

Broward County Board of Rules and Appeals Meeting Minutes

May 12, 2022

Broward County Governmental Center
115 S. Andrews Avenue, Room 422, Fort Lauderdale, FL
Time: 7:00 PM

Zoom Information:
<https://broward-org.zoomgov.com/j/1618435910>
Meeting ID: 161 843 5910

Call Meeting to Order

Roll Call

Daniel Lavrich, Chair
Stephen Bailey
Gregg D'Attile
Jeff Falkanger
John Famularo
Shalanda Giles-Nelson
Robert A. Kamm
David Rice
Daniel Rourke
James Terry
Dennis Ulmer
Derek A. Wassink
Abbas Zackria

A quorum was present.

Chairman Lavrich welcomed new Board member, Derek Wassink.

Approval of Agenda

Mr. D'Attile made a motion and Mr. Zackria seconded the motion to approve the agenda as posted. The motion carried by unanimous vote of 13-0.

Approval of Minutes – April 14, 2022

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

CONSENT AGENDA

Certifications – Staff Recommended

BROWARD COUNTY SHERIFF FIRE RESCUE

HERSHEY, JAMI OLIVIA, FIRE PLANS EXAMINER

CITY OF COCONUT CREEK

QUINTANA, CARMEN MARIA, FIRE PLANS EXAMINER

CITY OF FORT LAUDERDALE

BATISTA, FREDDIE, FIRE INSPECTOR

DANIELS, CEDRIC, FIRE INSPECTOR

CITY OF OAKLAND PARK

RICHARDSON, PATRICK, ASSISTANT BUILDING OFFICIAL

CITY OF PEMBROKE PARK

FARIS, JOSEPH, CHIEF ELECTRICAL INSPECTOR

CITY OF PEMBROKE PINES

COUNTYWIDE

HIPOLITO, GISELLE, STRUCTURAL INSPECTOR
HIPOLITO, GISELLE, STRUCTURAL PLANS EXAMINER
ITURRI, DANIEL E., STRUCTURAL PLANS EXAMINER
SHRAMKO, PETER, STRUCTURAL PLANS EXAMINER

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

REGULAR AGENDA

1. Continuation of Mr. Jose L. Encarnacion’s appeal to Staff’s denial of his application for Structural Plans Examiner

- a. Staff Report

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, noted that as requested staff composed of chief code compliance officers Michael Guerasio, Jack Morell and himself that reviewed the additional information relating to experience and scope of work Mr. Encarnacion has performed. Staff came to the conclusion that Mr. Encarnacion qualifies to perform as a plans examiner.

- b. Request of Mr. Encarnacion

Mr. Encarnacion thanked the Board for taking the time to re-review his application.

- c. Board Questions - none
- d. Board Action

A motion was made by Mr. Terry and seconded by Mr. Zackria to approve the application. The motion carried by unanimous vote of 13-0.

2. First Reading of Amendment to Florida Fire Prevention Code – Section F-103.5.3.2 – Limiting the Number of Times Fire Inspector Exam can be taken by an individual

- a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, reviewed the historical chronology of this item detailed in the staff agenda memorandum of April 14, 2022, including consideration by the Fire Code Committee and the Fire Chiefs Association of Broward County. If an individual does not pass the exam after three attempts, they would need to take a remedial class, after which they have three more opportunities. If the individual does not ultimately pass, there is a one-year waiting period. Staff believes this is a good course. He supports the amendment as proposed.

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

A motion was made by Mr. Kamm and seconded by Mr. Rice to approve the amendment on first reading. The motion carried by unanimous vote of 13-0.

3. First Reading of Amendment to Florida Fire Prevention Code – Section F-124.1, Uniform Generator Code – clarifying the types of facilities required to comply with the Uniform Generator Code

- a. Staff Report

Mr. Bryan Parks, Chief Fire Code Compliance Officer, advised that this is a recommendation from several fire marshals in the county in addition to staff. The amendment would clarify the language of Section F-124 to clearly delineate those who are required by State law, Florida Administrative Code or the Florida Fire Prevention Code to install generators. The terms “Board and Care” with respect to occupancy and the requirement for annual inspections are being removed.

- b. Board Questions – none

c. Board Action

A motion was made by Mr. Famularo and seconded by Mr. Falkanger to approve the amendment on first reading. The motion carried by unanimous vote of 13-0.

4. First Reading of Changes to Section 101.2 Definitions, Chapter 1, 2020 Florida Building Code, 7th Edition Adding Definitions for “accredited school” and “practice”.

a. Staff Report

Mr. James DiPietro, Administrative Director, reviewed the agenda memorandum, indicating the Certification Review Committee’s recommendation was to add definitions for accredited school and practice to Section 101.2 Definitions, and if it is not, he will bring this change back to the Board at the next meeting. The recommendation is for Version 2.

b. Board Questions

In response to Mr. Zackria, Mr. DiPietro agreed to double check to confirm that reference to the Florida Building Code is appropriately included.

c. Board Action

A motion was made by Mr. Zackria and seconded by Mr. Rice to approve the amendment (Version 2) on first reading. The motion carried by unanimous vote of 13-0.

5. First reading of amendment to Board of Rules and Appeals Policy 95-02, Rules and Regulations, Article 5, Section 1, by adding language to allow for meetings to be held on a virtual basis via Zoom or other electronic media.

a. Staff Report

Mr. James DiPietro, Administrative Director, indicated if one favors Board meetings via Zoom, he or she would support this amendment.

Mr. Charles Kramer, Board Attorney, referred to a memorandum dated April 20, 2022, published by Marty Cassini, Intergovernmental Affairs/Board Section Manager. Because the Board of Rules and Appeals was created by special act of the Florida Legislature, Mr. Cassini’s cited Section 1-233 of the County Code of Ordinances does not apply. The Florida Constitution and the Sunshine Law both require that unless exempt by law meetings of a local public body must be public meetings, open to the public but there is no expressed provision that members of the public be physically present nor is there any proscribing any particular means of holding meetings. Both were written a long time ago when there was no such thing as electronic media. Since 1997 Florida law has allowed many state agencies to conduct public meetings with media technology in full compliance with the Sunshine Law. It has been concluded that there is no prohibition against this Board continuing to meet on a virtual basis. He pointed out that Policy 95-02 is the only place where it determines that regular meetings of the Board shall be held on the second Thursday of the month, 7 p.m. in the Broward County Commission Chambers. It is necessary to have two readings of this proposed change to the policy if the Board so chooses. Proposed language for amending Policy 95-02 is provided in the agenda backup.

b. Board Questions

In response to Vice-Chair Bailey, Mr. Kramer indicated the format of holding a meeting would have to be decided in advance with due public notice. Mr. James DiPietro, Administrative Director, indicated that after second reading of this item, an item would be placed on the agenda for the Board to decide by motion that meetings would be held virtually on a permanent basis.

Vice-Chair Bailey felt it is advantageous to meet physically from time to time. It brings the Board together, that is being connected. However, there was no majority support by the other members.

c. Board Action

A motion was made by Vice-Chair Bailey and seconded by Mr. Rice to approve the amendment on first reading. The motion carried by unanimous vote of 13-0.

6. Second Reading of Amendment to Section 110.15, Chapter 1, Florida Building Code, 7th Edition – Adding Fee-Simple Townhouses designed and constructed according to definitions and requirements for townhouses in the Florida Building and Residential Codes to the Building Safety Inspection Program Exempt Properties

- a. Staff Report

Mr. James DiPietro, Administrative Director, reviewed the agenda memorandum.

- b. Board Questions – none
- c. Public Hearing

Chairman Lavrich opened the floor for a public hearing but there was no one wishing to speak.

- d. Board Action

A motion was made by Mr. Ulmer and seconded by Mr. Rourke to approve the amendment on second reading. The motion carried by unanimous vote of 13-0.

7. Update concerning the Building Safety Inspection Program audits for 2019, 2020 and 2021

- a. Report of Administrative Director

Mr. James DiPietro, Administrative Director, referred to the chart provided in the agenda backup. At this point 14,428 buildings should have been notified and 14,204 have returned reports to the jurisdictions or been referred to the Special Magistrate or Code Enforcement. The 2022 information has been sent to the jurisdictions early. Staff is beginning to audit the 14,428 figure, specifically to determine if staff agrees with the jurisdiction's number of buildings that should have been notified which is important because sometimes there are oddities with the lists from the Property Appraiser's Office.

- b. Board Questions

Mr. Zackria recalled discussion about considering sending out notices a year in advance to buildings. Mr. DiPietro indicated that this year the lists were sent out about three months early. There are recommendations on improvements/changes to the process that could be considered when the cause for the Champlain Towers' collapse is known. He went on to mention that the ordinance by Miami-Dade County has passed first reading and Mr. Zackria's point will likely be addressed.

- c. If desired, motion accepting update – deemed not necessary

8. Conceptual Review – Question concerning the combination of virtual and in-person classes, and whether to retain the 28 required contact hours in a 2-year certification cycle or reduce the number of hours required

Chairman Lavrich advised that this is related to continuing education required for inspectors.

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that this anonymous survey was sent to twenty-eight building officials. He referred to Question 1 in the agenda backup, "Are you in support of the current rule in Section 104.18.1.3 that 50 percent or more of the individual continuing education certification requirement be conducted in a live setting and the other 50 percent or less of the individual continuing education certification requirement be conducted online?" There were fourteen responses. At this time, there is a 50% cap on virtual classes. By a 9 to 5 vote the building officials would like a higher percentage for virtual classes.

Chairman Lavrich noted that the Board of Rules and Appeals requires twenty-eight hours of continuing education over a two-year period and that at least 50% be taken in-person. The question is whether the Board would like to increase the maximum virtual.

Mr. DiPietro indicated this topic was raised at one of the Board's open discussion meetings. A chief inspector contracted COVID and was out of work for 10 to 12 weeks. He went on to emphasize that fourteen of the twenty-eight building officials did not vote in the survey. On Page 10 of the agenda backup is the Board of Rules and Appeals' staff vote consisting of the code compliance officers and director. Four wanted to maintain the 50 percent cap and three wanted to allow 100 percent virtual. As to retaining the 28-hour individual continuing education certification requirement, six building officials wanted to leave the requirement unchanged and eight wanted a reduced number of hours. Again, on Page 10, six members of the staff wanted to maintain the 28-hour requirement and one wanted to reduce the requirement.

- b. Board Questions

Chairman Lavrich advocated for virtual classes in general. From a historical point of view, Mr. D'Attile questioned why a distinction between in-person and virtual was ever raised. Mr. DiPietro believed at one point the percentage of virtual was controlled on the code compliance officer level due to a concern about the class quality. At a later point it was made clear that State of Florida and Miami-Dade County virtual classes would be automatically accepted. The world has moved to many improved online options.

Some discussion ensued with respect to virtual classes and whether there are exams at the conclusion or polling questions at times during the class to ensure the individual is present.

c. Board Action

As to the question of whether it would be acceptable to leave the decision of in-person or virtual to the individual, all seated members and alternates in attendance were in favor of this option.

As to the question of whether the 28-hour requirement is reasonable, all seated members and alternates in attendance were in favor of leaving the 28-hour requirement unchanged.

Mr. DiPietro noted that this matter will now be presented to the Board on two readings.

Mr. Michael Charnin, City of Plantation Building Department, indicated that he was out with COVID for ten weeks. He was concerned about the safety of an environment for in-person classes. He felt virtual classes would also be more time efficient.

9. Director's Report - none

10. Attorney's Report

Mr. Charles Kramer referred to the John Madden trial this week. Mr. Madden's attorney sued the City of Fort Lauderdale, seeking attorney fees, etc. bringing the total close to \$500,000. Mr. Kramer indicated that he testified as an expert witness on behalf of Fort Lauderdale. The court ordered a settlement of \$66,000. It was possible to save Fort Lauderdale over \$400,000.

11. Committee Reports - none

12. General Board Member Discussion

There was a brief discussion concerning interest in news about the Champlain Towers collapse.

Administrative Director Screening Committee

Chairman Lavrich advised about 122 applications have been received. The timeline is still in place. The Screening Committee is still targeting mid-May for the Committee to meet. A date for the Screening Committee to meet again is in the works. The target is for the full Board to hold a special meeting mid-June to interview the finalists. The target date for the new director's contract is still July 14.

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

14. Adjournment – 8:19 p.m.



Daniel Lavrich, P.E. - Chair