

**BROWARD COUNTY BOARD OF RULES & APPEALS**  
**NOVEMBER 10, 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 7:00 p.m.

Present:

Daniel Lavrich, Chair  
Stephen Bailey  
Gregg D'Attile (arrived at 7:11 p.m.as shown)  
Jeff Falkanger  
John Famularo  
Shalanda Giles-Nelson  
Sergio Pellecer  
David Rice  
Daniel Rourke  
Robert Taylor  
Dennis Ulmer  
Lynn Wolfson  
Abbas Zackria

A quorum was present.

Mr. Bailey made a motion and Mr. Rourke seconded the motion to approve the agenda as posted. The motion carried by unanimous vote of 10-0.

**Approval of Minutes – October 14, 2021**

Ms. Zackria made a motion and Mr. Taylor seconded the motion to approve the minutes as submitted. The motion carried by unanimous vote of 10-0.

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**CONSENT AGENDA**

1. Certifications - Staff Recommended.

**TOWN OF LAUDERDALE-BY-THE-SEA**

MANSOR, SIMO, ASSISTANT BUILDING OFFICIAL

**CITY OF POMPANO BEACH**

KARTTUNEN, VESA P., STRUCTURAL INSPECTOR - PROVISIONAL

**COUNTYWIDE**

GREGORY, KEVIN L., PLUMBING PLANS EXAMINER

MORALES, ALFREDO, ELECTRICAL PLANS EXAMINER

Mr. Taylor made a motion and Mr. Zackria seconded the motion to approve the certifications as recommended. The motion carried by unanimous vote of 10-0.

## **REGULAR AGENDA**

Mr. James DiPietro, Administrative Director, noted that all of the five amendments on this evening's agenda have been approved as to legal form.

2. **Local Amendments for 2nd Reading**  
**Proposed addition of "Appointing Authority" definition to Section 101.2.2 "Definitions" of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).**

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that there is no definition in Chapter 1 at this time. Miami-Dade County is planning to recommend this same definition language.

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

Mr. Zackria made a motion and Ms. Wolfson seconded the motion to approve the amendment on second reading as recommended. The motion carried by unanimous vote of 10-0.

3. **Local Amendments for 2nd Reading**  
**Proposed change to Section 104.1.3 "Certification of the Building Official and the Assistant Building Official" of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) requiring that the application for Certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction's Chief Executive Officer (City Manager, Acting City Manager or Mayor) in accordance with existing BORA Policy 12-01.**

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that this is an existing Board policy. Staff would like to incorporate the language into Chapter 1. The policy has been in effect since 2011.

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

Mr. Ulmer made a motion and Mr. Bailey seconded the motion to approve the amendment on second reading as recommended. The motion carried by unanimous vote of 11-0.

4. **Local Amendments for 2nd Reading**

**Correction of typographic error on the numbering of Section 104.16.3 “Certification of the Structural Inspector,” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5 to read 104.16.3.5.**

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that there is no change to the code other than correction of this typographical error.

- b. Board Questions - none
- c. Public Hearing - none
  
- d. Board Action

Mr. Zackria made a motion and Mr. Taylor seconded the motion to approve the amendment on second reading as recommended. The motion carried by unanimous vote of 10-0.

5. **Local Amendments for 2nd Reading**  
**Proposed change to Section 109.3 “Building permit valuations”, subsection 109.3.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with Florida Statute 553.79.**

- a. Staff Report

Mr. James DiPietro, Administrative Director, indicated that recently the State enacted a law prohibiting building departments from requesting copies of contracts. Therefore, the contracts option is being removed from the code.

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

Mr. Ulmer made a motion and Mr. Falkanger seconded the motion to approve the amendment on second reading as recommended. The motion carried by unanimous vote of 11-0.

Mr. D’Attile arrived during this agenda item.

6. **Local Amendments for 2nd Reading**  
**Proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 “Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) to clarify code’s intent.**

- a. Staff Report

Mr. James DiPietro, Administrative Director, indicated that the staff had a concern about language in this section, stating “The Board shall pass on all matters...” Substituting language was added for clarification only. There is no deviation from the intent.

- b. Board Questions - none
- c. Public Hearing - none
  
- d. Board Action

Ms. Wolfson made a motion and Mr. Falkanger seconded the motion to approve the amendment on second reading as recommended. The motion carried by unanimous vote of 11-0.

7. **Proposed Board of Rules and Appeals meeting calendar for 2022**

- a. Staff Recommendation

Mr. James DiPietro, Administrative Director, noted that the calendar takes into consideration changes for holidays. It also sets the appeal deadlines for the entire year.

- b. Board Questions

Mr. Burr saw that two cities have not responded. Mr. Jack Morell, Chief Structural Code Compliance Officer, reported that one city did not send out the notice letters and would not provide a time frame as to when this would be done. The other city sent out 50% and anticipated finishing the remaining 50% by the end of this month. Mr. DiPietro advised that an update will be provided at the next meeting or as an alternative ask the cities to come before the Board to explain. He anticipated having answers for the next meeting.

Mr. Bailey referred to the 40-Year Building Safety Inspection Committee report and asked if this is a voluntary program. Chairman Lavrich advised that it is not voluntary in that it is their responsibility to enforce the code. Mr. Bailey felt there seems to be a lacking with a follow-up program. Mr. DiPietro indicated with the initial stage of the audits, there were major deficiencies. He felt there is weakness in communications on the part of all parties. In response the audit program was implemented, and all of the notice letters have been sent out. There needs to be follow-up. As such, next he is proposing at the end of the year staff will carefully monitor how many reports have been submitted.

Mr. Bailey suggested regular status reports at the Board meetings. Chairman Lavrich concurred and indicated he thinks that is what Mr. DiPietro is proposing countywide.

- c. Board Action

Mr. Ulmer made a motion and Mr. Rice seconded the motion to approve the 2022 meeting calendar as recommended. The motion carried by unanimous vote of 11-0.

8. **Director’s Report**

Mr. DiPietro indicated that in addition to items in the agenda backup, the Board received a memorandum from Ken Castronovo, Chief Electrical Code Compliance Officer, with respect

to activities around the state relating to the 40-Year Building Safety Inspection Programs. It is anticipated that Miami-Dade County will be voting in December on changes to this program. Secondly it was brought forward as a result of the Board audits that one medium-sized city had not sent out notification letters for 2021. The letters have now been sent out and, as such, this accounts for all of the cities except one large city, which was half-completed for 2021 about a month ago.

Mr. DiPietro advised the next logical step would be to find out the number of reports received. It is recommended that correspondence be sent to the cities this coming Monday. Cities would be asked to provide the number of reports received for years 2019, 2020 and 2021 through November 30<sup>th</sup> by December 15<sup>th</sup>.

With respect to election of the chairman and vice-chairman, Mr. DiPietro advised that elections are traditionally held in December if a meeting is scheduled which would generally be as a result of an appeal. If there is no meeting in December, a January meeting is scheduled regardless of the number of agenda items. All full Board members are eligible.

In response to Mr. D'Attile, Chairman Lavrich indicated he would be pleased to continue to serve as Chairman if the Board so desired. In view of the Building Safety Inspection Program undertakings, Mr. Rice felt the coming year will be challenging. He emphasized the need for the Board for a strong chairman that is willing to address all of the options and understands the issues. He hoped that Chairman Lavrich would serve another year.

#### 9. **Attorney's Report**

Mr. Charles Kramer, Board Attorney, noted his legal opinion provided that concludes a property owner is authorized to apply for a building permit to construct a swimming pool subject to provisions set forth in the building code and Florida statutes.

In response to Mr. Zackria, Mr. Kramer advised that a property owner may apply for a building permit in just about all disciplines with the exception of roofing. The building official must be comfortable that the property owner understands all of the duties and obligations set forth in the statute. He is required to perform all of the work or supervise all of the work performed by licensed contractors. Mr. Zackria felt it would be helpful to clarify the language to indicate that the property owner has the option to perform the work. Mr. Kramer agreed to revise the opinion. Chairman Lavrich pointed out that a property owner may act as a general contractor in the construction of his/her home and then subcontract specialty items. In response to his question, Mr. Kramer advised that a property owner may secure permits and perform hands-on electrical and plumbing work but would be subject to inspections. If the property owner is going to hire subcontractors to do the work, there are other applicable provisions including FICA, etc. and being onsite supervising. Plans drawn by an architect or engineer would be required.

#### 10. **Committee Report**

##### **Bi-Directional Amplifier (BDA) Committee Guidelines**

Mr. Rice, Chairman of the BDA Committee, noted that the Chief Electrical Code Compliance Officer received an inquiry from Underwriter Laboratories asking if it would be possible for UL, LLC to use some of the information in the Board's BDA guidelines. He felt this demonstrates that the Board is receiving national attention.

11. **General Board Members Discussion**

With respect to the Building Safety Inspection Program and recent related events, Mr. Rice felt the single most important issue for the Board in the coming year would be to address the issues related to the Program as related to the recent building collapse. He emphasized that the Board should continue to be active in this regard and keep the Board's mission statement in mind. He suggested at the beginning of each Board meeting there be a status report on the Program and investigation of the collapse. He would like to establish some contact with NIST (National Institute of Standards and Technology) in order for the Board to be aware. The BORA newsletter should contain a dedicated section for updates. He felt the Board may consider possible guidelines to implement in the short-term in that he did not think code changes would be appropriate until the facts are known.

Chairman Lavrich referred to a news article provided to the Board that contains comments by the engineer who is performing the investigation for the Town of Surfside. He said in the article that there are a lot of possibilities, and it is unknown which one or combination was the cause. Chairman Lavrich commented that this has been his position. He did not think that NIST would be willing to comment on anything until they have all of the facts. He recently was requested by the president of the Galt Ocean Mile Community Association comprised of some thirty condominiums to speak on the subject and he shared the same thoughts to them. The consensus has been not to change anything until more is known. The main focus at this time is making sure the existing building safety inspection program is being implemented as it should. The building safety inspection program is an oversight. It is the responsibility of the building owners to make sure there is proper maintenance. There has been talk of a statewide program. The International Code Council (ICC) has been working on program to market as part of their international building maintenance code. This program would drastically increase the scope and cost of inspections for no particular reason. People who are advocating these measures are the people in the inspection business.

12. **Public Committee (3-minute limit per person) and written communications** - none

13. **Adjournment**

There being no further business, the meeting adjourned at 7:47 p.m.



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Daniel Lavrich, P.E. - Chair