



BROWARD COUNTY BOARD OF RULES & APPEALS
MARCH 11, 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 p.m.

Present:

Daniel Lavrich, Chair
Stephen E. Bailey, Vice-Chair
Ron Burr
Gregg D'Attile
Robert A. Kamm
Sergio Pellecer
Robert Taylor
James Terry
David Tringo
Daniel Rourke
Dennis Ulmer
Abbas Zackria (arrived at 7:12 p.m.)

Mr. Tringo made a motion and Mr. Taylor seconded the motion to approve the agenda as amended with respect to Item 3, Alternate A, and Item 8, legal opinion. The motion carried by unanimous vote of 11-0.

Approval of Minutes – February 11, 2021

Mr. D'Attile made a motion and Mr. Burr seconded the motion to approve the minutes as revised to change the page one footnote to read: "Pursuant to Broward County Charter, since a full Board seating of thirteen had been achieved prior to Mr. D'Attile attending, he was not part of the full Board seating and was not eligible to vote". The motion carried by unanimous vote of 11-0.

CONSENT AGENDA

1. Certifications - Staff Recommended.

CITY OF COCONUT CREEK

BANYAS, RYAN, FIRE CODE OFFICIAL

VILLAGE OF LAZY LAKE

CANFIELD, BRIAN SHAWN, CHIEF MECHANICAL INSPECTOR

TOWN OF LAUDERDALE-BY-THE-SEA

ADACH, EDWARD E., CHIEF STRUCTURAL INSPECTOR

CITY OF PEMBROKE PINES

ALMAGUER, DANIEL A., FIRE CODE OFFICIAL

CITY OF PLANTATION

DAVALOS, ROBERT, ELECTRICAL INSPECTOR (TEMPORARY 120-DAY)

FORGES, BERNARD, STRUCTURAL INSPECTOR (TEMPORARY 120-DAY)

CITY OF SOUTHWEST RANCHES

GARCIA, HEBERTO A., CHIEF PLUMBING INSPECTOR

CITY OF TAMARAC

DEMOPOULOS, TOMMY, FIRE CODE OFFICIAL

CITY OF WEST PARK

GARCIA, HEBERTO A., CHIEF PLUMBING INSPECTOR

COUNTYWIDE

JOSEPH, ROLLE, STRUCTURAL PLANS EXAMINER

SWEENEY, THOMAS JOSEPH, STRUCTURAL INSPECTOR

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

REGULAR AGENDA

2. **Amendments for 2nd reading to include public hearing – Proposed amendment to the FBC, 7th Edition (2020) Building – Chapter 1, Section 101.2.2 Definitions and new section 110.3.14 Virtual Inspections**

a. Staff Report

Mr. James DiPietro, Administrative Director, reviewed the Alternate A version provided the Board. He noted that language in paragraph 3 of Section 110.3.13 Virtual Inspections was tweaked to say: Tunnel replacement of building drains and water lines. There are four virtual inspection items detailed in this section specified when approved by the Building Official. The Board could vote to add more at any point in the future.

b. Board Questions

In response to Mr. D’Attile’s question, Mr. DiPietro advised that the purpose of this amendment is to give legal authority pursuant to the code for the building official to allow only the listed virtual inspections. He added that virtual inspections were allowed for the COVID special circumstance not necessarily otherwise.

Mr. D’Attile pointed out that if the video or still photos could be submitted to the inspector, it would eliminate the need for to site visits and harness the full power of technology. Mr. Charles Kramer, Board Attorney, responded to Mr. Burr, indicating that the proposed code amendment limits virtual inspections to only those listed. Mr. Tringo felt language should be added to give the building official more latitude. Mr. D’Attile felt virtual inspections for sewer and water line renovations or emergency repairs should be permissible. Mr. Zackria also felt more latitude should be given to the building official.

Mr. Taylor suggested that “Certified Inspector” be amended to “BORA Certified Inspector”.

Mr. Kamm agreed with Mr. Zackria in expanding the latitude for the building official. Mr. Tringo suggested a percentage be specified for virtual.

Mr. DiPietro concurred with Mr. Taylor's suggestion.

Mr. Ulmer agreed with the language as presented with the understanding that it could be expanded in the future.

Mr. Kramer agreed with Mr. D'Attile that "via live video or still image taken at, or under, his/her direction" appears to be in conflict with the first part of the sentence that provides for "time and location verifiable video or still imaging". Deleting "live" would eliminate the conflict.

Mr. Taylor preferred live. He did not think it should be opened to all types of inspections.

Mr. Tringo suggested a 90-day trial period.

c. Public Hearing

Chairman Lavrich opened the public hearing.

Mr. Steve Pizzillo, President of Code Officials Educational Association, elaborated on test cases where a virtual inspection was conducted and then a live inspection immediately following. In every case, problems were discovered and there was a reversal of the inspector's decision. He emphasized the need for more study.

Mr. John Travers, Building Official, City of Fort Lauderdale, noted that Florida House Bill 0667 with respect to virtual inspections is currently in committee.

Mr. Steve Mitchell, Building Official, Town of Hillsboro Beach, indicated he is generally opposed to virtual inspections but if this is going to be enacted, he stressed inspections should be live under the direction of the inspector. Moreover, he felt there will be stock photos used by some.

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained the objective was consistency amongst municipalities. As a former inspector, he agreed with Mr. Mitchell that the inspector needs to be in a position to direct the individual holding the camera.

Mr. Sean Flanagan, Assistant Building Official, City of Coconut Creek, believed that contractors will take shortcuts etc. Also, there are more senses to an inspection than video that are important in an in-person inspection. He is opposed to virtual inspections.

Chief Tommy Demopoulos, Fire Marshal, City of Tamarac, noted that the National Fire Protection Association is in the creation phase of NFPA 915 which will be remote virtual inspections. A technical committee is being formed.

There being no one else wishing to speak, Chairman Lavrich closed the public hearing.

d. Board Action

Mr. Tringo made a motion and Mr. D'Attile seconded the motion to pass the item on second reading as presented with the addition of "BORA" before "Certified Inspector" and Board review after 90-days was later changed to the July 2021 Board meeting.

During discussion of the above motion, Mr. D'Attile asked if the building official has authority to deny a contractor based on that particular contractor's track record. Mr. Charles Kramer, Board Attorney, advised no, the language in the definition was directed at the inspection, therefore he could see how there could be an abuse. Mr. Tringo pointed out that if the building official made such a distinction, he would need to be prepared to present his reasons if challenged. Chairman Lavrich pointed out that there are multiple areas in the code where the building official is granted discretion. Mr. Bailey agreed with Mr. Tringo. He voiced favor in live inspections at the direction of the inspector. Otherwise inspectors will be inundated with emailed video that will substantially hamper his time to go to job sites.

Mr. Taylor wanted to remove "still imaging and "still image" from the definition. Mr. D'Attile elaborated on the advantages of still images and did not agree to amending the motion. There was consensus that this concern could be addressed at the 90-day review.

Mr. DiPietro explained that based on the adoption/effective date criteria, it would be best if the Board chose a meeting date and not a 90-day period. The motion was amended to specify the July Board meeting.

The motion carried by a vote of 11-1 with Mr. Burr voting no.

3. **Amendment for 2nd reading – Proposed amendment to the FBC, 7th Edition (2020) Building – Chapter 1, Section 104.18 "Recertification of Building Departments and Building Code Inspection Enforcement Personnel", subsection 104.18.1.3 to accept State of Florida approved online education courses as a form of compliance with the biennial continued educational requirements**

a. Staff Report

Mr. James DiPietro, Administrative Director, explained as a result of comments made at the Open Discussion with the Board of Rules and Appeals meeting an amendment was made to provide only a maximum of half of the twenty-eight required contact hours can be attended online. If the State of Florida approves an online course, the recommendation is for BORA to accept the course with the hours maximum change noted. There is also an exception that pertains to the COVID health emergency that provides for the 28 contact hours using online courses approved by the State are accepted through December 31, 2021 only.

b. Board Questions – none

c. Public Hearing

Chairman Lavrich opened the public hearing.

Mr. Steve Pizzillo, President of Code Officials Educational Association, advocated for the course to be live, that is with a moderator.

Mr. Bill Tracy, Building Official, City of Parkland, agreed with Mr. Pizzillo. He felt the code for Broward County should stay true to the fact that this region lies in a high velocity hurricane zone. He emphasized this is important particularly with respect to the structural discipline.

Mr. Sean Flanagan, Assistant Building Official, City of Coconut Creek, agreed with Mr. Tracy. Inspectors need to be trained on the code specifically for this region, a high velocity hurricane zone. This amendment would allow inspectors to take courses that do not pertain to this region. For these reasons, he does not support the proposal.

Mr. John Travers, Building Official, City of Fort Lauderdale, agreed with Mr. Flanagan but noted that courses for Miami-Dade County which is also a high velocity hurricane zone would be pertinent and should be accepted.

Mr. DiPietro concurred that courses for Miami-Dade County would also be accepted as already provided by law. He went on to explain this proposal pertains to only fourteen of the twenty-eight hours being in accordance with the State minimum standards. The State requirement is fourteen hours and Broward County is twenty-eight, therefore the additional hours from fourteen to twenty-eight would be designed for this region and under this Board's control.

Mr. Steve Mitchell, Building Official, Town of Hillsboro Beach, was opposed to static education without the give and take of a live instructor, a question and answer session and participation from the attendees.

There being no one else wishing to speak, Chairman Lavrich closed the public hearing.

d. Board Action

Mr. Tringo made a motion and Mr. Zackria seconded the motion to pass the item on second reading as recommended. The motion carried by unanimous vote of 11-1, with Mr. D'Attile voting no.

4. **Amendments for 2nd reading – Board member recommended amendment to the FBC, 7th Edition (2020) Building – Chapter 1, to reduce the number of training hours required for inspectors due to the COVID-19, said reduction to automatically expire December 31, 2021**

a. Request by Board member David Tringo

Mr. Tringo explained this is a one-time reduction of hours.

b. Board Questions - none

c. Public Hearing

Chairman Lavrich opened the floor for a public hearing.

Mr. Steve Pizzillo, President of Code Officials Educational Association, did not support the amendment in that half of the courses would have little to nothing to do with the daily role of an inspector. The specified number of hours is not enough.

Mr. Sean Flanagan, Assistant Building Official, City of Coconut Creek, did not support the amendment. The specified number of hours is already too low.

Mr. Bill Tracy, Building Official, City of Parkland, agreed with Mr. Flanagan and Mr. Pizzillo. There are multiple opportunities to secure the required number of hours. He did not think it is burdensome to require twenty-eight hours over a two-year period. This could be the beginning of a slippery slope.

There being no one else wishing to speak, Chairman Lavrich closed the public hearing.

d. Board Action

Mr. Tringo made a motion and Mr. Bailey seconded the motion to pass the item on second reading as written. The motion failed by a vote of 6-6, with Mr. D'Attile, Mr. Kamm, Mr. Rourke, Mr. Taylor, Mr. Zackria and Chairman Lavrich voting no.

5. **Disposal of litigation case files pursuant to Florida Division of Library and Information Services' General Records Schedule GS1-SL**

a. Staff Report

Ms. Jonda Joseph, Administrative Specialist, noted there is an error in the subject line as this item pertains to litigation case files.

Mr. James DiPietro, Administrative Director, indicated that these are some of the oldest records in the agency. The Board Attorney has furnished a legal opinion that they may be destroyed.

b. Board Questions – none

c. Board Action

Mr. Ulmer made a motion and Mr. Kamm seconded the motion to approve the item as recommended. The motion carried by unanimous vote of 12-0.

6. **Declaration of surplus properties, 11 copies of the Florida Fire Prevention Code – 6th Edition (2017)**

a. Staff Report

Mr. James DiPietro, Administrative Director, explained that although the 6th edition is no longer the most current, the code books still have value, and they are public property. With the Board's approval, they will be offered to the building and fire code officials and staff will decide how to dispose of any remaining ones.

- b. Board Questions – none
- c. Board Action

Mr. Zackria made a motion and Mr. Taylor seconded the motion to declare as surplus as recommended. The motion carried by unanimous vote of 12-0.

7. **Director's Report** - none

8. **Attorney's Report**

Mr. Charles Kramer, Board Attorney, drew attention to the legal opinion provided as to requirement for owner signature on form for special inspector. Because of some opposition, he outlined the entire section to emphasize that no where is there any such requirement. A new opinion, dated February 23rd, replaces the one dated February 19th, wherein some personal perspective has been removed.

9. **Committee Report** - none

10. **General Board Member Discussion**

Public Comment at Board Meetings

Mr. Burr questioned whether it would be better if public comment was moved to the beginning of the meeting to be more public friendly. People would then not have to stay for the entire meeting. Chairman Lavrich pointed out that it would delay the Board meeting and not typical. After attending several municipal council/commission meetings, he found that public comment is often scheduled at the beginning.

Time of Board Meetings

Mr. Kamm asked about holding the Board meetings during the day. Chairman Lavrich explained the thinking is that as a public meeting it should be held in the evening when the public could attend. In response to Chairman Lavrich, Mr. Kramer, Board Attorney, indicated that both times could be considered reasonable. There is no prohibition. Mr. D'Attile favored the idea and went on to comment that all of the Board's committee meetings are during the day. Mr. Taylor suggested a trial basis. Mr. Zackria thought the reasoning previously had to do with commute in traffic for an in-person meeting. Mr. Tringo commented on space availability difficulty for in-person meetings during the day.

Mr. Tringo went on to mention that often municipal council/commission meetings schedule public comment at the beginning but only for subject not on the agenda. Chairman Lavrich pointed out that topics not on the agenda should actually be addressed at the "Open Discussion

with Your Board of Rules and Appeals” meetings. Mr. Ulmer commented that inspectors on occasion need to address the Board and a daytime meeting would pose a problem for them.

Chairman Lavrich asked the individual shown on the screen as iPad2 to identify him or herself but there was no response. This individual will not be included on the meeting guest list.

E-Permitting Ad Hoc Committee

Chairman Lavrich advised that a great deal of discussion has taken place and continues with the Administrative Director. There are a lot of issues. The goal is to develop a scope and clearly delineate the charge and direction of the committee. The name would be: Ad Hoc Committee to Encourage Electronic Permitting throughout Broward County Governmental Jurisdictions. One question is the scope of electronic permit applications, that being only changeouts, high-rise buildings, for example. What discipline of permits should be included is another consideration. He wanted to come to a conclusion on some of these points before appointing a committee.

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

Mr. John Travers, Building Official, City of Fort Lauderdale, advised that the venue for Board of Rules and Appeals’ meetings would probably not be available during the day. There could be challenges for Board members and the public to attend during the day.

Mr. Travers went on to ask if the Board would consider continuing virtual Board meetings as a new normal. Chairman Lavrich advised that this has been discussed and if acceptable by law, it will certainly be considered. Mr. Kramer responded to Mr. Tringo, commenting that this board has authority to meet virtually and there is movement in the legislature to allow all administrative agencies to hold meetings virtually.

12. Adjournment

There being no further business, the meeting adjourned at 8:50 p.m.



Daniel Lavrich, P.E. - Chair