

BROWARD COUNTY BOARD OF RULES & APPEALS
OCTOBER 14, 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
Ron Burr
Jeff Falkanger
John Famularo
Shalanda Giles-Nelson
Robert Kamm
Sergio Pellecer
David Rice
Daniel Rourke
Dennis Ulmer
Lynn Wolfson
Abbas Zackria

A quorum was present.

Ms. Shalanda Giles-Nelson made a motion and Mr. Famularo seconded the motion to approve the agenda as corrected to change the minutes date to September 9. The motion carried by unanimous vote of 13-0.

Approval of Minutes – September 9, 2021

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

CONSENT AGENDA

1. Certifications - Staff Recommended.

BROWARD SHERIFF'S OFFICE FIRE RESCUE
MARTINEZ, RUBEN, FIRE INSPECTOR

CITY OF CORAL SPRINGS
ROTGER, JOSE M., ELECTRICAL INSPECTOR (TEMPORARY 120-DAY)

CITY OF DEERFIELD BEACH
BUNDY, DAVID E., CHIEF PLUMBING INSPECTOR

CITY OF HALLANDALE BEACH
RANSOM-JACKSON, SHELLIE, BUILDING OFFICIAL

TOWN OF LAUDERDALE-BY-THE-SEA

LETO, PETER, JR., CHIEF STRUCTURAL INSPECTOR

CITY OF OAKLAND PARK

VILLADA, PEDRO G., CHIEF STRUCTURAL INSPECTOR

CITY OF PEMBROKE PINES

PIZZILLO, STEPHEN J., BUILDING OFFICIAL

KROPP, GEORGE W., CHIEF ELECTRICAL INSPECTOR

COUNTYWIDE

BARRERA, MANUEL R., MECHANICAL PLANS EXAMINER

FRANCIS, STEPHEN, STRUCTURAL INSPECTOR

PETERS, MICHAEL S., JR., STRUCTURAL PLANS EXAMINER (LIMITED)

PERLMUTTER, TODD, ELECTRICAL INSPECTOR

PIZZILLO, STEPHEN, STRUCTURAL INSPECTOR

PUTONTI, RICHARD, STRUCTURAL INSPECTOR

RANSOM-JACKSON, SHELLIE, STRUCTURAL INSPECTOR

RANSOM-JACKSON, SHELLIE, STRUCTURAL PLANS EXAMINER

Mr. Kamm made a motion and Ms. Giles-Nelson seconded the motion to approve the certifications as recommended. The motion carried by unanimous vote of 13-0.

REGULAR AGENDA

2. **Proposed Formal Interpretation #29 “Requirement for concrete mix and protection of reinforcement to be used in buildings and structures to be constructed in corrosive environments.”**

a. Staff Report

Chairman Lavrich indicated during the Mayor’s Committee meeting one issue discussed was deterioration of concrete as a result of being exposed to harsh environments. He detailed how this is addressed in the building code by reference to ACI318. In order for it to be clear that this is a requirement, he suggested to the mayor that a formal interpretation be adopted.

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

Mr. Ulmer made a motion and Mr. Famularo seconded the motion to approve formal interpretation as recommended. The motion carried by unanimous vote of 13-0.

3. **Proposed Board of Rules and Appeals Emergency Responder Communications Enhancement Systems (ECRES) Guidelines for the 7th Edition (2020) of the Florida Building Code**

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

Mr. Rice advised that this is an update to the guidelines coming forward from the BDA Committee. He went on to mention how the guidelines were vetted.

- b. Board Questions

Mr. Rice responded to Mr. Bailey's question, indicating it is essentially a checklist for the building departments and contractor. There are cross-references to the code.

- c. Board Action

Mr. Zackria made a motion and Mr. Falkanger seconded the motion to approve the guidelines as recommended. The motion carried by unanimous vote of 13-0.

4. **Local Amendments for 1st 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 at this time there is no definition in the code for "Appointing Authority". Miami-Dade County Board of Rules and Appeals is proposing the same definition language.

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

Mr. Kamm made a motion and Mr. Pellecer seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

5. **Local Amendments for 1st 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 the building code. There is no change to the language.

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

Mr. Ulmer made a motion and Mr. Falkanger seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

6. **Local Amendments for 1st 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 all amendments are filed with the State of Florida and posted on their website. He wanted the Board to be aware of anything being changed that was previously adopted by the Board, even though it is simply a typographical error.

b. Board Questions – none

c. Board Action

Mr. Rice made a motion and Mr. Rourke seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

7. **Local Amendments for 1st 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 this is a new State law, and the recommendation is to include it in the code for continuity. He elaborated upon the history of this topic where building officials were given another tool to make sure accurate project cost for the permit application fee was provided by the contractor. Recently, the State enacted a law prohibiting building departments from requesting copies of contracts. Therefore, this contracts option is being removed from the code.

b. Board Questions

In response to Mr. Burr, Mr. DiPietro agreed to have staff bring this change to the attention of the building departments during their field rounds.

Ms. Giles-Nelson noticed a typographical error in the subsection; it should be 109.3.1.

c. Board Action

Mr. Burr made a motion and Ms. Giles-Nelson seconded the motion to approve the amendment on first reading as recommended with the amendment of subsection 109.3.1 and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

8. **Local Amendments for 1st 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...” The language was amended as shown, eliminating that phrase. There is no deviation from the intent.

b. Board Questions – none

c. Board Action

Ms. Giles-Nelson made a motion and Mr. Famularo seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

9. **Updates Concerning the 40-Year Building Safety Inspection Program – 2019, 2020 and 2021 Audits**

a. Staff Report

Mr. James DiPietro, Administrative Director, noted that more cities have been added as reflected in the backup on Pages 7 and 8. Since the disaster of Champlain Towers, staff has been conducting audits and the cities have been catching up on mailing of notice letters. He noted a couple examples of improvement in the number of reported permits for repairs issued. Many thousands of notice letters have gone out in recent weeks. Excluding those cities that do not have any eligible buildings, for 2019 all cities have sent out 99% of the inspection reports. For 2020 all of the cities have complied. For 2021 that was mailed out to the cities in July, there is one city that has not sent anything out and another has completed about 50%. There is information also in the backup where staff has collected names from cities for a single point of contact on the Building Safety Inspection Program. Going forward, he recommends training and improving communications. Classes are conducted every two years for the two-year recertification cycles. He proposed that at a minimum a class be conducted for this program as well with the possibility of making it mandatory for all structural and electrical chiefs. A recommendation on training will be forthcoming. For 2019, 2020 and 2021, the next administrative push would be to send out surveys toward the end of the year and monitor that the reports are being submitted.

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

The update was received.

10. **Broward County Condominium Structural Issues Committee (County Staff Summary of the actions taken by Mayor Geller's committee)**

a. Staff Report

Chairman Lavrich indicated that he was a member of this Committee that was put together by Mayor Geller. It met on four occasions for a total of 27 hours. Most of the recommendations have to do with issues other than the Building Safety Inspection Program specifically relating to the management and operation of condominiums and issues where the Florida Legislature may have control. The Committee's recommendations will be presented to the Legislature for their consideration. He felt the report should address all buildings not just condominiums. When the report on what happened at Champlain Towers is available, the Board will know more of what action needs to take place. He noted that the Hurricane Advisory Committee of the Florida Building Commission is developing an inspection program for use throughout the state. Until it is known what caused the collapse, it is difficult to know what if any changes need to be made.

b. Board Questions

Mr. Wolfson asked whether Broward County is recommending any changes or are they waiting for the State to do so. Chairman Lavrich advised that the vast majority of recommendations do not have anything to do with the Board of Rules and Appeals and for the ones that do, they are being pointed at the State. Up to this point, the Board has wanted to know the cause of the collapse before starting to make any changes. Chairman Lavrich contended that one needs to know the cause before deciding on a remedy. In a slip and fall situation, Ms. Wolfson thought all remedies should be taken until the cause is known. Chairman Lavrich believed it has been the consensus of the Board to wait and see and not make knee-jerk reactions. There will be a financial impact for whatever is done. Ms. Giles-Nelson concurred with Chairman Lavrich's position. Of course, nothing is ever perfect, but the cause needs to be known before tearing down the existing program. If the code is implemented, even with its faults, a lot of things can be caught. She believed that 95% want to do the right thing. Mr. Rice noted that the focus is to determine the cause and the Board of Rules and Appeals is not involved in that process. The Board has to wait for the cause

report. Mr. Burr credited the staff for their follow-up concerning the program status by each city. He agreed with Chairman Lavrich and believed it has been handled correctly.

Chairman Lavrich clarified that the program is an oversight and not the program to cause the repairs to take place. The individual building owners have that responsibility. The Building Safety Inspection Program is to monitor to determine if maintenance issues are being addressed. The vast majority of buildings are addressing maintenance issues continuously.

c. Board Action – no action required

11. **Miami-Dade County BORA Structural Committee and BORA Committee Actions**

a. Staff Report

Mr. James DiPietro, Administrative Director, indicated in Broward County actions taken by the Board of Rules and Appeals become law whereas in Miami-Dade County the Board of Rules and Appeals is advisory to the Miami-Dade County Commission.

Mr. Jaime Gascon of Miami-Dade County Board of Rules and Appeals advised that the report in the backup is a list of recommendations to the Miami-Dade County Commission.

b. Board Questions

Chairman Lavrich noted that the recommendation to move from 40 to 30 years came from Engineer John Pistorino (hired to study why Champlain Towers collapsed). He questioned making such a change without knowing why the collapse occurred. In response to Chairman Lavrich, Mr. Gascon advised that the existing requirements explain what to do if one was to report early. In the case of a report filed at age 20, a response would be due at 40, not 30. With a change to 30 years, there will be a large swath of buildings 32, 35, 37 years of age that will have to have the reports in accordance with whatever grace period is established. If one submits a report at age 32, the jurisdiction will need to follow up in ten years, age 42. In order to avoid such a hodge-podge of varying years that deviate from the driving database, that of the property appraiser, the recommendation for one example that is submitted at age 32, the next report would be at age 40. Chairman Lavrich asked what the case would be if a report was submitted at age 28 under the 30-year program. Mr. Gascon indicated that the example is not happening; it is either on time or late. The intent of the change is to primarily capture all of the ten years of data. Mr. Gascon responded to Mr. Ulmer, indicating a change to 30 years would be accomplished with a public hearing and two readings.

c. Board Action – no action required

12. **Consideration of Maximum Merit Pay Salary Adjustments for BORA Employees (Effective October 3, 2022)**

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, commented that the County's model is 4% for pay adjustments. If one would exceed the pay range, that employee would receive all or a portion of the 4% as cash. The County is changing their pay ranges by 3%. He noted that the cost of living has increased 5.3% based on Bureau of Statistics nationwide. The fact that the County model is a little lower than the cost of living increase influenced his decision to

request the Board's permission for the three lowest paid employees in the BORA organization. He felt that sometimes, depending on the money, it can be accomplished administratively and other times it is important that the Board make a policy decision. For the lowest paid employees, he recommends up to 5.3% maximum. Also, for the two newest and lowest paid code compliance officers, he recommends 5%. Generally speaking, when a salary is over a hundred thousand dollars, the cost-of-living factor is not the same as it is for someone earning \$52,000, for example. There are two people at the top of their range, therefore with the full 4%, they would receive 3% in their salary and 1% in cash. There is also a Board-voted longevity program where employees at 10, 15, 17 years may be considered for a 2% cash bonus on their anniversary dates.

b. Board Questions

Ms. Giles-Nelson questioned the title referencing merit and whether merit could be separated from cost of living. Mr. DiPietro agreed it could be separated. In past years, the combination would exceed cost of living. This is not normal. Ms. Giles-Nelson asked about exceeding the County's model. Mr. DiPietro felt the recommendation is on sound ground because it is funded in the budget. However, because he is sensitive to political considerations, he felt it should be presented to the Board. He did not think the Board could be criticized for 5.3% for the three lowest paid employees, but because it is only an opinion which could be disputed. There is protection in the fact that the highest-paid employees will receive 4%. Ms. Giles-Nelson indicated that she still has some problem with the wording however this has been the model for years and as such she has no problem moving forward. Mr. DiPietro indicated the recommendation was meant to be middle of the road.

c. Board Action

Mr. Kamm made a motion and Ms. Giles-Nelson seconded the motion to approve the salary adjustments as recommended. The motion carried by unanimous vote of 13-0.

During discussion of the above motion, Mr. Pellecer asked about past practice and Mr. DiPietro provided some history on past practice. In response to Mr. Zackria, Mr. DiPietro explained why some employees would receive 1% in cash and the remainder in salary.

13. **Annual Leadership Performance Review for Administrative Director, Pay Adjustment and Separate Longevity/Merit Bonus**

a. Request of Administrative Director

Mr. James DiPietro, Administrative Director, referred to information provided in the agenda backup and asked the Board to consider him as other County employees, that being 4%. He would also be participating in the Board's longevity program on his anniversary in January for an additional 2%.

b. Board Questions – none

c. Board Action

Mr. Zackria made a motion and Ms. Falkanger seconded the motion to approve the pay adjustment and longevity/merit bonus as recommended. The motion carried by unanimous vote of 13-0.

During discussion of the above motion, Mr. Zackria commended Mr. DiPietro on his excellent performance.

14. **Director's Report**

- a. Broward County Board of Rules and Appeals Small Cities e-Permitting Grant Program Updates

Mr. James DiPietro, Administrative Director, advised that this program was adopted by the Board and subsequently by the Broward County Board of Commissioners and has been renewed this year as well. He recognized the recipient cities: Cooper City, Dania Beach, Lauderdale-By-The-Sea, North Lauderdale, Pembroke Park, Southwest Ranches and West Park. The grants range from \$6,000 to \$7,500 generally for equipment.

15. **Attorney's Report**

With respect to Agenda Item 8 (corrected to Agenda Item 7), concerning building departments being able to secure copies of contracts between the contractor and the owner, Mr. Charles Kramer, Board Attorney, noted his previous legal opinion on June 17, 2020, as to why this is not permissible except if there is a reasonable belief by the building official that the estimated amount for a permit application is grossly under-bid so as to raise a red flag that something is being done to avoid paying permit fees.

16. **Committee Report** - none

17. **General Board Member Discussion**

Ms. Wolfson asked when the Board would be moving from Zoom meetings and returning to meeting in person. Chairman Lavrich advised that discussions have been to continue meeting on Zoom because of the savings, efficiency and advantages for the public in general.

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

19. **Adjournment**

There being no further business, the meeting adjourned at 8:35 p.m.



Daniel Lavrich, P.E. - Chair