

MINUTES OF THE MEETING

BUILDING CODE ADMINISTRATORS AND INSPECTORS BOARD HOMWOOD SUITES 8745 INTERNATIONAL DRIVE ORLANDO, FL 32819 OCTOBER 13 - 16, 2009

October 13, 2009 - 9:00 A.M.

APPLICATION REVIEW COMMITTEE

CALL TO ORDER

Mr. Sasso, Chair of the committee, called the meeting to order at 9:10 a.m.

Members Present

Nick Sasso, Chair
Bob Kymalainen
Bob McCormick

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Grant McJunkin
Allen Johnson
Michael Rada
Wayne Smith
Phillip Russo
Anthony Sapuppo
David Liming
Timothy Johnson
T. Scott Davis

DISCUSSION OF RESTRICTION OF ALL FUTURE PROVISIONAL CERTIFICATIONS TO BE VALID ONLY IN JURISDICTION WHERE APPLICANT IS EMPLOYED AT TIME OF APPLICATION – BOB MCCORMICK

Mr. McCormick explained the reasons for the provisional license and discussed limiting the license to the jurisdiction of the place of employment at the time of the application. He stated that he would like for the committee to discuss the rule that allows them to limit the license, and propose a recommendation to the board to consider this same issue.

Mr. Kymalainen stated that he liked the idea as they have put restrictions on some of the licenses they have previously approved. He stated that he thought the original intent was for the license to be for the original jurisdiction only.

Mr. Sasso commented that he wanted the committee to continue to review the applications in the same way, and that this would need to go before the board to see if they agree. He stated that he researched the way other states handle this type of license and that three years is excessive for someone not to take the test. Mr. Sasso stated that if someone could not pass the test in a year, he did not want that person working in the field. He suggested that they initiate a legislative change to change the length of a provisional certificate to one to five years rather than the current three to five years.

The committee agreed to discuss this issue with the full board.

REVIEW OF APPLICATIONS

Grant McJunkin – Provisional Building Plans Examiner, Provisional Mechanical Plans Examiner, Provisional Plumbing Plans Examiner, Provisional Electrical Plans Examiner

Mr. McJunkin was present at the meeting and discussed his application with the committee. Following discussion, the committee approved the applications.

Phillip A. Russo – Building Inspector

Mr. Russo was present at the meeting and discussed his application with the committee. Following discussion, the committee approved the application.

Timothy Johnson – Provisional Building Code Administrator

Mr. Johnson was present at the meeting and discussed his application with the committee. Following discussion, the committee approved the application, however, it was limited to the City of Orlando.

Michael Rada – Building Code Administrator

Mr. Rada was present at the meeting and discussed his application with the committee. Following discussion, the committee approved the application.

David Liming – Building Code Administrator

Mr. Liming was present at the meeting and discussed his application with the committee. Following discussion, the committee approved the application.

Anthony D. Sapuppo – Provisional Plumbing Inspector and Provisional Plumbing Plans Examiner

Mr. Sapuppo was present at the meeting and discussed his applications with the committee. Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee uphold the denial of the applications as originally stated.

SECONDED: Mr. Kymalainen seconded the motion and it passed unanimously.

At this time, the committee continued to review applications.

RECONSIDERATION OF APPLICATIONS

Mr. Dennis asked the committee to reconsider the application of Bruce Cannon for 1&2 family plans examiner. He stated that it was denied because of experience, however, it should have been because he does not meet the requirements.

Mr. Sasso read into the record the names, types of applications, and the reasons for denial:

Berko, Joseph – 1&2 family dwelling inspector – lack of experience; Bures, Brett – provisional plumbing inspector, provisional mechanical inspector – lack of experience; Cavender, Jerry Lee – building inspector – lack of experience; Deatherage, Robert Allen – provisional building code administrator – already a building official in the jurisdiction; Diaz, Charles Michael – 1&2 family dwelling plans examiner – lack of experience; Dominguez, Pedro Manuel – plumbing plans examiner, plumbing inspector – lack of experience; Glynn Thomas Michael – electrical inspector – lack of experience; Grebe, Charles – coastal construction inspector – lack of experience; Hamberger, Robert F. – plumbing plans examiner, mechanical plans examiner, mechanical inspector, plumbing inspector – lack of experience; Hamrick, Howard Lane – 1&2 family dwelling inspector – lack of experience; Heiney, Russell E. – building code administrator – no equivalent examination; Hill, Robert Dean – plumbing inspector, plumbing plans examiner – lack of experience; Ivey, Christopher Alan – building inspector – lack of experience; Jimenez, Jorge G. – 1&2 family dwelling inspector, roofing inspector, mechanical inspector, plumbing inspector, electrical inspector – lack of experience; Jurgens, Timothy Andrew – plumbing inspector – lack of experience; Kane, Robert Emmett – provisional mechanical inspector, provisional electrical inspector – lack of experience and not newly hired or promoted into the position; Kishore, Lachandai A. – building inspector – lack of experience; Krill, Michael Ray – electrical inspector – lack of experience; Luedtke, Tisha Marie – mechanical inspector – lack of experience; Mills, John F. – commercial pool inspector, 1&2 family dwelling plans examiner, residential pool inspector – does not meet requirements; Morgan, John Solomon, Sr. – plumbing inspector – lack of experience; Phillips, George Michael – electrical inspector – lack of experience; Ritter, Robert Daniel – 1&2 family dwelling inspector – lack of experience; Samuels, Tracy Wayne – roofing inspector – does not meet requirements; Seaman, George Runyan – building inspector – lack of experience; Shaw, Christopher Lee – building inspector – lack of experience; Spangle, Charles Gene – building inspector, provisional building inspector – lack of experience; Testa, Nancy J – provisional building plans examiner – lack of experience; Victores, Julio – building inspector – lack of experience; Willis, Henry Lorand – building code administrator – lack of experience; Wolfe, Harold D. – mechanical inspector, plumbing inspector, plumbing plans examiner, mechanical plans

examiner, electrical plans examiner – lack of experience and no evidence of passing score.

RECESS

There being no further business to come before the committee at this time, the meeting was recessed at 4:37 p.m.

October 14, 2009 - 9:00 A.M.

APPLICATION REVIEW COMMITTEE

CALL TO ORDER

Mr. Sasso, Chair of the committee, called the meeting to order at 9:06 a.m.

Members Present

Nick Sasso, Chair
Bob Kymalainen
Bob McCormick

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Khani Burger
Daniel Divan
Carlos Fernandez
Dale Heberling
Matthew Holsombach
John C. Oliviera
Dan Dunham
John Steitz
Patrick Taylor
Scott Wallingford
Diana Garcia, Court Reporter

HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT (RESPONDENTS HAVE THE OPTION OF APPEARING ON OCTOBER 14 BEFORE THE APPLICATION REVIEW COMMITTEE OR OCTOBER 15 BEFORE THE FULL BOARD.)

Khani Burgher – Provisional Plumbing Inspector

Mr. Burgher was present at the meeting and was sworn in by the court reporter. Additional information had been submitted for the committee's consideration.

Following discussion, the following action was taken.

MOTION: Mr. Sasso made a motion that the committee uphold the denial as originally stated.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

Daniel Divan – Building Code Administrator

Mr. Divan was present at the meeting and was sworn in by the court reporter. Mr. Dennis stated that there had been contact from attorneys representing Mr. Divan and indicated that they wanted to be present at the full board meeting on Thursday. Mr. Divan said they are no longer representing him. Mr. Divan stated that he holds a contractor's license, however, on his affidavit he listed his inspector's license number by mistake. It was indicated that he put his building inspector's license on the affidavit rather than the contractor's license.

Following discussion, Mr. Sasso stated that the committee would table this until Thursday's meeting to allow Mr. Divan time to submit additional information.

Carlos E. Fernandez – Building Plans Examiner

Mr. Fernandez was present at the meeting and was sworn in by the court reporter. Additional information had been submitted for the committee's consideration.

Following discussion, the following action was taken.

MOTION: Mr. Sasso made a motion that the committee uphold the denial as originally stated.

SECOND: Mr. McCormick seconded the motion which passed with Mr. Kymalainen voting against the motion.

Dale Vernon Heberling – Building Inspector, Plumbing Inspector, Mechanical Inspector, 1&2 Family Dwelling Inspector

Mr. Heberling was present at the meeting and was sworn in by the court reporter. Additional information was provided at the meeting for the committee's review.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee uphold the denial of the plumbing inspector and mechanical inspector applications for the reasons originally stated.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee uphold the denial of the building inspector and 1&2 family dwelling inspector applications for the reasons originally stated.

SECOND: The motion died for lack of a second.

Following discussion, the following action was taken.

MOTION: Mr. Sasso made a motion that the committee uphold the denial of the 1&2 family dwelling inspector application for the reasons originally stated.

SECOND: Mr. McCormick seconded the motion which passed with Mr. Kymalainen voting against the motion.

MOTION: Mr. McCormick made a motion that the committee approve the building inspector application.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

Matthew Scott Holsombach – Plumbing Inspector

Mr. Holsombach was present at the meeting and was sworn in by the court reporter.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee uphold the denial as originally stated.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

John C. Oliviera – Building Inspector

Mr. Oliviera was present at the meeting and was sworn in by the court reporter. Mr. Dan Dunham was also present at the meeting and was sworn in by the court reporter. Additional information was provided at the meeting for the committee's consideration.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee approve the application based on the additional information submitted.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

Patrick Taylor – Provisional Building Code Administrator

Mr. Taylor was present at the meeting and was sworn in by the court reporter. Additional information was provided at the meeting for the committee's consideration.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee approve the application with the additional information submitted and the license be restricted to Suwannee County.

SECOND: Mr. Kymalainen seconded the motion, and it passed unanimously.

Scott Wallingford – Building Inspector

Mr. Wallingford was present at the meeting, and was sworn in by the court reporter. Additional information was provided at the meeting for the committee’s consideration.

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee approve the application based on the additional information provided.

SECOND: Mr. Kymalainen seconded the motion and it passed unanimously.

OLD BUSINESS

There was no old business to come before the committee at this time.

NEW BUSINESS

There was no new business to come before the committee at this time.

ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 11:26 a.m.

October 15, 2009 – 9:00 A.M.

BOARD MEETING

CALL TO ORDER

Chair McCormick called the meeting to order at 9:05 a.m.

Members Present

- Bob McCormick, Chair
- Nick Sasso, Vice-Chair
- Gerry Demers
- Fred Dudley
- Dennis Franklin
- Richard Gathright
- Bob Kymalainen
- Orlando Lamas

Others Present

- Robyn Barineau, Executive Director
- Elise Rice, Government Analyst
- Tim Dennis, Board Counsel
- Libby Duffy, Prosecuting Attorney
- Philip Mastro Simone
- Steven Kirker
- Brad Carter

Michael Padron
Mathew McDonald
Perry Stites
Doug Harvey
Jane Waddel
Joe Rebuck
Bruce Lynan
Mike Creel
Tim Moore
Casey Landry
Neil Burdick
Diana Garcia, Court Reporter

**HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT
(RESPONDENTS HAVE THE OPTION OF APPEARING ON OCTOBER 14 BEFORE
THE APPLICATION REVIEW COMMITTEE OR OCTOBER 15 BEFORE THE FULL
BOARD.)**

Daniel Divan – Building Code Administrator

Chair McCormick informed the board that this matter was heard yesterday by the Application Review Committee. He stated that additional information was required regarding Mr. Divan's supervisory experience, and the Application Review Committee will only take action on this application. Mr. Divan provided a supervisory experience affidavit for the committee's review.

MOTION: Mr. McCormick made a motion that the committee approve the application based on the additional information submitted.

SECOND: Mr. Sasso seconded the motion, and it passed unanimously.

Daniel Garretson Hill – Building Inspector

Chair McCormick stated that this was continued to the December meeting.

Steven Kirker – Provisional Building Code Administrator

Mr. Kirker was present at the meeting and was sworn in by the court reporter. Vice-Chair Sasso stated that he was recusing himself from this matter. Additional information was provided at the meeting for the board's review.

Following discussion, the following action was taken.

MOTION: Mr. Franklin made a motion to uphold the denial as originally stated.

SECOND: Mr. Dudley seconded the motion, and it passed unanimously.

Mr. Franklin suggested that this be investigated as a result of what was heard at the meeting to confirm that they are complying with the statutory requirements. Mr. Dennis

commented that it will have to be determined if this is an individual complaint or a full board complaint.

Vice-Chair Sasso stated that if something happened at a meeting then they could have staff start the process where it was not one specific member that was the complainant. If not, he asked if a particular member would then have to recuse themselves from the matter. Mr. Dennis responded that the department has been revisiting this process, and he would find out how they are to proceed in this type of matter.

Mr. Brad Carter, County Manager of Bradford County, was present and spoke. He asked for assistance to help them get in compliance. Mr. Dudley suggested that he consult with the county attorney.

Michael Angel Padron – Provisional Building Inspector

Mr. Padron was present at the meeting and was sworn in by the court reporter. Additional information was provided at the meeting for the board's consideration.

MOTION: Mr. Dudley made a motion that the board approve the application based on the additional information submitted.

SECOND: Mr. Franklin seconded the motion, and it passed unanimously.

John Steitz – Building Inspector

Mr. Steitz was present at the meeting and was sworn in by the court reporter. Additional information was provided at the meeting for the board's consideration.

Following discussion, the following action was taken.

MOTION: Mr. Franklin made a motion that the board approve the application based on the additional information submitted

SECOND: Mr. Dudley seconded the motion, and it passed with Vice-Chair Sasso voting against the motion.

HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT – CONTINUING EDUCATION

Building Inspection Division/Pasco County

Mr. Tim Moore was present at the meeting on behalf of the provider and was sworn in by the court reporter. Additional information was provided for the board's review for the course "Inspector Liability and Ethics in a Litigious World."

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board approve the course with the additional information provided.

SECOND: Mr. Gathright seconded the motion and it passed unanimously.

Additional information was provided for the course "Ethics in Government Agencies."

MOTION: Mr. Demers made a motion that the board approve the course with the additional information provided.

SECOND: Mr. Dudley seconded the motion and it passed unanimously.

Electrical Council of Florida

Ms. Casey Landry and Mr. Neil Burdick were present at the meeting and were sworn in by the court reporter.

Mr. Dennis informed the board that the course entitled "Overview of Chapter 468, Part XII, Florida Statutes" was approved subject to verification to the board that the instructors are qualified. Chair McCormick stated that there was concern with the instructors who did not have inspection industry experience. He stated that this was consistent throughout the courses that were submitted.

Mr. Dennis stated that it appears that Mr. Burdick is the only instructor that meets the requirements.

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board uphold the original intent to approve with conditions with only Mr. Burdick qualified to instruct for the 2 hours laws and rules course, Overview of Chapter 468, Part XII, F.S.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board uphold the denial of the course "Overview of Chapter 468.621 and 468.619, Part XII, F.S." as originally stated.

SECOND: Mr. Gathright seconded the motion and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board uphold the denial of the course "Overview of Florida's Laws on Ethics" as originally stated.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Mr. Demers made a motion that the board approve the course "Fair Housing Accessibility Guidelines" with Mr. Burdick as the instructor.

SECOND: Mr. Franklin seconded the motion, and it passed with Mr. Kymalainen voting against the motion.

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board reconsider the vote to uphold the denial on "Overview of Florida's Laws on Ethics" course and "Overview of Chapter 468.621 and 468.619, Part XII, Florida Statutes."

SECOND: Mr. Franklin seconded the motion, and it passed unanimously.

MOTION: Mr. Franklin made a motion that the board continue the hearing on "Overview of Florida's Laws on Ethics" course and "Overview of Chapter 468.621 and 468.619, Part XII, Florida Statutes" to the December meeting to give the provider an opportunity to address the deficiencies.

SECOND: Mr. Dudley seconded the motion, and it passed unanimously.

INFORMAL HEARINGS

Mathew S. McDonald, DBPR Case No. 2008-061013

Mr. McDonald was present at the meeting and was sworn in by the court reporter. Ms. Duffy presented the facts in the case and stated that the penalty range in this case was \$1,500 per count for a total of \$3,000, and costs \$993.03.

MOTION: Mr. Dudley made a motion that the board accept the Findings of Fact as outlined in the Administrative Complaint in this case.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Mr. Dudley made a motion that the board accept the Conclusions of Law for Count I and Count II as outlined in the Administrative Complaint in this case.

SECOND: Mr. Lamas seconded the motion, and it passed with Mr. Demers and Mr. Franklin voting against the motion.

Following discussion, the following action was taken.

MOTION: Mr. Franklin made a motion that the board impose an administrative fine of \$100, and costs of \$993.03.

SECOND: The motion died for lack of a second.

MOTION: Mr. Dudley made a motion that the board accept that the respondent offered mitigation and as a result, pay \$1,500 (fine and costs combined), take seven additional hours of continuing education in laws and rules and building code, come back before the board a year from now, and his

license will be placed on probation for one year. He would attend the October 2010 meeting and inform the board where he works and his employment history for the last year.

SECOND: Vice-Chair Sasso seconded the motion which failed with Mr. Demers, Mr. Gathright, Mr. Franklin, Mr. Kymalainen and Chair McCormick voting against the motion.

MOTION: Mr. Demers made a motion that the board impose costs in the amount of \$999.03, two return visits to the board within the next year Thursday session, six additional hours of continuing education, of which four shall be in laws and rules, and two hours for a building code course specific to Chapter 1.

SECOND: Mr. Dudley seconded the motion which passed with Vice-Chair Sasso and Mr. Lamas voting against the motion.

SETTLEMENT STIPULATIONS

Perry T. Stites, DBPR Case No. 2008-028878

Mr. Dudley recused as he served on the probable cause panel in this matter.

Mr. Stites was present at the meeting and was sworn in by the court reporter.

Ms. Duffy provided the facts in this case and stated that this was a settlement stipulation which called for a fine in the amount of \$1,000, and costs in the amount of \$268.93.

Following discussion, the following action was taken.

MOTION: Vice-Chair Sasso made a motion that the board approve the stipulation as presented.

SECOND: Mr. Kymalainen seconded the motion which passed with Mr. Franklin and Mr. Demers voting against the motion.

PROSECUTING ATTORNEY REPORT – LIBBY DUFFY

Ms. Duffy discussed her report with the board.

Vice-Chair Sasso stated that after the last meeting he asked for copies of the final orders from the meeting, and he thanked staff for providing them. He stated that he wanted to receive them on a regular basis. Chair McCormick responded that they will discuss this later as he was not sure why they need to be provided copies. Vice-Chair Sasso responded that it was a good procedure to review them.

Following discussion, Chair McCormick stated that it was not the sentiment of the members of the board to add this to each meeting agenda. He stated that this information was available to anyone as an individual, but it was not considered board business.

Mr. Dudley asked Ms. Duffy about cases where there is criminal prosecution. Ms. Duffy responded that an individual has to have a conviction to be charged with a crime.

Mr. Dudley asked that this be placed on the December agenda and asked that Ms. April Skilling, Deputy General Counsel, be invited to attend the meeting to discuss prosecuting cases where there are criminal proceedings.

DISCUSSION OF EXPERT WITNESSES USED BY THE OFFICE OF THE GENERAL COUNSEL

Ms. Duffy informed the board that she looks for a broad-base of knowledge and experience, work experience, licenses currently held, writing and analysis skills, and testimony skills when looking for experts. She also cautioned the members about talking with current experts because it could cause problems with any cases currently in process. Mr. Dennis commented that they would not want to jeopardize any cases that might come before the board for discipline.

RECESS

There being no further business to come before the board at this time, the meeting was recessed at 3:29 p.m.

RULES AND LEGISLATION COMMITTEE CALL TO ORDER

Mr. Gathright, Chair of the committee, called the meeting to order at 3:29 p.m.

Members Present

Richard Gathright, Chair
Bob Kymalainen

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Philip Mastrosimone
Doug Harvey
Jane Waddel
Joe Rebuck
Bruce Lynan

LEGISLATIVE REPORT

Mr. Gathright reported that no bills had been filed that dealt with this board at this time, however, he would continue to monitor and report back to the committee.

The committee discussed the surcharge that is collected from the jurisdictions. Mr. Doug Harvey, Building Officials Association of Florida (BOAF), informed the committee that they were working with the Department of Community Affairs (DCA) on this issue and they have found that there is widespread misunderstanding about the surcharge. He stated that they have found that some of the fees are being miscalculated. They are currently working on language for a statutory change. Mr. Harvey stated that when he has a draft of the proposed language, he will bring it back to the board for their review.

Mr. Sasso asked that someone explain the board's funding: surcharge is collected and then it goes to the recovery fund. Ms. Barineau responded that the department is only provided a certain amount of spending authority by the Legislature, no matter how much money is collected. Mr. Dudley stated that they could increase fees but without the authority to spend, the excess remains in the operating account.

RULE DEVELOPMENT WORKSHOP FOR 61G19-6.0036, F.A.C., APPLICATION FOR CERTIFICATION REVIEW PROCEDURE – 1:00 P.M.

The rules workshop was called to order at 1:22 p.m. Mr. Dennis stated that the notice was published in the Administrative Weekly for this workshop. He stated that the rule was reviewed at the last meeting. The ratification list process was also researched and added to the rule draft.

Mr. Dennis provided the background for the rule. Mr. Dudley suggested that "by the board within ten (10) days" be deleted, and at the end of (2) add "if otherwise qualified."

Mr. Dennis informed the members that he would finalize a draft and notice the rule for rule making. He will bring a draft back to the board for review in December. Mr. Dudley stated that it would be faster to go ahead with a notice for rule making. Mr. McCormick commented that they can review the rule at the meeting and make changes then, if necessary.

Ms. Barineau asked if the members felt this rule would have an impact on small businesses.

Mr. Dudley stated that he should be recused because serves on the Small Business Advisory Council.

MOTION: Mr. Franklin made a motion that the board find that this rule change would not have an impact on small businesses.

SECOND: Mr. Kymalainen seconded the motion and it passed unanimously.

The rules workshop was adjourned at 2:13 p.m.

RULES REPORT – TIM DENNIS

Mr. Dennis did not have a report to give at this time.

OLD BUSINESS

There was no old business to come before the committee at this time.

NEW BUSINESS

There was no new business to come before the committee at this time.

ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 4:02 p.m.

EXAMINATION AND CONTINUING EDUCATION COMMITTEE

CALL TO ORDER

Mr. Franklin, Chair of the committee, called the meeting to order at 4:02 p.m. He asked that all of the members of the board participate in the committee meeting.

Members Present

Dennis Franklin, Chair
Gerry Demers
Fred Dudley
Richard Gathright
Bob Kymalainen
Bob McCormick
Orlando Lamas

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Libby Duffy, Prosecuting Attorney
Philip Mastrosimone
Doug Harvey
Jane Waddel
Joe Rebuck
Bruce Lynan
Mike Creel

CONTINUING EDUCATION COURSES FOR REVIEW THE UNIVERSITY OF WEST FLORIDA

New Course

1. Ethics in Construction
Requesting 1 hour ETHICS credit (F-1880, A-1809)

MOTION: Mr. Gathright made a motion that the committee deny this course as it did not contain information regarding Chapter 468, F.S., and little information about Chapter 112, F.S.

SECOND: Mr. McCormick seconded the motion and it passed unanimously.

DEVELOPMENT SERVICES SARASOTA COUNTY

Renewal Courses

1. Building Code Administrators & Inspectors (0007267)
Requesting 1 hour LAWS & RULES credit (F-1492, A-1852)
2. Florida Building Code (0007268)
Requesting 1 hour LAWS & RULES credit (F-1493, A-1851)
3. Contracting (0007266)
Requesting 2 hours LAWS & RULES credit (F-1491, A-1853)

Following discussion, the following action was taken.

MOTION: Mr. McCormick made a motion that the committee approve all three courses as submitted.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

GOLD COAST SCHOOL OF CONSTRUCTION, INC.

New Courses

1. Green Buildings and the Construction Professional - Internet
Requesting 3 hours GENERAL credit (F-1939, A-1901)

MOTION: Mr. Gathright made a motion that the committee approve the course as submitted.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

2. OSHA Safety Basics - Internet
Requesting 1 hour GENERAL credit (F-1901, A-1836)

Following discussion with Mr. Joe Rebeck, the following action was taken.

MOTION: Mr. Gathright made a motion that the committee deny the course as the subject matter was not relevant.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

FASTENING SPECIALISTS, INC.

Renewal Courses

1. Installation & Inspection of Threaded Rod Tie-Down Systems (0007228)
Requesting 2 hours GENERAL credit (F-1433, A-1873)

MOTION: Mr. Gathright made a motion that the committee deny the course as it contained outdated materials.

SECOND: Mr. McCormick seconded the motion.

Following discussion, the motion failed with all members voting against the motion.

Following discussion, the following action was taken.

MOTION: Mr. Gathright made a motion that the committee approve on a conditional basis of an updated outline with appropriate codes being submitted to the department within 30 days of the issuance of the order.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

B.T. BUILDERS, INC.

Renewal Courses

1. Americans with Disabilities Act with the State of Florida Amendments (0006703)
Requesting 2 hours ACCESSIBILITY credit (F-817, A-1900)

2. Americans with Disabilities Act with the State of Florida Amendments (0006704)
Requesting 1 hour ACCESSIBILITY credit (F-816, A-1899)

MOTION: Mr. Gathright made a motion that the committee approve the courses as submitted.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

UNIVERSAL INSPECTION SERVICE, INC.

New Course

1. Ethics Laws in Florida
Requesting 1 hour ETHICS credit (F-1928, A-1876)

MOTION: Mr. Gathright made a motion that the committee deny the course as Chapter 112, F.S., is only referenced.

SECOND: Mr. McCormick seconded the motion.

Mr. Mike Creel was present on behalf of Universal Inspection Service. He stated that Mr. Bo Creel is the inspector that teaches the course. Mr. Dudley stated that Chapter 468, F.S., is not referenced at all, so it has little relationship to this board. Mr. Dennis stated that there is a specific definition regarding the requirements.

There being no further discussion, the motion passed unanimously.

I LEVEL BY WEYERHAEUSER

New Course

1. Wall Solutions

Requesting 3 hours GENERAL credit (F-1927, A-1875)

MOTION: Mr. Gathright made a motion that the committee approve the course as submitted.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

MIAMI-DADE COUNTY BUILDING CODE COMPLIANCE OFFICE

New Course

1. Roofing Changes for the HVHZ in the 2007 Florida Building Code
Requesting 2 hours GENERAL credit (F-1929, A-1889)

MOTION: Mr. Gathright made a motion that the committee approve the course as submitted.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

Renewal Courses

1. Ladders in Construction (0006628)
Requesting 2 hours GENERAL credit (F-750, A-1877)
2. Chapters 2, 3 & 4 Florida Building Code Plumbing (0006631)
Requesting 4 hours GENERAL credit (F-765, A-1878)
3. Chapters 5, 6 & 7 Florida Building Code Plumbing (0006653)
Requesting 3 hours GENERAL credit (F-769, A-1879)
4. Florida Bldg Code-Mechanical, Chapter 3 General Regulations (0006696)
Requesting 1 hour GENERAL credit (F-811, A-1880)
5. Florida Bldg Code-Mechanical, Chapter 4 Ventilation (0006697)
Requesting 1 hour GENERAL credit (F-812, A-1881)
6. Florida Bldg Code-Mechanical, Chapter 5 Exhaust Systems (0006698)
Requesting 1 hour GENERAL credit (F-813, A-1882)
7. Florida Bldg Code-Mechanical, Chapter 6 Duct Systems (0006699)
Requesting 1 hour GENERAL credit (F-814, A-1883)
8. Introduction to the Florida Building Code Gas (0006700)
Requesting 2 hours GENERAL credit (F-839, A-1884)
9. Florida Mechanical Code, Smoke Control (0007254)
Requesting 1 hour GENERAL credit (F-1471, A-1885)
10. Storm Drainage Revised (0007255)
Requesting 2 hours GENERAL credit (F-1472, A-1886)
11. The Florida Building Code/Existing Building (0007256)
Requesting 2 hours GENERAL credit (F-1473, A-1887)
12. The Florida Building Code/Residential
Requesting 2 hours GENERAL credit (F-1474, A-1888)

MOTION: Mr. Gathright made a motion that the committee approve courses #2 through #12 and deny course #1 as it was not relevant.

SECOND: Mr. Dudley seconded the motion, and it passed unanimously.

NEW PROVIDER: BOAF-FHBA CONSTRUCTION TRAINING

New Courses

1. Energy Code Rules
Requesting 3 hours GENERAL credit (F-1940, A-1902)

MOTION: Mr. Gathright made a motion that the committee approve the course as submitted.

SECOND: Mr. McCormick seconded the motion, and it passed unanimously.

2. Advanced Mitigation Retrofits
Requesting 2 hours GENERAL credit (F-1941, A-1903)

Mr. Gathright commented that this course has the word "Advanced" in the title. Mr. Harvey informed the committee that he just received the notification of the approval for this advanced course, and he would send the information to the department.

MOTION: Mr. McCormick made a motion that the committee approve the course as submitted.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

3. Florida Laws and Rules
Requesting 2 hours LAWS & RULES credit (F-1942, A-1904)

Mr. Gathright stated that 15 minutes of this course was dedicated to Chapter 455, F.S., and questioned it being in a course. Mr. Dudley commented that Chapter 455, F.S., actually deals with the department. Mr. Gathright agreed but stated that it was not in the rules for the laws and rules courses.

Mr. Harvey informed the committee that he would amend the course by deleting Chapter 455, F.S., and increasing the time by five minutes on 1, 4 and 5.

MOTION: Mr. McCormick made a motion that the committee approve the course as amended.

SECOND: Mr. Demers seconded the motion, and it passed unanimously.

Mr. Dudley suggested that the Rules Committee review the rules to determine if Chapter 455, F.S., should be included. Mr. Dennis stated that he would open Rule 61G19-9.001, Florida Administrative Code (F.A.C.), Continuing Education for Biennial Renewal, for development at the next meeting.

BUILDING OFFICIALS ASSOCIATION OF FLORIDA (0001001)

New Courses

1. Underground Fire Protection Requirements

- 2. Requesting 3 hours GENERAL credit (F-1933, A-1893)
Understanding Fire Resistant Rated Construction
Requesting 7 hours GENERAL credit (F-1934, A-1894)
- 3. Understanding the Florida Truss Law
Requesting 3 hours GENERAL credit (F-1935, A-1895)
- 4. The Florida Energy Code – Residential Compliance
Requesting 1 hour GENERAL credit (F-1937, A-1897)

MOTION: Mr. McCormick made a motion that the committee approve course #'s1, 2 & 4 as submitted.

SECOND: Mr. Demers seconded the motion which passed with Mr. Dudley, Mr. Sasso, and Mr. Kymalainen voting against the motion.

MOTION: Mr. Gathright made a motion that the committee deny course #3 as it was not relevant.

SECOND: Mr. McCormick seconded the motion which passed with Mr. Franklin and Mr. Demers voting against the motion.

PALM BEACH COUNTY PLANNING, ZONING & BUILDING (0001300)
Renewal Courses

Mr. Gathright stated that he was recused.

- 1. Florida Accessibility for Building Construction (0006938)
Requesting 2 hours ACCESSIBILITY credit (F-1067, A-1870)
- 2. A Snapshot View of the Laws and Rules Pertaining to the Construction Industry in Florida (0006955)
Requesting 2 hours LAWS & RULES credit (F-1088, A-1871)
- 3. Inspection, Evaluation & Documentation for Commercial Cooking Hoods (0006937)
Requesting 2 hours GENERAL credit (F-1066, A-1905)
- 4. Plumbing Code I (0006939)
Requesting 2 hours GENERAL credit (F-1068, A-1906)
- 5. Plumbing Code II (0006940)
Requesting 2 hours GENERAL credit (F-1069, A-1907)
- 6. Plumbing Code III (0006941)
Requesting 2 hours GENERAL credit (F-1070, A-1908)
- 7. Backflow and Cross-Connection (0006942)
Requesting 2 hours GENERAL credit (F-1071, A-1909)
- 8. Residential, Multi-Story & Commercial Sanitary Systems (0006934)
Requesting 2 hours GENERAL credit (F-1072, A-1910)
- 9. Proper Venting & Installation for Sanitary Plumbing (0006933)
Requesting 2 hours GENERAL credit (F-1073, A-1911)
- 10. Air Ducts and Connectors for H.V.A.C. (0006935)
Requesting 2 hours GENERAL credit (F-1074, A-1912)

11. Plumbing Code IV (0006943)
Requesting 2 hours GENERAL credit (F-1079, A-1913)
12. Medical Gas I (0006944)
Requesting 2 hours GENERAL credit (F-1080, A-1914)
13. Medical Gas II (0006946)
Requesting 2 hours GENERAL credit (F-1081, A-1915)
14. Medical Gas III (0006945)
Requesting 2 hours GENERAL credit (F-1082, A-1916)

MOTION: Mr. McCormick made a motion that the committee approve the courses as submitted.

SECOND: Mr. Demers seconded the motion which passed with Mr. Dudley voting against the motion.

OLD BUSINESS

There was no old business to come before the committee at this time.

NEW BUSINESS

Mr. Sasso stated that they needed to take a hard look at continuing education. He stated that most licensees do not know the laws and rules. Mr. Franklin commented that a legislative change would be necessary to increase the number of required hours. Mr. Sasso stated that they could narrow down the laws and rules by requiring an hour for each.

Mr. Franklin asked Mr. Sasso to bring this to the Rules Committee for review at the next meeting

ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 5:11 p.m.

EXECUTIVE COMMITTEE

CALL TO ORDER

Mr. McCormick, Chair of the committee, called the meeting to order at 5:11 p.m.

Members Present

Bob McCormick, Chair
Nick Sasso, Vice-Chair
Gerry Demers
Fred Dudley
Dennis Franklin
Richard Gathright
Bob Kymalainen
Orlando Lamas

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Libby Duffy, Prosecuting Attorney
Philip Mastrosimone
Doug Harvey
Jane Waddel
Joe Rebuck
Bruce Lynan

COPIES OF FINAL ORDERS FROM THE AUGUST, 2009 BOARD MEETING – NICK SASSO

Mr. McCormick stated that these are included in the agenda, and they had discussion earlier to determine if the board wanted them included in future agenda packages. He stated that the tone was they would not be included.

OLD BUSINESS

Mr. Sasso stated that at the last meeting Ms. Skilling made the comment that if board members request orders as an individual, they must pay for them, but if they request as board members for board business, there was no charge.

NEW BUSINESS

There was no new business to come before the committee at this time.

ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 5:20 p.m.

October 16, 2009 - 9:00 A.M.

CALL TO ORDER

Chair McCormick called the meeting to order at 9:00 a.m.

Members Present

Bob McCormick, Chair
Nick Sasso, Vice-Chair
Gerry Demers
Fred Dudley
Dennis Franklin
Richard Gathright
Bob Kymalainen
Orlando Lamas

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Tim Dennis, Board Counsel
Doug Harvey, BOAF
Bruce Lynan

APPROVAL OF THE AUGUST 4 - 7, 2009, MINUTES OF THE MEETING

MOTION: Mr. Franklin made a motion that the board approve the minutes as submitted.

SECOND: Vice-Chair Sasso seconded the motion, and it passed unanimously.

Vice-Chair Sasso asked for further clarification on board members filing complaints which was reported on at the last meeting by Ms. Skilling.

REPORTS

Chair's Report – Bob McCormick

Chair McCormick stated that at the last meeting International Code Council (ICC) had submitted 18 or 20 CEU courses which were in preparation for their annual meeting and the board expressed concern with Florida licensees taking the courses. He stated that he was under the impression that not many Florida attendees take these courses, and to confirm that, he contacted Dr. Rob von Kampen to see if he could research how many attend.

Chair McCormick stated that he received copies of the sign-in sheets. In 2008, there were 10 licensees that took the courses, and in 2007, 45 licensees attended and received credit. He stated that the point he made previously was that the licensees attend the conference for the actual programs and not to receive continuing education credit.

UPDATE ON DISCUSSION WITH CILB REGARDING DISMISSAL OF DISCIPLINARY CASES WHEN A CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED

Chair McCormick informed the board that he was in Tallahassee and met with the prosecuting attorney for the Construction Industry Licensing Board (CILB), Mr. Jeff Kelly, Mr. Tim Vaccaro, Ms. April Skilling, and Ms. Barineau on the issue of closing CILB cases when a certificate of occupancy (CO) has been issued. The department is aware that the board is sensitive to the issue and he expressed the boards concerns. Chair McCormick stated that he was assured that they do not automatically close complaints because a CO has been issued but look at other things. He stated that he thinks CILB is doing what they are advised to do and they know BCAIB is concerned and understands the BCAIB concerns.

Mr. Dudley asked if CILB has an individual that holds more than one license, do they go after all of the licenses. Ms. Barineau informed the board that she will check and see if the license of the individual for another board had a complaint filed.

Mr. Dudley suggested that since the board would be meeting in Tallahassee for the December meeting they should invite Mr. GW Harrell, Mr. Tony Spivey, Ms. Carrie Flynn, and Ms. Juanita Chastain to attend a portion of the meeting.

Chair McCormick reported that home inspectors and mold mediators will have to be licensed, and meetings were held around the state to receive input. He stated that he attended a meeting in Jacksonville regarding the home inspectors. There was discussion on grandfathering, examination, and background checks.

Chair McCormick reported that he attended the Florida Association of Plumbing, Gas, and Mechanical Inspectors (FAPGMI) conference and spoke on the activities of this board and answered questions.

Application Review Committee – Nick Sasso Ratification List

Vice-Chair Sasso reported that the committee reviewed 119 applications of which 51 were denied and 68 were approved.

Chair McCormick informed the board that provisional license limitations was discussed at the committee meeting on Tuesday. He indicated there was support to make the recommendation to the full board. The rule allows the board to attach conditions to the provisional license, which they have done on occasion. No action was taken at this time.

MOTION: Mr. Franklin made a motion that the board approve the actions of the Application Review Committee.

SECOND: Mr. Demers seconded the motion, and it passed unanimously.

MOTION: Mr. Franklin made a motion that the board approve the ratification list as submitted.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

Rules and Legislation Committee – Richard Gathright

Mr. Gathright reported that the committee met there is currently not much legislation filed regarding building code.

Examination and Continuing Education Committee – Dennis Franklin

Mr. Franklin reported that the committee met and reviewed 45 courses of which four were denied and 41 were approved.

MOTION: Mr. Dudley made a motion that the board approve the actions of the committee.

SECOND: Mr. Gathright seconded the motion, and it passed unanimously.

Executive Committee – Bob McCormick, Chair

Chair McCormick reported that the committee met and no action was taken.

Board Counsel – Tim Dennis

Mr. Dennis informed the board that Rule 61G19-5.002, F.A.C., increasing the disciplinary guidelines was effective on September 20, 2009. He stated that he was going to renotice the rule for development as it appeared that some of the first offenses may have been missed in the changes. He reported that Rule 61G19-7.002, F.A.C., the updated course provider application, will be effective on October 28, 2009, and thanked Ms. Rice and the IT staff for getting the forms updated.

Mr. Dennis reported that on September 29, 2009, there was a video telephone conference hearing for the application denial of Mr. Jay Abel. He stated that Chair McCormick appeared as a representative of the board, and he was waiting on the transcript and the recommended order to be received.

Mr. Dennis informed the board that Mr. James Pappalardo has filed a motion to appeal with Fifth District Court regarding his application denial. He discussed the procedures with the board and asked that the board designate Chair McCormick to attend any meeting that the court requested.

MOTION: Mr. Dudley made a motion that Chair McCormick be the board's designated representative at any ordered mediation in the Pappalardo matter.

SECOND: Mr. Demers seconded the motion and it passed unanimously.

MOTION: Mr. Dudley made a motion that in the event Mr. Dennis is not successful in the argument regarding mediation, Chair McCormick be the board's designated representative and that he have the authority to settle the case with mediation.

SECOND: Mr. Demers seconded the motion and it passed unanimously.

Executive Director – Robyn Barineau

Year End Financial Report

Ms. Barineau informed the board that as of June 30, 2009, the board's operating account balance was \$651,070, and the board's unlicensed activity account balance was \$209,687. She stated that she would have the five year projections at the December meeting. Ms. Barineau informed the board that department projections indicate that the board may slip into a deficit in 2011, but she will closely watch their operating account, and keep the board informed.

Complaint Incident Date Update

Ms. Barineau provided the members with a memorandum from Mr. Jerry Wilson indicating that whenever possible they are adding the incident date to complaints. She stated that she invited Mr. Wilson to the December meeting.

Ms. Barineau stated that an e-mail will be going out soon for the December meeting and the review of the principles and practice item bank, which will probably take place on Wednesday afternoon.

Mr. Dennis informed the board that he had long-standing vacation plans and will not be able to attend the December meeting.

ICC Update – Rob von Kampen, Ph.D.

Chair McCormick stated that the report was in the agenda book for informational purposes.

Public Comments

Mr. Bruce Lynan stated that he was present at the meeting to see how the board worked concerning licensing. He stated that he was working with Mr. Doug Harvey in the area of medical gas and continuing education.

Old Business

Chair McCormick commented with respect to board members requesting services from the Office of the General Counsel. They may request information if it is approved board business. However, if they are requesting information individually, they have the right to get whatever information is available but not with board member privileges. He stated that if they have a request, it is go to Ms. Barineau, and she will determine if it is approved board business, and he hopes she will ask for it to be put on an agenda.

Vice-Chair Sasso responded that if they do a public records request, Ms. Skilling stated that it has to go to Ms. Barineau. Chair McCormick responded that if they are not implying board business, then they can do the request the way anyone else does. If you make the request and invoke the name of the board, then it has to go through Ms. Barineau. Vice-Chair Sasso stated that he thought that any requests were was board business. Chair McCormick responded that it had been discussed, and it was not board business.

Chair McCormick commented that everyone is trying to make a living and some have opportunities to get involved in cases that involve the board. If they do, they have to recuse themselves when the case comes before the board. He stated that this compromises their commitment to the board and is not effective. Chair McCormick asked that if they have the opportunity to investigate something that will come before board, they not get involved. Vice-Chair Sasso commented that anything he has done

is because he has seen a news article. He does not do it for a living. He does it for free, and he does initiate many complaints. Chair McCormick responded that he believed that they become an ineffective board member if they do investigations.

NEW BUSINESS

Discussion of Delinquent Fee for License Renewals – \$5 - Nick Sasso

Vice-Chair Sasso stated that he withdrew this agenda item.

Mr. Kymalainen stated that they always make verbal comments about Mr. Dennis, Ms. Barineau, and Ms. Rice, however he would like to see something put in writing to go to each of them. Chair McCormick stated that he would do a letter for each of them and send it to their supervisors.

Mr. Demers stated that he would like to volunteer to be on the Rules and Legislative Committee.

Chair McCormick asked that all members let Ms. Barineau know what committee or committees they would like to serve on or if they want to change committees, and he will consider all requests.

Chair McCormick commented that his mother passed away last month, and he thanked everyone for their support.

ADJOURNMENT

There being no further business to come before the board, the meeting was adjourned at 11:04 a.m.