

RECORD OF PROCEEDINGS

MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1550, DENVER, COLORADO ON THURSDAY, October 1, 2009

The meeting of the Board was publicly noticed according to the Division of Registrations' Policy 80-17.

I MEETING - CALL TO ORDER

Board Chair Thomas B. Fox called the meeting to order at 9:00 a.m.

II RECOGNITION OF MEMBERS PRESENT

Thomas B. Fox	General Contractor, Chair
Steven J. Callahan	Master Plumber, Vice Chair
Donald P. Crandell	Plumbing Contractor, Secretary
Jorge A. Delgado	Ex Officio Member
Janice K. Snidow	Journeyman Plumber
Janine K. Snyder	Plumbing Inspector
Michael K. Trapp	Plumbing Contractor

MEMBERS ABSENT

Robin A. Vidimos	Public Member
------------------	---------------

OTHERS PRESENT

Mark Browne	Program Director
Steve Conrad	Chief Inspector
Daryl Kuiper	Plumbing Inspector Supervisor
Dennis Rhodes	Office of Expedited Settlement
Rebecca A. Connors	Assistant Attorney General
William Schlitter	Investigator, Office of Investigations
Joyce J. Young	Enforcement Unit Supervisor
Marian Zabel	Administrative Assistant

III PREVIOUS BOARD MEETING MINUTES

It was the decision of the Board to approve the minutes of the August 6, 2009, meeting, as amended.

IV REPORTS FOR RATIFICATION

A. Review of Report of Final Agency Actions – July 16, 2009 to September 15, 2009

Stipulations, Final Agency Orders, and Board Orders

- | | |
|---------------------------|---|
| 1. Clint B. Cover, JP | 5. Giltner Built Construction, unlicensed |
| 2. Mark L. Dalton, MP | 6. Mark Eugene Meschelle, AP |
| 3. Robert E. Haines, MP | 7. Trinity Mechanical, Inc., PC |
| 4. Richard L. Shaffer, MP | |

It was the decision of the Board to ratify the report.

B. Felony Audit Progress Report

The Board reviewed the progress reports for the felony audit of October 2007 and October 2008. It was the decision of the Board to ratify the reports.

RECORD OF PROCEEDINGS

V STAFF COMMENTS

New Board Members, Janice K. Snidow and Janine K. Snyder attended their first meeting after being appointed by the Governor on August 4, 2009, to serve terms expiring July 1, 2013. Ms. Snidow holds the journeyman plumber position on the Board. She has 20 years experience in the plumbing industry working on a variety of commercial and governmental projects. She is currently working for U.S. Engineering Company. Ms. Snyder was appointed to hold the plumbing inspection position. She is the Building Official for the Town of Frisco. She holds a board member position with the International Code Council (ICC).

Members Robin A. Vidimos and Steven J. Callahan were reappointed by the Governor to serve second terms.

Program Director Mark Browne stated that apprentice registration/termination forms are available on-line. An Email blast to inform the public of this new process was sent to plumbing contractors and master plumbers.

Inspector Supervisor, Daryl Kuiper updated the Board on the following matters:

- o The 2009 Code Review Committee, staff, and the Board Attorney are ready to present the initial draft of proposed rules for the Board's review.
- o Inspector training classes are continuing to be presented to all state inspectors. Major topics include showers and associated technologies and theories, pipe protection (in-ground and through walls).
- o On September 2, 2009, Chief Inspector Steve Conrad and Mr. Kuiper attended a Fire Team America presentation at Jefferson County regarding residential fire suppression.
- o On September 16, 2009, Mr. Kuiper attended the ASPE meeting on new copper tubing joining methods.
- o On September 17, 2009, Mr. Kuiper attended the CAPMO meeting. Mr. Kuiper presented information concerning the 2012 IPC proposals. Also included was the 2012 Mechanical code proposals (other presenter).
- o Mid-year evaluations of state plumbing inspectors are almost completed. Inspectors have been doing coverage for Inspector Bob Gallegos in lieu of his surgery.
- o The ICC conference in Baltimore will be held in November. Mr. Kuiper will attend as part of the Plumbing Committee.

VI REVIEW OF BOARD BUSINESS

A. Initial Decisions

Subject: Initial Decision Review

Case No.: 2008-003189 – Robert L. Robins, MP #179709

Summary: The Board reviewed the Administrative Law Judge's (ALJ) Initial Decision in the matter of disciplinary action concerning the license of Robert Lee Robins, to practice as a plumber. Mr. Robins did not appear before the ALJ or the Board.

Action: It was the decision of the Board to reject the hearing of oral arguments.

It was the decision of the Board to accept all the Findings of Fact.

It was the decision of the Board to accept all the Conclusions of Law.

It was the consensus of the Board to accept the recommended sanction.

It was the decision of the Board to direct disciplinary counsel to prepare the Final Agency Order by October 15, 2009.

B. Rulemaking

Business: Initial Draft Review

Summary: The Board received a first draft of the proposed adoption, revisions, and repeals to the Colorado Plumbing Board Rules resulting from three informal rulemaking

RECORD OF PROCEEDINGS

committee meetings and amendments by Board staff and the Board Attorney. A further revision of the draft was provided at the meeting.

Action: It was the decision of the Board to take no action.

C. Requests for Variance

The following variance requests were submitted to the Board by September 11, 2009, and in accordance with § 12-58-104.5(4), C.R.S., the Board is authorized to review and approve or disapprove requests for exceptions to the code in unique construction situations where a strict interpretation of the code would result in unreasonable operational conditions or unreasonable economic burdens as long as public safety is not compromised.

Business: Appeal for Denied Variance – Pallante Plumbing and Heating

Summary: Representatives of the Teleski Corporation project and General Counsel attended the meeting to request an appeal to the Board's denial of a variance to section 401.2 and 405.2 of the IPC. This request was to allow the use of an unlisted composting toilet system and supplied water wash urinal at the Teleski Corporation project located at 12100 Camels Garden Road in Telluride, Colorado.

Action: It was the consensus of the Board to grant this request with the following:

Provisions

1. This is a conditional two-year variance for permit #664969.
2. A signed maintenance schedule is to be provided by the property owner meeting or exceeding the Clivus manufacturer's requirements.

Findings of Fact

It is the opinion of the Board that:

1. The unique location, on top of the mountain, makes this fixture a reasonable alternative.
2. Upgrading the existing plumbing system to meet a code-approved installation would result in an unreasonable economic burden.
3. The documentation provided by the manufacturer allays safety and functionality concerns.
4. The proposed installation if properly maintained would not compromise public safety.

Business: Don and Sharon Spencer residence

Summary: Mr. and Mrs. Spencer requested a variance to section 416 of the IPC. This request was to allow the use unlisted glass lavatories at their residence located at 0217 Landen Drive in South Fork, Colorado.

It was the decision of the Board to deny this request with the following:

Findings of Fact

It is the opinion of the Board that:

1. Code and listing requirements have not been met.
2. The chain of reasoning connecting the two series of model numbers is weak.
3. Denying this variance would not result in unreasonable operational condition or an unreasonable economic burden.
4. Granting this variance may compromise public safety.

C. Complaints Review

Subject: Tony Carinci, dba South Fork Propane, Unlicensed / Unregistered

Case No.: 2009-004125

Summary: The Board reviewed the tabled complaint filed against Mr. Carinci, dba South Fork Propane by the Board and Mr. Carinci's response to the complaint. This complaint alleged that Mr. Carinci, dba South Fork Propane failed to properly install the gas

RECORD OF PROCEEDINGS

piping, and failed to obtain the proper gas piping permit for the property located at 29919 W Highway 160 in South fork, Colorado.

Action: It was the decision of the Board to issue a Cease and Desist Order to Tony Carinci, dba South Fork Propane for installing gas piping without obtaining a permit and inspections.

Subject: Aquaflow Water Conditioning, Inc., Unregistered

Case No.: 2009-004316

Summary: The Board reviewed the complaint filed against Aquaflow Water Conditioning, Inc., by the Board and information regarding the company's failure to respond to the complaint. This complaint alleged that the company offered plumbing contracting services without a plumbing contractor registration.

Action: It was the decision of the Board to issue a Cease and Desist Order to Aquaflow Water Conditioning, Inc. for offering to perform plumbing work without the proper registration.

Subject: James Gnaizda, Unlicensed

Case No.: 2009-004316

Summary: The Board reviewed the complaint filed against Mr. Gnaizda by the Board and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Gnaizda provided plumbing services without the proper licensure.

Action: It was the decision of the Board to issue a Cease and Desist Order to James Gnaizda for performing plumbing work without the proper licensure.

Subject: Cobb Mechanical Contractors, PC #1668

Case No.: 2009-004125

Summary: Board member Michael Trapp recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against Cobb Mechanical Contractors by the Board and information regarding the company's failure to respond to the complaint. The complaint alleged that the company failed to register an apprentice with the Board.

Action: It was the consensus of the Board to issue a Letter of Admonition to Cobb Mechanical Contractors for failure to register an apprentice.

Subject: Innovative Concepts & Design LLC, Unregistered

Case No.: 2010-000617

Summary: The Board reviewed the complaint filed against Innovative Concepts & Design LLC by the Board and the response provided by the company's representative, Robert Seavey. This complaint alleged that the company provided plumbing contracting services without the proper registration.

Action: It was the decision of the Board to issue a Cease and Desist Order to Innovative Concepts & Design LLC for performing plumbing work without the proper registration.

Subject: Andrew F. Maillet, JP #286605 (Expired 8/31/09)

Case No.: 2009-004289

Summary: The Board reviewed the complaint filed against Mr. Maillet by the Board and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Maillet offered plumbing contracting services without the proper registration.

Action: It was the decision of the Board to refer this matter for discipline.

RECORD OF PROCEEDINGS

Subject: Tony Spade, Unlicensed/Unregistered
Case No.: 2009-000589
Summary: The Board reviewed the complaint filed against Mr. Spade by Paul W. Stetzel and information regarding Mr. Spade's response to the complaint. This complaint alleged that Mr. Spade represented himself as a master plumber and may have failed to obtain a permit when needed.
Action: It was the decision of the Board to issue a Cease and Desist Order to Tony Spade for performing plumbing without the proper licensure.

Subject: Carlos Vasquez, Unlicensed/Unregistered
Case No.: 2010-000151
Summary: The Board reviewed the complaint filed against Mr. Vasquez by Anita Gonzales and information regarding Mr. Vasquez' failure to respond to the complaint. This complaint alleged that Mr. Vasquez offered plumbing services without the proper licensure or registration.
Action: It was the decision of the Board to issue Carlos Vasquez, DBA: Northern Colorado Siding, a Cease and Desist Order for practicing plumbing without the proper licensure or registration.

Subject: Melvin s. Vigil, MP #187446
Case No.: 2010-000604
Summary: The Board reviewed the complaint filed against Mr. Vigil by State Plumbing Inspector, Dennis W. Gardner and the response to the complaint provided by Mr. Vigil's attorney, Michael H. Trujillo, on his behalf. This complaint alleged that Mr. Vigil installed gas heaters in a rural housing development without permits or inspections.
Action: It was the decision of the Board to refer this matter for discipline.

D. Compliance Monitoring

Subject: Compliance with Board Order
Case No.: 2009-004070 Clint P. Cover, Lapsed JP #285359
Summary: The Board reviewed information submitted by Mr. Cover in compliance with the terms of his July 27, 2009, Stipulation and Final Agency Order that he signed with the Board.
Action: It was the decision of the Board that Mr. Cover complied with the Board order.

Based on the information reviewed, it was the decision of the Board to initiate a complaint against Heating & Plumbing Engineers Inc., PC #1536 (John Martin, MP #179121) for employment of a person required to be licensed to install plumbing.

Subject: Compliance with Board Order
Case No.: 2009-001846 Shannon M. DeVore, JP #280713
Summary: The Board reviewed information concerning Mr. DeVore's failure to comply with the terms of his January 16, 2009, Stipulation and Final Agency Order that he signed with the Board. Mr. DeVore is in violation of his Board Order by failing to provide the required reports and failing to respond to the Board's request to do so.
Action: It was the decision of the Board to refer this matter to the Office of Investigations.

Subject: Compliance with Board Order
Case No.: 2007-002347 David E. Schmidt, Jr., JP #289174, MP #189377
Summary: The Board reviewed information concerning Mr. Schmidt, Jr.'s failure to comply with the terms of his April 19, 2007, Stipulation and Final Agency Order that he

RECORD OF PROCEEDINGS

signed with the Board by failing to provide the required reports and failing to respond to the Board's request to do so.

Action: It was the decision of the Board to initiate a complaint against David E. Schmidt, Jr. for violating a Board Order.

Subject: Quarterly Reports Consent Agenda

Summary: The Board reviewed the consent agenda for the quarterly reports submitted through September 11, 2009.

Action: It was the decision of the Board to approve the following quarterly reports:

James A. Beal, AP

Dominic C. Cardenas, MP

Rod M. Craig, MP

Paul D. Kisselbach, MP

Dennis L. Meadows, Jr., JP

Ryan M. Niko, JP

Russell L. Ralston, JP

Joshua A. Ridgway, AP

Melinda R. Schell, JP

The following quarterly reports were pulled from the consent agenda for further review and voted on as noted.

Subject: Michael E. Black, JP #281226, MP # 188008

Action: It was the decision of the Board to accept the report.

Subject: Larry A. Brennan, JP #289179

Action: It was the decision of the Board to accept the report.

Subject: Glen R. Stevens, MP #189474

Action: It was the decision of the Board to accept reports six and seven.

E. Request for Board Consideration

Subject: Mark Mitchell, Denver Plumbers JATC

Summary: The Board reviewed Mr. Mitchell's request that the Board recognize the Denver Plumbers JATC program as having accredited courses that qualify for consideration under Rule 5(c).

Action: It was the decision of the Board to table this matter pending additional information from Mr. Mitchell and Board staff.

F. Request for Re-Affirmation of Minute Order

Business: Board Review of Minute Order concerning Initial Decisions

Summary: The Board reviewed the Minute Order dated March 1, 2007, to allow sufficient time for the Board to review Initial Decisions prior to becoming effective. The Minute Order was updated to include current Board members.

Action: It was the decision of the Board to approve the Minute Order as amended.

VII REVIEW OF APPLICATIONS

Business: Danny J. Boyce, Master Application

Summary: The Board considered Mr. Boyce's application for the master plumber's license and information concerning his failure to respond to the Office of Expedited Settlement Process. Mr. Boyce stated on his application that he is currently on probation.

Action: It was the decision of the Board to deny Mr. Boyce's application to take the master examination.

RECORD OF PROCEEDINGS

Business: Rogelio Corona, Journeyman Application
Summary: The Board reviewed Mr. Corona's application for the journeyman license and information provided by his attorney, Terrence Kelly on his behalf concerning Mr. Corona's use of an alias and his registration as an apprentice. Mr. Corona is requesting credit for work obtained under an incorrect social security number.
Action: It was the decision of the Board to table this matter pending additional information from Mr. Corona's attorney.

Business: James J. Wickersheim, Journeyman Application
Summary: The Board considered Mr. Wickersheim's re-application for the journeyman plumber's license and information concerning his failure to respond to the Office of Expedited Settlement Process. Mr. Wickersheim stated on his application that he is currently on probation.
Action: It was the decision of the Board to deny Mr. Wickersheim's application for the journeyman examination.

VIII EXECUTIVE SESSION

At 3:05 p.m., Board Chair, Tom Fox, moved that the Board enter into executive session for the purpose of discussing disputes that are the subject of pending or imminent court action, discussing specific claims or grievances, or receiving legal advice on specific legal questions, pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II), including discussion with counsel regarding the legal basis for potential disciplinary action, and where warranted, recommend settlement guidance regarding the following matters: William Hatter & Colorado's Best Plumbing and Heating, Dwayne Reed, Andrew Maillot, Melvin Vigil, Report of Investigation for case number 2009-004033; the Case Status Report of the Office of Expedited Settlement; and the Case Status Report of the Office of the Attorney General.

The motion was seconded by Steve Callahan and unanimously carried with seven members in attendance, six voting. At least two-thirds of the entire membership of the Board voted in favor of the motion.

The Board returned to open session at 4:08 p.m.

IX OTHER BUSINESS

A. Report of Investigation

Business: Ethan C. Abbott, dba Yourplumberindenter.com, Unregistered
Handyman in Denver online.com, Unregistered
Good Deal Services, Unregistered
Case No.: 2009-004033
Summary: In executive session, the Board discussed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against Ethan C. Abbott by the Board. This complaint alleged that he advertised on Craigslist to pay a master plumber to obtain permits for his company.
Action: After discussion in executive session, it was the decision of the Board, in open session, to issue a Cease and Desist Order to Ethan C. Abbott dba Yourplumberindenter.com, Handyman in Denver online.com, and Good Deal Services, for offering to contract plumbing services without the proper registration.

B. Request for Board Direction

Subject: William Hatter, AP #4306
Case No.: 2009-004013

RECORD OF PROCEEDINGS

Summary: In executive session, the Board reviewed the Memorandum prepared by the Office of the Attorney General regarding a complaint filed against William Hatter by the Board. This complaint alleged that Mr. Hatter performed plumbing work without the proper licensure and registration.

Action: After discussion in executive session, it was the decision of the Board, in open session, to refer this matter to the Office of Investigations.

X ADJOURNMENT

With all business completed, the meeting was adjourned at 4:30 p.m. The next meeting is scheduled for Thursday, December 3, 2009, at 9:00 a.m.

Approved by: Thomas B. Fox, Chair

Date: December 3, 2009