make Broward County an example on this matter to the nation.

8. **Adjournment**

The meeting adjourned at 8 p.m.

A handwritten signature in black ink, appearing to read "Gregg D'Attile". The signature is fluid and cursive, with a large initial "G" and a stylized "D'Attile".

Gregg D'Attile - Vice Chair