

# RECORD OF PROCEEDINGS

## **MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, December 4, 2008**

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

### **I MEETING - CALL TO ORDER**

Board Chair Tom Fox called the meeting to order at 9:30 a.m.

### **II RECOGNITION OF MEMBERS PRESENT**

Tom Fox	General Contractor, Chair
Giles Schurman	Building Official, Vice Chair
Steven Callahan	Master Plumber, Secretary
Donald Crandell	Plumbing Contractor
Jorge Delgado	Ex Officio Member
Michael Trapp	Plumbing Contractor
Michael Wieseler	Journeyman Plumber

### **MEMBERS ABSENT**

Robin Vidimos	Public Member
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### **OTHERS PRESENT**

Charles H. Adams	Program Director
Daryl Kuiper	Plumbing Inspector Supervisor
Steve Conrad	Chief Inspector
Dennis Rhodes	Office of Expedited Settlement
Jason Loughman	Assistant Attorney General
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 October 2, 2008, meeting as amended.

### **IV REPORTS FOR RATIFICATION**

#### **A. Review of Report of Final Agency Actions**

##### Citations Issued

1. Matthew S. Husmann, MP (2)

##### Cease and Desist Orders

1. Sean Britton, unlicensed
2. Stuart V. Currier, MP
3. Frank Gonzales, unlicensed
4. Pro-Shed LLC, unlicensed

##### Stipulations

1. Nicholas P. Valenti, AP

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

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### **B. Felony Audit Progress Report**

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

### **V STAFF COMMENTS**

Program Director, Charles H. Adams, updated the Board on the new Program Director position for the Electrical and Plumbing Boards. Four applications were received for this position and interviews were conducted. Currently the position is being held for an undetermined time period due to the state hiring freeze implemented by Governor Ritter.

Dennis Rhodes from the Office of Expedited Settlement was introduced as the new Settlement Specialist assigned to the Electrical and Plumbing Boards.

Inspector Supervisor, Daryl Kuiper stated that the 2009 IPC incorporates a residential fire suppression requirement that will go into effect in 2011. To allow plumbing contractors and designers time to implement this change into their house plans, Mr. Kuiper asked that the Board consider proceeding with the review process for potential code adoption. Board Members Steve Callahan, Don Crandell, and Michael Trapp volunteered to serve on an informal committee in February 2009 to begin reviewing the current code amendments. When the International Code Council (ICC) releases the 2009 IPC the committee will begin code review. The informal committee review team will include industry related persons.

Code change proposals for the 2012 IPC are due to ICC in March 2009. Board Members Don Crandell and Steve Callahan volunteered to work with Daryl Kuiper to develop items to submit to ICC.

Mr. Kuiper stated that he is investigating the possibility of using a new pricing schedule for permits. The current fee schedule is based on the job valuation. An alternative schedule would be based on fixture count (traps, gas outlets, roof drains, etc.)

The 2009 Plumbing Forum will be held on February 6, 2009, at Red Rocks Community College from 1:00 p.m. to 5:00 p.m. A draft of the agenda was provided to Members.

Mr. Kuiper has completed updating his first draft of the State Plumbing Inspector's Policy and Procedure manual.

On October 28 and December 2, 2008 Mr. Kuiper conducted classes for state inspectors on plumbing venting.

Mr. Kuiper is preparing two Power Point classes for the Educational Institute of the Colorado chapter of ICC. The first class will be for newer inspectors on March 3, 2009; and the second class will be presented to more advanced inspectors on March 4, 2009. State inspectors will attend a one-day class at the Institute on March 4, 2009.

Mr. Kuiper stated that he would be willing to provide outreach in any area of the state with a minimum of ten participants, including interested citizens.

State Inspector Bob Scott received a Division Customer Service Award for his inspection coverage and for working overtime.

Daryl Kuiper stated that Rio Grande County is considering leaving the State inspection program.

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## VI REVIEW OF BOARD BUSINESS

### **A. Requests for Variance**

The following variance requests were submitted to the Board by November 14, 2008, 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:** Adams County Schools, Westminster High School  
**Summary:** Nancy Roberts, ME Engineers, Inc. requested a variance to section 412 of the IPC to install Trap Guard devices in lieu of trap primers at Westminster High School.

**Action:** It was the decision of the Board to deny this request with the following:  
Finding of Fact  
1. New construction plumbing shall meet code requirements.

**Business:** Mountain Plumbing & Heating, LLC, Ross Blanchard residence  
**Summary:** Mountain Plumbing & Heating, LLC requested a variance to section 405.3.1 of the IPC to allow 13" toilet clearance in lieu of 15" clearance at the Ross Blanchard residence located at 1251 York in Canon City.

**Action:** It was the decision of the Board to deny this request with the following:  
Finding of Fact  
1. New construction plumbing shall meet code requirements.

**Business:** City of Hayden – John Walden, Peak Mechanical Services  
**Summary:** John Walden, Peak Mechanical Services requested a variance to section 412.1 of the IPC to install unlisted trench drains at the City of Hayden Vo-Tech.

**Action:** It was the consensus of the Board to grant this request with the following:  
Findings of Fact  
1. The information provided by Peak Mechanical Services is sufficient to meet safety and functionality concerns.

**Business:** Douglas County School District, Gold Rush and Clear Sky Elementary Schools  
**Summary:** Douglas County School District requested a variance to section 607.1 of the IPC to allow the installation of classroom sinks with only cold water supply. This variance was denied during the September 4, 2008 meeting. The school district is asking for reconsideration due to the cost factor to retrofit the installation.

**Action:** It was the decision of the Board to deny this request with the following:  
Findings of Fact  
1. The cost impact of meeting the code requirements is not an unreasonable economic burden.  
2. Douglas County School District and its construction advisory staff shall comply with code requirements.

**Business:** Douglas County School District, Cimarron Middle School #9  
**Summary:** Douglas County School District requested a variance to section 310.5 of the IPC to waive the requirement for urinal partitions for all student-accessible multi-fixture toilet rooms in Cimarron Middle School #9.

**Action:** It was the consensus of the Board to deny this request with the following:  
Findings of Fact  
1. The cost impact to meeting code requirements is not an unreasonable economic burden.

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2. Douglas County School District and its construction advisory staff shall comply with code requirements.

**Business:** East Grand School District, Fraser Valley Elementary  
**Summary:** Heidi Shuff of The Neenan Company requested a variance to the section 405.3.2 of the IPC to allow the lavatories associated with the single compartment restrooms within the kindergarten and first grade classrooms of the Fraser Valley Elementary School addition to be located outside of the toilets.  
**Action:** It was the decision of the Board to grant this request with the following:  
Findings of Fact

1. Safety is not an issue in this request.
2. Modification costs would be an unreasonable economic burden.

**Business:** East Grand School District, Granby Elementary  
**Summary:** Heidi Shuff of The Neenan Company requested a variance to the section 405.3.2 of the IPC to allow the lavatories associated with the single compartment restrooms within the pre-school, kindergarten, and first grade classrooms of the Granby Elementary School addition to be located outside of the toilet compartments.  
**Action:** It was the decision of the Board to grant this request with the following:  
Findings of Fact

1. Safety is not an issue in this request.
2. Modification costs would be an unreasonable economic burden.

**Business:** Falcon School District, Falcon High School  
**Summary:** Micheal Gascon of DLR Group requested a variance to section 416.5 of the IPC to waive the ASSE 1070 requirement to install water-tempering valves at the Falcon High School concession stand hand-washing facility.  
**Action:** It was the decision of the Board to grant this request with the following:  
Findings of Fact

1. The original construction permit was issued in 2006 prior to this requirement.
2. The central tempering valve provides an adequate level of safety with minimal risk.

**Business:** Falcon School District, Falcon High School  
**Summary:** Micheal Gascon of DLR Group requested a variance to section 310.5 of the IPC to waive the required urinal partitions at the Falcon High School stadium bathroom.  
**Action:** It was the decision of the Board to grant this request with the following:  
Findings of Fact

1. Safety is not an issue in this request.
2. The partitions are new requirements that were not known by the design and installation team.

**Business:** William K. Fowler Residence  
**Summary:** William K. Fowler requested a variance to section 416 of the IPC to install an unlisted glass lavatory at his residence.  
**Action:** It was the decision of the Board to deny this request with the following:  
Findings of Fact

1. Section 416 of the 2006 IPC requires listing.
2. An unlisted lavatory is a safety issue.

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**Business:** Park School District, Estes Park Middle School  
**Summary:** Mark Acuna of Corporate Plumbing, Inc. requested a variance to section 502.1 of the IPC and section 624.1 of the IFGC to waive the requirement for the water heating unit to be listed to ANSI Z21.10.1 and ANSI Z21.10.3 standards at Estes Park Middle School.

**Action:** It was the decision of the Board to deny this request with the following:  
Finding of fact  
1. Safe water for public use is a priority code issue.

**Business:** Sierra Grande School District, Pre-School Addition  
**Summary:** Mark Pelletier of RTA Architects requested a variance to section 405.3.1 of the IPC to allow the installation of toilet clearance from walls to toilet center to be 12".

**Action:** It was the decision of the Board to deny this request with the following:  
Finding of Fact  
1. Sierra Grande School District and its construction advisors shall comply with code requirements.

**Business:** Victor School District, Cripple Creek High School  
**Summary:** Board Member Michael Trapp recused himself from the discussion and vote on this item and left the room. Olson Plumbing & Heating Company requested a variance to section 417.5.2 of the IPC to waive the requirement of the required shower pan lining at Cripple Creek High School.

**Action:** It was the consensus of the Board to grant this request with the following:  
Findings of Fact  
1. The cost to remove the existing shower pans and install liners per code far outweighs the benefits.  
2. Safety is not compromised  
Provision  
1. This is a one time variance only for Cripple Creek High School.

**Business:** Janet and Terry Walmer Residence  
**Summary:** Janet and Terry Walmer requested a variance to section 416 of the IPC to allow the installation of an unlisted lavatory at their residence.

**Action:** It was the decision of the Board to deny this request with the following:  
Findings of Fact  
1. Section 416 of the 2006 IPC requires listing.  
2. An unlisted lavatory is a safety issue.

### **B. Initial Decision**

**Subject:** William Robert Hanes, JP #279710  
**Case No.:** 2006-003013  
**Summary:** The Board reviewed the Administrative Law Judge's Initial Decision in the matter of disciplinary action against William R. Hanes, JP #279710.

**Action:** It was the decision of the Board to decline consideration of oral arguments; accept all the findings of fact; accept all the conclusions of law; accept the recommended sanction; and direct counsel to prepare the Final Agency Order by February 5, 2009.

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### C. Complaints Review

**Subject:** Giltner Built Construction, Michael Giltner, Unregistered  
**Case No.:** 2009-000793  
**Summary:** Board member Steve Callahan recused himself from discussion and vote on this item and left the room. The Board reviewed Giltner Built Construction's response Attorney Michael G. Sawaya's to the complaint filed against by Steve Callahan. The complaint alleged that Giltner Built Construction offered plumbing contracting services without a Plumbing Contractor registration.  
**Action:** It was the consensus of the Board to issue a Cease and Desist Order to Giltner Built Construction.

**Subject:** John Mills, AP 3296  
**Case No.:** 2009-000599  
**Summary:** The Board reviewed Mr. Mills' response to the complaint filed against him by State Plumbing Inspector Dennis Gardner. This complaint alleged that Mr. Mills was performing plumbing without a license.  
**Action:** It was the decision of the Board to refer this matter for discipline.

**Subject:** Family Plumbing, Inc., Unregistered  
**Case No.:** 2009-000579  
**Summary:** The Board reviewed the complaint filed against Family Plumbing, Inc. by Tony Helms. This complaint alleged that Family Plumbing, Inc. offered plumbing contracting services without a Plumbing Contractor registration. Family Plumbing, Inc. did not respond to the allegations.  
**Action:** It was the decision of the Board to issue a Cease and Desist Order to Family Plumbing, Inc.

It was the decision of the Board to initiate a complaint against Henry Newman, Master Plumber for Family Plumbing, Inc., for operating without a plumbing contractor registration and refer this matter for discipline.

**Subject:** Plumbing Unlimited, Inc. PC #1428  
**Case No.:** 2009-001085  
**Summary:** The Board reviewed Ronald Earl's response to the complaint filed against Plumbing Unlimited, Inc. by the Electrical Board. This complaint alleged that Plumbing Unlimited, Inc. was contracting plumbing services with Miguel A. Morales, who is not a registered Plumbing Contractor.  
**Action:** It was the decision of the Board to refer this matter for discipline.

**Subject:** Skip's Maintenance, PC #1889  
**Case No.:** 2009-001187  
**Summary:** The Board reviewed Larry Jackson's response to the complaint filed against Skip's Maintenance by Joel Cooner. This complaint alleged that Skip's Maintenance was contracting plumbing without a Plumbing Contractor registration.  
**Action:** It was the decision of the Board to dismiss this matter as the Respondent has complied by registering as a Plumbing Contractor.

**Subject:** Umbrella Plumbing and Drain Cleaning, LLC, PC #2327  
**Case No.:** 2009-000904  
**Summary:** The Board reviewed Umbrella Plumbing and Drain Cleaning, LLC's response submitted by Marcus Rodriguez to the complaint filed against them by Bryan

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Willard. This complaint alleged that Umbrella Plumbing and Drain Cleaning, LLC is advertising on-line to perform plumbing contracting services without a Plumbing Contractor registration or a responsible Master Plumber.

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

After discussion in executive session, it was the decision of the Board to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

### **D. Compliance Monitoring**

**Subject:** Kevin S. King, JP #281546

**Case No.:** 2007-002284

**Summary:** The Board reviewed Mr. King's case and the information provided by Mr. King's Attorney, Mike Cohen. Mr. Cohen is requesting that the Board reconsider their decision to toll the time during the period Mr. King was unemployed, as tolling the time during periods of unemployment is not part of the Stipulation agreement Mr. King signed with the Board.

**Action:** It was the decision of the Board to rescind their decision to toll Mr. King's time for the periods of time in which he is not employed within the plumbing industry.

**Subject:** Jay Webber, MP #180003

**Case No.:** 2007-001312

**Summary:** The Board reviewed Mr. Webber's request to lift his probation as he has since complied with the terms of his Stipulation.

**Action:** It was the decision of the Board to lift the probation on Mr. Webber's Master Plumber's license.

**Subject:** Quarterly Reports Consent Agenda

**Summary:** The Board reviewed the consent agenda for the quarterly reports submitted through November 14, 2008.

**Action:** It was the decision of the Board to approve the following quarterly reports as part of the consent agenda:

Kelly B. Corrado, MP      Curtis A. May, JP      Glen R. Stevens, JP, MP  
Paul D. Kisselbach, MP      David Schmidt, JP, MP

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

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

It was the decision of the Board to table action and request that Mr. Black provide a specific description of work performed during the quarter.

Henry N. Newman, MP #185626

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

Joshua A. Ridgway, AP #19208

It was the decision of the Board to accept the report and toll time one month for periods in which Mr. Ridgway had unemployed status.

Nicholas P. Valenti, AP #18866

It was the decision of the Board to accept the final report and lift probation on Mr. Valenti's apprentice registration.

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### **E. Reconsideration of Board Directive**

**Business:** Request for Reconsideration of Board Directive – Incarcerated Applicants  
**Summary:** The current Felony Guidelines for Incarcerated Applicants was reviewed by the Board with staff recommending the following revised language for incarcerated applicants: “If an applicant is in prison, community corrections, a halfway house, or restricted with an ankle bracelet, the Board will review the situation and application on a case by case basis.”  
**Action:** It was the decision of the Board to accept the revised directive.

### **VII OTHER BOARD BUSINESS**

**Business:** Public Comment - Larry R. Wasmuth, MP #180535  
**Summary:** Mr. Wasmuth attended the Board meeting and requested permission to address the Board. Chair Fox granted Mr. Wasmuth limited time to express his concerns about section 904.2 in the IPC regarding the sizing of vents through the roof by temperature.  
**Action:** The Board took no action regarding this information.

### **VIII REVIEW OF REINSTATEMENTS**

**Business:** Troy L. Eaton, JP #281012  
**Summary:** The Board reviewed Mr. Eaton’s application for reinstatement of his Journeyman license #281012. Mr. Eaton disclosed on his reinstatement application that he continued to work with a license that lapsed.  
**Action:** It was the decision of the Board to conditionally approve reinstatement of Mr. Eaton’s license upon completion of agreed terms with the Board.

### **IX EXECUTIVE SESSION**

It was the decision of the Board to go into executive session pursuant to § 24-6-402(3)(a)(II) and (III), C.R.S., for the sole purpose of considering disciplinary matters which are subject to attorney-client privilege, other matters which are subject to attorney-client privilege, and matters which are required to be kept confidential.

Attorney-client items were considered in executive session from 1:40 p.m. to 2:40 p.m. By unanimous agreement, the Board went out of executive session.

### **X ADJOURNMENT**

With all business completed, the meeting was adjourned at 2:42 p.m. The next meeting is scheduled for Thursday, February 5, 2009, at 9:30 a.m.

*Approved by: Tom Fox, Chair*

*Date: February 5, 2009*

#### **Attestation:**

Pursuant to § 24-6-402(2)(d.5)(I)(B), C.R.S., I attest that the portion of the executive session that was not recorded was confined to a discussion of the topics identified in the motion authorizing the Examining Board of Plumbers to convene in executive session.

*Approved by: Tom Fox, Chair*

*Date: February 5, 2009*