



BROWARD COUNTY

Board of Rules & Appeals

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BOARD OF RULES AND APPEALS

February 9, 2012

Meeting Minutes

Call to order:

Chair Abbas Zackria called a published meeting of the Broward County Board of Rules and Appeals to order at 7:05 p.m.

Roll Call

Ron Burr
Gregg D'Attile
Steve Feller
Shalanda Giles Nelson
Allan Kozich
Dan Lavrich
Jeffrey Lucas
Dave Rice
John R. Smith
Richard Smith
Hank Zibman
Don Zimmer
Abbas Zackria – Chair

The presence of a quorum was established.

Approval of Minutes

Mr. Feller made a motion to approve the minutes. Mr. Zibman seconded the motion and the minutes were approved for the January 12, 2012 board meeting.

CONSENT AGENDA

1a. Certifications – Staff Recommended

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

THE MOTION PASSED UNANIMOUSLY.

REGULAR AGENDA

1b. Request of Marcy Hofle to be certified as a Fire Plans Examiner for the City of Hollywood

Ms. Hofle addressed the board and explained that she has practiced for a minimum of three (3) years. I was assigned to the Fire Prevention Bureau, paid as a Fire Prevention Officer. I was performing duties assisting as annual fire and life safety, inspections, doing certification construction permit inspections, hydrant flow tests, code research, acting as a Fire Inspector since November 15, 2008

That's why I have petitioned to have my upgrade to Fire Plans Examiner under having practiced for three years, which would actually be dated November 15 of 2011 which would be three years from my date, when I started practicing as a fire inspector.

There was discussion if the staff has no problems with it and the applications, is it within our purview to certify her as of March 2012. Do we feel we must hold to the August date?

Chief Fire Compliance Officer Bryan Parks stated that we have always taken the date we issued the temporary certification and extend it. It does require three years from the Board certification date or when we issued the temporary. The temporary allows her to go out and do the job under the Board of Rules and Appeals regulations. That is why we count the temporary as part of those three years.

Ms. Hofle attested that she was doing the job since November 2011. The Director said he believed the file is complete, but deferred to Mr. Parks. Mr. Parks confirmed that Ms. Hofle has her forty hours. She has her State certification and has sent in her renewal paperwork to me. Mr. Parks said he can renew and upgrade her at the same time.

Ms. Hofle added that she had already renewed her State.

Board member, Mr. Kozich commented that no amendment was needed.

MR. KOZICH MADE A MOTION TO CERTIFY MS. HOFLE AS A FIRE INPSECTOR AND A FIRE PLANS EXAMINER PENDING STATE CERTIFICATION AS OF MARCH 2012. MR. ZIBMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 - 0.

2. Recommended Changes to Fire Code Amendment Section F-108, Entitled "Tents, Air-Supported Structures, Temporary Structures and Uses"

Mr. DiPietro, the Director, introduced the item. Mr. DiPietro pointed out that copies of the item had been distributed for their convenience, and he addressed the language in the amendments. There are two recommendations, the first that we correct an inadvertent error. Building permits were removed from consideration by the Board at the September 8, 2011 meeting; other Board Minutes

agency's rules and regulations would still apply. The first recommendation is to remove language that could be interpreted as requiring building permits.

MR. LUCAS MOVED TO STRIKE THE LANGUAGE THAT HAS BEEN STRUCK IN SECTION 108.1.1, THE EXCEPTION, AND MR. ZIMMER SECONDED.

THE MOTION PASSED UNANIMOUSLY.

Second Issue

Mr. DiPietro remarked that a second issue, after extensive staff discussions, the resolution was still not clear. Some staff members felt that your intent was to establish fire permit process. We are asking you to clarify tonight whether or not fire permits would be required. Under NFPA-1, the evidence is in the packet on page 12, under Permits and Approvals, that permits are authorized by the Fire Code. "The AHJ shall be authorized... "So, the fire departments have the authority to issue these permits, but the permits are not mandated.

Our main purpose here is to finalize what we thought were glitches to the fire code. As I have said in writing in the agenda packet, on page 6, we have always gone on the record as wanting to make sure we did not change our Formal Interpretation of September 2011. If you wanted us to put in a procedure for fire code amendments, we need to get your direction. We continue to work with the Fire Chief's Association and Fire Marshals. The safest thing to do is reject these five lines, and the fire departments can do whatever they wish under existing code authority.

Mr. DiPietro asked Bryan Parks, Chief Fire Code Compliance Officer to further explain.

Bryan Parks said that he thinks the Director said everything that can be said. I want to carry out the Board's wishes. We need guidance. NFPA-1, 1.12 says the fire AHJ has the ability to issue a permit. Staff believes we heard on September 8, 2011 that you were directing us to follow the Florida Fire Prevention Code and issue permits. We just want your direction. We're following up, we're having meetings. Please clear the air for us and let us move on with our duties. We would appreciate that.

The Chair informed the audience that this is public meeting, and he said that each person wishing to speak will have up to three minutes. He asked that the audience not be repetitive, and to please be respectful. The meeting was opened up to public comment.

The following members of the public were sworn in and addressed the Board:

1. David Raines – Fire Chief for the City of Fort Lauderdale, reading the language before you shall comply with NFPA 1. Section 112. The only thing we have mentioned tonight is sub-section referenced 1.12.1, the AHJ shall be authorized to establish and issue permits certificates and approvals pertaining to conditions hazardous to life or property. I asked for an Interpretation. It culminated in a meeting on September 8, 2011 to help resolve a contentious situation. What came out of it was that the intention of the Board

was not to require building permits for these membrane structures that encapsulate megavessels for the purpose of spray painting. You established that night that you did not want permits required. Other regulatory agencies having jurisdiction have issued appropriate approvals. In essence, you made a determination that you did not want building permits for these encapsulations. I could have walked out of this meeting, and the next day required building permits under the guise of NFPA-1. It just authorizes the Fire Marshal, and the Fire Marshal can use his discretion. The language being proposed tonight will no longer allow the Fire Marshal to use his discretion. It will compel the Fire Marshal to issue permits. The Fire Marshal already has the authority to do it, but now we are going to compel them to do it, and the reason is ultimately you are going to end up with building permits. I am back here tonight – I have been working with my friends in the marine community. We have hammered out alternate methods and equivalencies to great expense and a lot of effort. This changes the landscape, and I want to make sure that you understand the scope of what you are deciding tonight.

2. Margaret Croxton – representing the seventy-five (75) members of the Marina Mile Association – referred to paperwork she wished to handout that displayed their website, and how they work with local governments. She mentioned Commissioner Holness and Commissioner Lamarca in particular. Ms. Croxton went on to say that over regulation is the number one killer of jobs in Broward County and that they are regulated to death. We started with David Raines in Fort Lauderdale, when no one knew what the fire code was. He had to issue some violations because the state code is being worked on and it does not address a lot of situations Ms. Croxton informed the Board that the Sheriff is also a member of Marina Mile. The industry has addressed the issue. David Raines has gone out and worked with every marina in Fort Lauderdale. David Raines had fifty (50) of my members certified to be shipyard competent. We are working on the issues. We are resolving them. The industry has addressed it. We are over regulated by everyone from Washington to Broward County.
3. Al Frevola – Attorney representing the Lauderdale Marine Center – we were the subject of what happened on September 8, 2011. If you pass this regulation, you will kill the marine industry. You are telling us we have to build a temporary enclosure and we are going to have to get a permit. They will go somewhere else. That is the foundation; we have extremely detailed and safe procedures to ensure that any painting is done in a safe and effective manner. The way this is written will not be limited; it would now require a permit. I would also submit that it is not even required by law. The Building Code already has a definition for what constitutes high-hazard group H occupancy if the requirements are met, it is in fact a high-hazard group H occupancy, and then there would be a permit required under the existing law for a temporary enclosure for less than one hundred eighty (180) days. It is already in the law. The way this is written it would not be limited to temporary enclosures in the marinas. Any scaffolding structure constructed around any building, in which is going to be any hazardous operation where they have any kind of mesh enclosing it, would now require a permit. The courts of Florida have already held that that would be improper because those issues are already governed by

OSHA. So you are going into an area that is well beyond what is required by the law. We ask that you reject this.

4. Kristina Hebert – A third generation business owner as well as president of the Marine Industry Association. Ms. Hebert stated that her family has been in business for sixty-two (62) years, and employs fifty-two (52) people. People come from all over the world to get repairs done on their boats. If those boats cannot come out of the water and get that paint because it is too onerous, they will go someplace else. We recognize there is an opportunity to work with the County and the fire marshals. We have established a professional committee. We talk about best business practices and setting standards. We are aware of the safety issues and concerns. Ms. Hebert continued that to say that she agrees with Mr. DiPietro that the goal is good faith standardization and safety. However, she believes that requiring permits is preemptive and would be devastating to the industry.
5. Scott Miser – Committee chair of Pro-Com committee (MIASF) and an active board member and Chief Operating Officer of Rybovich Super Yacht in West Palm Beach. Wanted to review working to improve the processes and procedures that MIA SF has developed, adopted and endorses. Facilities are working individually with the Fire Marshal in the cities of Fort Lauderdale and Dania Beach. Temporary membrane enclosures are assembled to OSHA standards, for scaffolding and are used primarily for shelters for works conducted onboard the vessels. They are also staged with NFPA required explosion proof equipment and ventilation. Spray painting in these enclosures is conducted in a very controlled condition and accounts for about 2% of the total activities, eight to ten days of actual spray painting. The enclosure protects the workers from the sun and gives them a climate controlled environment. The rest of the time is for weather protection, and dust containment. We have some pretty sophisticated tents, and we have cleaned up our act a lot during the last six months. He suggests that the Board not assume that everything that goes on in the tents is hazardous. Mr. Miser concluded by saying that one hundred eighty (180) days would be an extreme case, as most of the tents are up for between sixty (60) and ninety (90) days.

The public hearing was closed.

MR. LUCAS MADE A MOTION TO REJECT THE PROPOSED LANGUAGE. THE MOTION WAS SECONDED BY MRS. GILES NELSON.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 13 - 0.

3. **Amendment to BORA Policy #05-01 – Entitled “Representation on the Board of Rules and Appeals Standing Committees and Appointment Guidelines**

Mr. DiPietro addressed the Board informing them that the Education Committee had not been active in several years. We would like to cross out this one standing committee.

MR. KOZICH MADE A MOTION TO APPROVE. MR. RICE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

4. Director's Report

Mr. DiPietro wanted to introduce for discussion some building code amendments that cannot be voted on until the 2010 Florida Building Code goes into effect on March 15, 2012. Steve Feller will address a couple of amendments, as will Richard Smith. All of the code changes are directed towards water conservation, which is a top county priority. We had an Ad Hoc Water Advisory Steering Committee who provided direction, then the Plumbing and Mechanical Committees reviewed the recommendations and approved for their disciplines. One of the amendments was also recommended by Miami Dade County – BORA.

Under State law we are required to wait at least six months between meetings for adopting technical amendments to the building code. In light of the six month requirement, our objective is to gain approval for all proposals at the same meeting on March 15, 2012.

Alternate Board member, and mechanical engineer, Mr. Feller, addressed the Board. Mr. Feller noted that they spent time on three (3) efforts; the first one was with Dade County concerning the collection of condensate water. Mr. Feller informed the Board that a tremendous amount of water in larger buildings is wasted. We are not mandating that you take that condensate water and use it, but we are giving some guidance on things that can be done with that water, both for a cooling tower and irrigation or some other things onsite. It goes along the lines that all storm water to be captured on site and remain onsite.

All these items are being addressed, because you may not know it, but there is a tremendous shortage of water in South Florida. It may not be our generation; it may be the next generation who will suffer greatly from these effects.

The second issues relates more specifically to cooling towers – Cooling Towers in large buildings are tremendous users of water. It doesn't go down a sewer. Cities have allowed that you separately meter the water going through a cooling tower because there is no sewer charge associated with it. Let's try and minimize the amount of water or make some suggestions as to how to minimize the amount of water, and how to measure that. And we have used an item called "cycles of concentration." It says before you blow down the water it needs to cycle a certain amount of time and that reduces the amount of fresh water or new water that is going into the cooling tower. There are some guidelines for the number of safe concentrations which will prevent other harmful things, such as contaminants and minerals that are naturally in the water from happening to your system.

For new installations, a report must be submitted by the property manager/owner to the local water provider every twelve (12) months. There is water vapor that is put out into the air. We have asked that the drift eliminators on top of those cooling towers be increased in terms of

performance so that we drift or lose less water out of the cooling tower, to help the efficiency of the cooling tower. It is a dramatic amount of water that is used in cooling towers.

We as an Ad Hoc committee, looked at reduced water consumption on all of the plumbing requirements based on residential and commercial applications – lavatories, sink faucets, water faucets, water closets, dishwashers, residential dishwashers, and washing machines, and reduced the amount of water they are allowed to use. All of the requirements for reduced water flows are currently available with fixtures that are currently made and on the market today. Mr. Feller concluded that there would be significant savings from the standpoint of water usage.

Board member, Richard Smith, master plumber, addressed the Board. Mr. Smith remarked that everyone is familiar with the inconvenience of showers that do not put out enough water. The reality is that we in Broward County have been following the federal guidelines for the flow rates of fixtures. We were comfortable that we were compliant with the rest of the world. Dade County, eight (8) years ago, had an ordinance where they said they wanted to be more efficient than the nation. Seven and a half (7 ½) years ago after a past Dade County ordinance, it was changed to more restrictive than the nation and Broward. Various organizations in Broward County wanted to know why Dade County and, why weren't we in Broward doing the same thing. We fall back on the fact that we are in compliance with the nation. Mr. DiPietro received many calls wondering why Dade County was more concerned than we were in Broward County. Henceforth, the Board assembled the Ad Hoc Committee which started the process to at least come into alliance or to find out why Dade County is the way they are. Mr. Feller told you that their committee reduced the flow rates – when it hit the Plumbing Technical Committee, unfortunately, that committee is made up of plumbers that have been in the field installing these fixtures and engineering them, and hearing and seeing the fact that there are and should be some differences. I will call your attention to the fact that the Ad Hoc Committee for a kitchen sink faucet, changed it from 2.2 gallons per minute to 1.5. We on the Technical Committee said no. This is the place where the problem happens with the flow. Our recommendation was not to reduce that flow relative to the cleaning of dishes, and that's the reason we recommend that you do not reduce the sink faucet underneath the 2.2 gallons. The Ad Hoc Committee (on E) reduced the shower flow from 2.5 gallons per minute to 1.5. The Plumbing Committee said you should save some water, but 1.5 is really making it tight, so we elected to conserve, but with the people in mind, we are proposing a 2.0 gallons per minute on the shower-head at the 80 psi. The Ad Hoc Committee decided that they would regulate residential dishwashers and washing machines. The Plumbing Technical Committee asked how they were going to control that. It is an appliance. That would be up to the manufacturer. We are recommending not to include those two (2) appliances. Regarding water closets we recommend 1.28 gallons or install a dual flush, which is already regulated that way. We took out the dishwasher residential, but we left the commercial dishwasher alone. These recommendations get very close to Dade County, and I can assure you that the nation, in our research, as Mr. Feller pointed out, already have these restrictions throughout many of the states, and it is only a matter of time before they expect us to be more conservative.

Lastly, Dade County has been setting these fixtures for seven (7) years, while we have been setting the other fixtures. Our research with the wholesale houses is that they are the same price. Your Plumbing Technical Committee believes this is the way this county should go.

Mr. DiPietro concluded with a couple other footnotes – advising the Board that Mr. Feller is not available to attend the March meeting, and that Ad Hoc Water Conservation Steering Committee member, Steve Bassett, will present at the next BORA meeting. Mr. Bassett is also a former Florida Building Commissioner.

Recommendations may come forward from the Unsafe Structures Board committee and from the Plumbing committee. Plumbing Appendix F is not part of the building code unless adopted by BORA.

The meeting was adjourned at 8:24 p.m.



Board Chair