



BROWARD COUNTY

Board of Rules & Appeals

One North University Drive, Suite 3500B, Plantation, Florida 33324

Phone (954) 765-4500 Fax: (954) 765-4504

[Broward County Board of Rules and Appeals](#)

Board of Rules and Appeals January 10, 2019 Meeting Minutes

Call to order:

Chair Daniel Lavrich called a published meeting of the Broward County Board of Rules and Appeals to order at 7:09 p.m. The roll was called and the following members were present:

Present:

Daniel Lavrich, Chair
Ron Burr
Jeffrey Lucas
Gregg D'Attile
John Famularo
Shalanda Giles-Nelson
Abbas H. Zackria
Daniel Rourke
Dennis A. Ulmer
Stephen E. Bailey
Jeff Falkanger
Robert Taylor
David Rice

After the roll call, the presence of a quorum was announced.

Approval of Minutes

Mr. Zackria made a motion and Mr. Lucas seconded the motion to approve the September 13, 2018 meeting minutes. The motion carried by unanimous vote of 13-0.

1. Certifications – Staff Recommended

Mr. Lucas made a motion and Mr. Burr seconded the motion to approve all submitted certifications. The motion passed by unanimous vote of 13-0.

2. Amendments to the Broward County Administrative Provisions (Chapter 1), 6th edition (2017) Florida Building Code, Section 101.2.2 Definitions and Section 104 Powers and Duties of the Building Official, Assistant Building Official, Fire Code Official, Chief Inspector, Plans Examiner and Inspector; revising the certification requirements for Building Official, Chief Inspector, Plans Examiner and Inspector of the Structural, Mechanical, Electrical and Plumbing disciplines

Chairman Lavrich advised that there are some updates needed on this item, therefore it is being withdrawn from this evening's agenda.

- a. Recommendation of the Certification Review Committee - Building
 - b. Public Hearing
 - c. Board Action
3. Amendments to the Broward County Administrative Provisions (chapter 1), 6th edition (2017) Florida Building Code, Section 118.1.4 – Design, as recommended by the Committee to Address the Uniform Procedures for Installation of Bi-Directional Amplifiers (BDA), effective January 21, 2019

This amendment was read by title.

- a. Recommendation of the BDA Committee
- b. Public Hearing

There was no one wishing to speak.

- a. Board Action

A motion was made by Mr. Ulmer and seconded by Mr. Rice to set a public hearing on this proposed amendment to be held February 14, 2019. The motion passed by unanimous vote of 13-0.

- 4. Item 5 taken before Item 4.
- 5. Amendments to Broward County Administrative Provisions (Chapter 1) 6th edition (2017) Florida Building Code, Section 104, Subsections 104.19.1 Appointment of a Fire Marshal/Fire Code Official, 104.19.1 Powers and Duties of a Fire Marshal/Fire Code Official, 104.19.1 Powers and Duties of a Fire Marshal or Fire Code Official, 104.19.2.5 Stop-Work Orders (renumbering only), 104.19.2.8 Orders to Eliminate Dangerous or Hazardous conditions (renumbering only), 104.19.3 Certification of Fire Marshal/Fire Code Official, 104.20.2 Powers and Duties of the Fire Plans Examiner, 104.20.3 Certification of a Fire Plans Examiner, 104.21 Fire Inspector, 104.21.3 Certification of a Fire Inspector, 104.22 Certification, and 104.23 Recertification; to remove language duplicated in the Broward County Amendments to the Florida Fire Prevention Code (BCA FFPC), 6th edition, and adopt said language by reference to the (BCA FFPC) 6th edition

This amendment was read by title.

- a. Recommendation of Staff
- b. Public Hearing

There was no one wishing to speak.

c. Board Action

A motion was made by Mr. Zackria and seconded by Mr. Burr to set a public hearing on this proposed amendment to be held February 14, 2019. The motion passed by unanimous vote of 13-0.

6. Amendments to the Florida Fire Prevention Code, Sections F-103.3 Certification of Fire Marshal/Fire Code Official, F-103.4.3 Certification of a Fire Plans Examiner, and F-103.5.3.1, to remove old terminology and replace with new FAC 69A-37 language, effective January 21, 2019

This amendment was read by title.

- a. Recommendation of Fire Code Committee
- b. Public Hearing

There was no one wishing to speak.

c. Board Action

A motion was made by Mr. Famularo and seconded by Mr. Lucas to set a public hearing on this proposed amendment to be held February 14, 2019. The motion passed by unanimous vote of 13-0.

4. Revisions to Formal Interpretation #20, "Two-way radio communication enhanced public safety signal booster system"

- a. Recommendation of the Committee to Address Uniform Procedures for Installation of Bi-Directional Amplifiers (BDA)

Mr. Ken Castronovo, Chief Electrical Code Compliance Officer, introduced the item. He indicated that the Bi-Directional Amplifier Committee voted on December 5th to request the Board of Rules and Appeals (BORA) to extend the grace period of this interpretation that affords enforcement on projects in Broward County a period of six months after a Standard is issued for listing BDA (bi-directional amplifier) equipment, that being October 29, 2019. The Committee believes there is not enough BDA companies making UL (Underwriters Laboratory) products on the market; thus they would like more time for the industry to introduce additional

listed products. The Committee believes that the alternative of a field evaluation for non-listed equipment is too expensive.

Mr. Rice, Chair of Bi-Directional Amplifier Committee, noted the vote was unanimous. This interpretation was written in 2017 because there was no UL standard for BDAs. He explained what was done before 2017 essentially by the building officials. He noted that Formal Interpretation #20 was only temporary until a UL standard could be established. To his knowledge there is only one company (Honeywell) with a product at this time that meets this UL listing. At least ten companies were contacted and none would commit to when they would have a UL listing product. A field evaluation would cost probably \$3,000 to \$5,000 which is down from two or three years ago when the range was \$5,000 to \$15,000. The cost could be kept down if a contractor has similar projects. Mr. Castronovo advised that both he and Bryan Parks, Chief Fire Code Compliance Officer, do not support an extension. The equipment is complex and consequently inspectors rely on the labeling.

b. Public Comment

Chairman Lavrich opened the floor for public comment.

Mr. Angel Perez indicated that he is an inspector in Broward county. He elaborated on the complexity of this equipment and the extensive evaluation steps in judging the equipment. Inspectors do not have the testing equipment. He believed that engineers that may sign off on the equipment likewise do not have the requisite testing equipment. He was aware of five companies that have listed equipment, and as such, he was opposed to granting an extension.

Mr. Brian Feero of Fire Controls, indicated Fire Controls, Inc. indicated Fire Controls is state licensed and one of the vendors using the Honeywell product. Fire Controls waited almost a year to make sure the equipment was proper. He was opposed to granting an extension.

There was no one else wishing to speak.

c. Board Action

There was no action taken therefore the interpretation remains as written.

7. Issuance of Reprimand to Mr. Mohamed Sulaman for Violations of State of Florida Law, Chapter 71-575, Section 4 (B) Relating to the Use of Certificate of Competency

a. Recommendation of the Probable Cause Panel

Mr. Ron Burr, Chair of Probable Cause Panel, summarized the Panel's proceedings. The Panel heard evidence presented by staff and interviewed Mr. Suliman. The Panel

felt that Mr. Sulaman understood what he had done at the time. The Panel concluded that a reprimand was appropriate. It was unanimous.

b. Board Action

A motion was made by Mr. Falkanger and seconded by Mr. Ulmer to issue a reprimand as recommended. The motion pass by unanimous vote of 10-0 (excluded Probable Cause Panel members who do not vote pursuant to procedure).

8. Change to Re-Appointment Guidelines Section of the Existing Policy #05-01 entitled, "Representation on the Board of Rules and Appeals Standing Committees and Appointment Guidelines"

a. Recommendation of Board Member Jeff Falkanger and Director DiPietro

Mr. Falkanger explained that it is currently not permissible to have two Board of Rules and Appeals' members on any committee that have any business dealings with each other. The proposal is for it to apply only if there is a potential conflict. Mr. James DiPietro, Administrative Director, noted that the proposed language change has been reviewed and approved by the Board Attorney.

b. Board Action

1. If desired, motion approving of projected schedule of classes to be offered
2. If desired, motion authorizing an amount not to exceed \$20,000 (of the \$258,200) being spent for educational instructors in conjunction with Broward county Building Officials and Inspectors Educational Association seminar events

A motion was made by Mr. Lucas and seconded by Ms. Giles-Nelson to approve the schedule of classes and an amount not to exceed \$20,000 for educational instructors in conjunction with Broward County Building Officials and Inspectors Educational Association seminar events as presented. The motion passed by unanimous vote of 13-0.

10. Training agreement between Coral Springs Regional Institute of Public Safety (C SRIPS) and Broward County Board of Rules and Appeals

- a. Recommendation of Staff

Mr. Bryan Parks, Chief Fire Code Compliance Officer, introduced the item.

- b. Public Comment

There was no one wishing to speak.

- c. If desired, motion to approve one-year contract with option to renew to a maximum of three years

A motion was made by Mr. Lucas and seconded by Mr. Falkanger to approve the one-year contract and option to renew for a maximum of three years. The motion passed by unanimous vote of 13-0.

11. Elimination of the existing Board of Rules and Appeals Board Technician I job title and substitution of new title of Administrative Specialist, patterned after the County model

- a. Report of Administrative Director

Mr. James DiPietro, Administrative Director, introduced the item. The job title of Board Technician does not exist in the County system. The County previously had a title of Administrative Secretary at the same pay grade but it was removed. The County's new title is Administrative Specialist and Administrative Assistant. The Board of Rules and Appeals' job description and pay range would be similar to the County's Administrative Specialist. He noted pay adjustments for three current employees.

- b. Board Action

- 1. If desired, motion adopting new job title and description of Administrative Specialist

A motion was made by Mr. Lucas and seconded by Mr. D'Attile to eliminate the job title of Board Technician 1 and adopt a new job title of Administrative Specialist contained in the agenda memorandum of January 10, 2019 (job description attached). The

motion passed by unanimous vote of 13-0.

2. If desired, motion adopting new pay range to correspond to the Broward County's title of Administrative Specialist

A motion was made by Mr. Lucas and seconded by Mr. Zackria to adopt a new pay range of \$43,092.61 - \$68,777.07 for Administrative specialist. The motion passed by unanimous vote of 13-0.

3. If desired, motion granting pay adjustments for three current employees, effective January 14, 2019

A motion was made by Mr. Lucas and seconded by Ms. Giles-Nelson to authorize a pay increase of 4.75% for each of the three employees who currently hold the existing job title of Board Technician I effective January 13, 2019. The motion passed by unanimous vote of 13-0.

12. One-time 2% cash merit bonus for chief fire Code Compliance Officer for work performed

- a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, presented the item. He noted that Bryan Parks, Chief Fire Code Compliance Officer, is not eligible for the merit longevity bonus program until fifteen years of service. Based on his outstanding performance, and his occasional service as Acting Director, he is recommending a one-time 2% cash merit bonus.

- b. Board Action

A motion was made by Mr. Rice and seconded by Mr. D'Attile to approve the item as presented. The motion passed by unanimous vote of 13-0.

13. Annual Leadership Performance Review of Administrative Director, consideration of salary adjustment and longevity/merit bonus

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

Chairman Lavrich advised that he has conducted a review with Mr. James DiPietro, Administrative Director, which was provided in the backup up materials for this meeting. Mr. DiPietro has been effective, efficient and a pleasure with whom to work. He consistently remains a valuable asset to Broward County and the Board of Rules and Appeals. He recommended a 3% pay adjustment and a 2% one-time longevity bonus.

- b. If desired, motion granting a pay change effective October 7, 2018
- c. If desired, motion granting a one-time longevity/merit review bonus, per policy #95-1 (E), effective January 3, 2019

A motion was made by Mr. Zackria and seconded Mr. D'Attile to approve the 3% pay adjustment and 2% one-time longevity bonus. The motion passed by unanimous vote of 13-0.

14. Special Bills

- a. John Hearn, Legal Advisor to Board
- b. William Dumbaugh, Expert Witness

Mr. James DiPietro, Administrative Director, introduced the item. He noted that these are both related to the John Madden disciplinary matter. Mr. Hearn's hourly rate was about \$200 per hour. Mr. Dumbaugh is a former employee of the Board of Rules and Appeals. Mr. Dumbaugh was an expert witness also and assisted staff and the Board Attorney in preparation for the hearing. The amount equates to about two weeks of his former salary.

A motion was made by Mr. Ulmer and seconded by Mr. Rice to approve a bill from the law offices of John J. Hearn in the amount of \$13,400. The motion passed by unanimous vote of 13-0.

A motion was made by Mr. Ulmer and seconded by Mr. Falkanger to approve a bill from William Dumbaugh in the amount of \$4,000. the motion passed by unanimous vote of 13-0.

Before the vote was called, Mr. D'Attile emphasized that everything possible should be done for the Board to avoid something of this nature ever occurring again. It was such a waste.

15. Establishment of Monthly Board of rules and Appeals 2019 Meeting Calendar

a. Staff Report

Mr. James DiPietro, Administrative Director, noted this is a routine matter that establishes submission of materials, cut-offs and meeting dates.

b. Board Action

A motion was made by Mr. Lucas and seconded by Mr. Taylor to approve the monthly calendar (2019) as submitted. The motion passed by unanimous vote.

16. Election of Officers

a. Board Nominations

Chairman Lavrich noted that only Board members are eligible to be elected. He also noted that the Board's Vice Chair resigned and as such the position is vacant.

b. Election of Chair and Vice-Chair. Passing the Gavel

Mr. D'Attile nominated Mr. Lavrich for Chair and Mr. Taylor seconded the motion. There were no other nominations. The motion passed unanimously by a vote of 13-0.

Mr. Burr nominated Mr. Bailey for Vice Chair and Mr. D'Attile seconded the motion. There were no other nominations. The motion passed unanimously by a vote of 13-0.

17. Director's Report

Mr. James DiPietro, Administrative Director, noted the Board's reserves are preliminarily estimated at \$7.2 million, likely the largest in the Board's history.

Mr. DiPietro noted one Broward County Charter amendment that was approved imposes a posting requirement county-wide. The agenda backup materials must now be posted on the websites. This will be extended to the Board's committees. Currently the Board's minutes and action agendas have been maintained on the website. The legal requirement is that the posting be made 48 hours before the meeting. However, he intends to have an administrative policy calling for the posting to be 48 to 72 hours in advance.

18. Attorney's Report

Mr. Charles Kramer, Board Attorney, noted his advisory on Special Act 71-575 with respect to mold assessor/remediator engaging in business while employed as an inspector, plans examiner or building official provided to the Board. His response is that it is prohibited. He mentioned review of the cross-licensing that is proliferate in the county and elaborated upon his reasoning that included consideration of the Attorney General's opinion from this past August.

Concerning the John Madden disciplinary matter, and the case status in the agenda backup, Mr. Kramer noted that opposing counsel has filed a petition for writ of certiorari. Because this is an administrative board, matters would go to the Certiorari Review Board. This Board's response pleading is due on January 21. He noted that Mr. Madden did not respond with any examples of supervising subordinate plans examiners and providing written interpretations. He therefore felt the Board's determination was correct. He went on to note his fees over 2 ½ years now come to \$126,000. He provided information he obtained from the City of Fort Lauderdale concerning Mr. Madden's fees of \$327,000 that will be paid by the City of Fort Lauderdale.

Mr. James DiPietro, Administrative Director, indicated it may be necessary to utilize the Board's reserve funding for legal fees and is so approval to use the reserves would have to be obtained through the County Commission. The budget line item for attorney fees is \$65,000. This may be an agenda item in the future.

Mr. Kramer advised that the Certiorari Review Board may take anywhere from three to ten months to decide the case.

19. Committee Report – none

20. General Board Members Discussion

Chairman Lavrich thanked the Board for giving him the opportunity to serve as Chairman for another year. He thanked all of the Committee Chairs.

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

22. Adjournment

Having no further business to go before the Board, the meeting adjourned at 8:32 p.m.

A handwritten signature in cursive script, reading "D. L. Lavrich".

Daniel Lavrich, P.E. – Chair