

RECORD OF PROCEEDINGS

MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1550, DENVER, COLORADO ON WEDNESDAY, June 22, 2011

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, Jr.	Ex Officio Member
Janice K. Snidow	Journeyman Plumber
Janine K. Snyder	Local Jurisdiction Plumbing Inspector
Robin A. Vidimos	Public Member

MEMBERS ABSENT

Michael K. Trapp	Plumbing Contractor
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OTHERS PRESENT

Mark Browne	Program Director
Steve Conrad	Chief Inspector
Kye Lehr	Plumbing Inspector Supervisor
Dennis Rhodes	Office of Expedited Settlement
Becky Connors	Assistant Attorney General
Joyce J. Young	Enforcement Unit Supervisor
Marian Zabel	Administrative Assistant

III PREVIOUS BOARD MEETING MINUTES

A motion was made, seconded, and carried to approve the minutes of the April 27, 2011, meeting.

IV REPORTS FOR RATIFICATION

A. Review of Report of Final Agency Actions – April 8, 2011 through June 3, 2011

Cease and Desist Orders

1. Kurt Johnston Plumbing, unlicensed
2. Joey Ruybal, unlicensed

Stipulations, Final Agency Orders, and Board Orders

- | | |
|---------------------------|----------------------------------|
| 1. Ronald E. Hoffarth, JP | 4. GDS Heating AC & Plumbing, PC |
| 2. Patrick D. Kee, JP | 5. James A. Lembo, RP |
| 3. Ralph C. Centeno, MP | |

A motion was made, seconded, and carried to ratify the report.

B. Felony Audit Progress Report

The Board reviewed the progress reports for the felony audit of October 2009 and October 2010. A motion was made, seconded and carried to ratify the reports.

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V STAFF COMMENTS

Program Director Mark Browne stated that the 2011 Newsletter will soon be posted on the Plumbing Board website. Information regarding the upcoming license renewal cycle will be provided in the newsletter.

Mr. Browne introduced Bruce Schneider as a DORA approved candidate for the General Contractor position on the Board. Thomas B. Fox will be retiring from the Board at the conclusion of the meeting today.

Inspector Supervisor, Kye Lehr stated that the Board will be switching to a new licensure system. This upgrade will allow plumbing contractors to register their apprentices through an online system.

Mr. Lehr also stated that that new regulations for the Department of Fire Safety, governed by HB10-1241 concerning required registration for persons who work on fire suppression systems, has not been through public hearing process.

Mr. Lehr further stated that expired permits are being tracked through the permit system to ensure that a final inspection is performed in order to close the permit. Contractors are able to review their expired permits on-line. Contractors will be allowed an initial ninety day grace period to complete work on currently expired permits without incurring a penalty fine.

VII RULEMAKING HEARING

The formal hearing was held at 9:15 a.m. pursuant to § 12-58-10 4(1)(d) and § 24-4-103 of the Colorado Revised Statutes during which public testimony was received.

The Board reviewed the Rulemaking Notice dated April 28, 2011, the drafted rules filed with the Secretary of State on April 28, 2011, and published May 10, 2011 in the Colorado Register, and the suggested modifications received during today's hearing.

After the hearing and the Board's deliberation, it was the decision of the Board to adopt the rules with the revisions and additions, as noted below, and incorporate by reference the statements and basis of purpose and statutory authority to become effective September 1, 2011.

Section 2 Standards

Rule 2.3(A) Alternate Materials and Methods Review

Rule 2.4.1 Revisions and Exceptions to the IPC

Rule 2.4.2 Revisions and Exceptions to the IRC

Section 6 Licensee and Registrant Responsibilities

Rule 6.4 Notice of Change of Address

In addition, the Board finds that:

- The record of the rulemaking proceeding demonstrates the need for these regulations;
- The proper statutory authority exists for these regulations;
- To the extent practicable, the regulations are clearly and simply stated so that their meaning will be understood by any party required to comply with the regulations;
- The regulations do not conflict with other provisions of the law;
- The duplication or overlapping of the regulations are explained by the Board; and,
- The appropriateness and cost effectiveness proposed rules have been considered.
- The effective date of the above revised rules is September 1, 2011.

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VI REVIEW OF BOARD BUSINESS

A. Requests for Variance

The following variance requests were submitted to the Board by June 3, 2011, 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.

- 1. Business:** Centennial Middle School
Summary: Envision Mechanical Engineers, Inc. requested a variance to section 1002.4 of the 2009 IPC. This request was to allow the use of a barrier type floor drain trap seal protection device complying with ASSE 1072 in lieu of a trap primer valve as required by Section 1002.4, IPC at the Centennial Middle School, located 2205 Norwood Avenue in Boulder, Colorado.
Action: A motion was made, seconded, and carried to grant this request with the following:

Provision
This is a one-time variance for 2205 Norwood Avenue, Boulder, Colorado.

Finding of Fact

 1. It is the opinion of the Board that the materials have been accepted as an alternate material/method of protecting trap seal loss complying with the intent of Section 1002.4 of the 2009 International Plumbing Code.
 2. This is an institutional facility supported by janitorial and maintenance staff.

- 2. Business:** Colorado Mountain College, alpine Campus Center
Summary: Cator Ruma and Associates requested a variance to section 1002.4 of the 2009 IPC. This request was to allow the use of a barrier type floor drain trap seal protection device complying with ASSE 1072 in lieu of a trap primer valve as required by Section 1002.4, IPC at the Colorado Mountain College – Alpine Campus Center, located 1330 Bob Adams Drive in Steamboat Springs, Colorado.
Action: A motion was made, seconded, and carried to grant this request with the following:

Provision
This is a one-time variance for 1330 Bob Adams Drive, Steamboat Springs Colorado.

Finding of Fact

 1. It is the opinion of the Board that the materials have been accepted as an alternate material/method of protecting trap seal loss complying with the intent of Section 1002.4 of the 2009 International Plumbing Code.
 2. This is an institutional facility supported by janitorial and maintenance staff.

- 3. Business:** Colorado Springs Expo Center
Summary: John Goodloe, CSNA Architects requested a variance to section 403.1 of the 2009 IPC. This request was to allow a reduction in the occupant load

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served by the plumbing fixtures at the Colorado Springs Expo Center facility, located at 3650 N Nevada Avenue, Colorado Springs, Colorado.
Action: A motion was made, seconded, and carried to deny this request with the following:

Findings of Fact

It is the opinion of the Board that:

1. Code requirements have not been met and installation standards have not been met.
2. Denying this variance would not result in unreasonable operational conditions or cause an unreasonable economic burden.
3. Granting this variance may compromise public safety.

4. **Business:** Elementary School #26 – Permit 690687
Summary: Barry Stamp, P.E., requested a variance to section 1002.4 of the 2009 IPC. This request was to allow the use of a barrier type floor drain trap seal protection device complying with ASSE 1072 in lieu of a trap primer valve as required by Section 1002.4, IPC at the elementary school, located at 1500 Telleen Avenue in Erie, Colorado.

Action: A motion was made, seconded, and carried to grant this request with the following:

Provision

This is a one-time variance for 1500 Telleen Avenue in Erie, Colorado, permit 690687.

Finding of Fact

1. It is the opinion of the Board that the materials have been accepted as an alternate material/method of protecting trap seal loss complying with the intent of Section 1002.4 of the 2009 International Plumbing Code.
2. This is an institutional facility supported by janitorial and maintenance staff.

5. **Business:** Jim and Kristen Kraft, Homeowners
Summary: The Kraft's requested a variance to section 303.4 of the 2009 IPC. This request was to allow the use of an above the counter DecoLav 1430, lavatory sink at their residence located at 423 Hinshaw in Creede, Colorado.

Action: A motion was made, seconded, and carried to deny this request with the following:

Findings of Fact

It is the opinion of the Board that:

1. Code requirements have not been met and installation standards have not been met.
2. Denying this variance would not result in unreasonable operational conditions or cause an unreasonable economic burden.
3. Granting this variance may compromise public safety.

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6. **Business:** New Vista High School
Summary: Envision Mechanical Engineers, Inc. requested a variance to section 1002.4 of the 2009 IPC. This request was to allow the use of a barrier type floor drain trap seal protection device complying with ASSE 1072 in lieu of a trap primer valve as required by Section 1002.4, IPC at the New Vista High School, located 700 20th Street in Boulder, Colorado.

Action: A motion was made, seconded, and carried to grant this request with the following:

Provision

This is a one-time variance for 700 20th Street in Boulder, Colorado.

Finding of Fact

1. It is the opinion of the Board that the materials have been accepted as an alternate material/method of protecting trap seal loss complying with the intent of Section 1002.4 of the 2009 International Plumbing Code.
2. This is an institutional facility supported by janitorial and maintenance staff.

B. Complaints Review

Subject: Matthew and Toishi Boucher, Unregistered

Case No.: 2011-001081

Summary: The Board reviewed the tabled complaint filed against Ed Folga c/o Matthew and Toishi Boucher by Lisa D. Davitian, and the Boucher's failure to respond to the Board's request to take additional action. At the April 27, 2011 meeting, the Board requested that the Boucher's remedy the plumbing deficiencies as addressed in the safety inspection report for the property at issue.

Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

After discussion in executive session, a motion was made, seconded, and carried in open session to re-issue a Notice of Disapproval and allow 30 days before taking further action should the installation not be satisfactorily completed.

Subject: Dave Heiman, Unlicensed

Case No.: 2010-005032

Summary: The Board reviewed the tabled complaint filed against Mr. Heiman by the Board and his failure to respond to the Board's request for additional action. At the February 23, 2011 meeting, the Board requested that Mr. Heiman pay the outstanding fee on his permit, obtain an inspection, and report to the Board in a timely manner.

Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

After discussion in executive session, a motion was made, seconded, and carried in open session to re-issue a Notice of Disapproval and allow 30 days before taking additional action should the installation not be satisfactorily completed.

Subject: Todd Braudis, Cancelled AP 13231

Case No.: 2011-003841

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Summary: The Board reviewed the complaint filed against Mr. Braudis by Vicki Adamek and Mr. Braudis' response to the complaint. This complaint alleged that Mr. Braudis was offering plumbing contracting services without the proper licensure or registration.

Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Todd Braudis for performing plumbing without the proper licensure.

A motion was made, seconded, and carried to initiate a complaint and issue a Cease and Desist Order against TK Plumbing for contracting plumbing work without the proper registration.

Subject: Robert L. LaRochelle, MP 188960

Case No.: 2011-003885

Summary: The Board reviewed the complaint filed against Mr. LaRochelle by Vicki Adamek and information regarding his failure to respond to the complaint. This complaint alleged that Mr. LaRochelle failed to properly supervise and register his employee on the project at issue.

Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

Subject: Robert A. Kilian, MP 189178

Case No.: 2011-004125

Summary: The Board reviewed the complaint filed against Mr. Kilian by Kim Cowern and Mr. Kilian's response to the complaint. This complaint alleged that Mr. Kilian performed plumbing work without a permit or inspections.

Action: A motion was made, seconded, and carried to initiate a Stipulation and Final Agency Order to Robert A. Kilian to include a \$375 fine for failure to obtain a permit and inspection, and require Mr. Kilian to obtain a permit and inspection for the property at issue.

Subject: The Drainworks, Unregistered

Case No.: 2011-004129

Summary: The Board reviewed the complaint filed against The Drainworks by the Board and the response provided by Curtis R. David on the company's behalf. This complaint alleged that the company was offering plumbing contracting services without the proper licensure or registration.

Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to The Drainworks for offering plumbing services without the proper registration.

A motion was made, seconded, and carried to initiate a complaint against Curtis R. David for offering plumbing services without the proper licensure.

A motion was made, seconded, and carried to initiate a complaint against Dean Shuskey for offering plumbing services without the proper licensure.

Subject: Derek Murray, MP 186877 (dba Epic Plumbing & Heating, Inc.)

Case No.: 2011-003463

Summary: The Board reviewed the complaint filed against Mr. Murray by Patrick Seydel from the City of Glenwood Springs Building Department, and Mr. Murray's response to the complaint. This complaint alleged that Mr. Murray was offering plumbing contracting services without the proper licensure or registration.

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Action: A motion was made, seconded, and carried to initiate a Stipulation and Final Agency Order against Derek Murray, to include a fine of \$750 for operating as a plumbing contractor without obtaining registration from the Board.

D. Compliance with Board Order

Subject: Jeremy M. Startzer, lapsed MP 187039; lapsed JP 286681; lapsed RP 385202; cancelled AP 7272

Case No.: 2008-003429

Summary: The Board reviewed information regarding Mr. Startzer's violation of the requirements of the May 12, 2008, Letter of Admonition issued by the Board. Mr. Startzer failed to pay the fine and respond to the Board's request to do so.

Action: A motion was made, seconded, and carried to waive payment of the fine and take no further action.

Subject: Nathan Whitten, MP 189386

Case No.: 2010-003663

Summary: The Board reviewed information regarding Mr. Whitten's violation of the terms of the March 28, 2011, Stipulation and Final Agency Order he signed with the Board. Mr. Whitten failed to provide the required permit and inspection, and respond to the Board's request to do so.

Action: A motion was made, seconded, and carried to lift the stay on Nathan Whitten's suspension. Mr. Whitten's master license 189386 will be suspended three days after notice of suspension.

VIII EXECUTIVE SESSION

At 1:12 p.m., Board President, Thomas 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 legal counsel regarding:

- The legal basis for potential disciplinary action and, where warranted, recommended settlement guidance for matters discussed in open session today and referred to executive session;
- The Case Status Report of the Office of Expedited Settlement,
- The Case Status Report of the Office of the Attorney General and settlement issues, counteroffers, and other legal questions pertaining to the following open cases referred to the Office of the Attorney General, namely Matthew Husmann and Mark Tapia.

The motion was seconded by Steven 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 2:14 p.m.

IX OTHER BUSINESS

Business: Office of Expedited Settlement Process – Case Update

Case: 2010-000938 Daryl N. Moore, APE 15098 cancelled

Summary: In executive session the Office of Expedited Settlement Process updated the Board on case 2011-000938 against Mr. Moore on a matter that was referred to their office for disciplinary action.

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Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to place an alert on Daryl N. Moore's record should there be future activity toward licensure, and dismiss this case.

Business: Office of Expedited Settlement Process – Case Update

Case: 2011–000878 Shannon M. Devore, JP 280713

Summary: In executive session the Office of Expedited Settlement Process updated the Board on case 2011-000938 against Mr. Devore on a matter that was referred to their office for disciplinary action.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to place an alert on Shannon M. Devore's record should there be future activity toward licensure, and dismiss this case.

Business: Office of the Attorney General

Case: 2010–003669 Matthew Husmann, MP 180139

Summary: In executive session the Assistant Attorney General updated the Board on case 2010-003669 against Mr. Husmann on a matter that was referred to their office for disciplinary action.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to dismiss this case as being without merit.

X BOARD MEMBER RETIREMENTS

An appreciation plaque was presented by Program Director Mark Browne to retiring Plumbing Board Member and Chair, Thomas B. Fox, having served the Board since July 1, 1999.

XI ELECTION OF BOARD OFFICERS

Pursuant to its bylaws, the Board is required to hold elections for Board officers each year. A motion was made, seconded, and carried to elect the following slate of officers:

Board Chair – Steven J. Callahan

Board Vice-Chair – Donald P. Crandell

Secretary – Robin A. Vidimos

XII ADJOURNMENT

With all business completed, the meeting was adjourned at 2:18 p.m. The next meeting is scheduled for Wednesday, August 24, 2011 at 9:00 a.m.

Approved by: Steven J. Callahan

Date: August 24, 2011