

# **RECORD OF PROCEEDINGS**

## **MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, August 6, 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
Giles J. Schurman	Building Official, Vice Chair
Steven J. Callahan	Master Plumber, Secretary
Donald P. Crandell	Plumbing Contractor
Jorge A. Delgado	Ex Officio Member
Robin A. Vidimos	Public Member

### **MEMBERS ABSENT**

Michael K. Trapp	Plumbing Contractor
Michael E. Wieseler	Journeyman Plumber

### **OTHERS PRESENT**

Charles H. Adams	Program Director
Mark Browne	Program Director
Angeline Kinnaird Linn	Section Director
Steve Conrad	Chief Inspector
Daryl Kuiper	Plumbing Inspector Supervisor
Dennis Rhodes	Office of Expedited Settlement
John J. Roberts	Assistant Attorney General
William Schlitter	DORA 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 June 4, 2009 meeting.

### **IV REPORTS FOR RATIFICATION**

#### **A. Review of Report of Final Agency Actions – May 16, 2009 to July 15, 2009 Stipulations, Final Agency Orders, and Board Orders**

- |                           |                                |
|---------------------------|--------------------------------|
| 1. David M. Bednarski, MP | 4. William P. Howe, RP         |
| 2. Mark L. Dalton, MP     | 5. Trinity Mechanical Inc., PC |
| 3. John M. Eilert, MP     | 6. Mark E. Meschelle, AP       |

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.

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### **V STAFF COMMENTS**

Program Director, Charles H. Adams, introduced Mark Browne as the new Program Director for the Plumbing and Electrical Boards. Mr. Browne recently held the position as branch manager for an electrical distribution company. Previously, he served in the U.S. Army as a battery platoon leader and battalion civil military operations officer, reaching the rank of Captain and serving in Iraq.

Mr. Adams stated that the increase in May 2009 of residential plumbing permit fees will be extended to include commercial installations beginning August 15, 2009. An E-Update will notify licenses and electrical contractors of the new fee schedule.

Section Director, Angeline Kinnaird Linn presented Charles H. Adams an appreciation plaque for his performance as the Program Director for the Plumbing and Electrical Boards.

Inspector Supervisor Daryl Kuiper updated the Board concerning his activities since the last meeting:

- On June, 10, 2009, Mr. Kuiper and Chief Inspector Supervisor Steve Conrad attended a presentation on fire suppression along with a few Colorado fire officials and officials from the State of New Mexico.
- On July 30, 2009, Mr. Kuiper and Mr. Conrad along with Mark Wasson, Division of Fire Safety and Kevin Klein, Department of Public Safety attended an informal luncheon where interest was expressed in possible legislative changes to include licensing for residential fire suppression contractors, the allocation of money for additional fire suppression inspectors, or provision for plumbing inspectors to perform the inspections.
- A draft of proposed rules to include code adoption is being reviewed by staff and will be addressed at a future meeting.
- Mr. Kuiper attended a Power Point and Access computer software classes provided by DORA.
- Residential permit increases have provided needed income during a 30% decline in the number of permits. Commercial permit increases will be necessary.
- Mr. Kuiper attended the July 16, 2009 CAPMO meeting. Mr. Kuiper was asked to teach classes at the March 2010 Institute.
- Mr. Kuiper has been formally appointed to the ICC Plumbing Board. His application to attend the national code adoption meeting in November in Baltimore is pending. Fifteen individuals across the country are selected to suggest possible amendments to the 2009 code for the 2012 cycle. CAPMO will have approximately 15 proposals for change to review.
- Printer/fax/copier/scanner machines were delivered and installed at the Canon City, Alamosa, Pagosa Springs, and Gunnison inspector's offices in July.
- Mr. Kuiper accompanied state inspector's Andrew Medina, Dennis Gardner, and Gary Hartsuiker on several inspections in their respective areas.

### **VI REVIEW OF BOARD BUSINESS**

#### **A. Interviews**

##### **Application for Examination**

**Business:** Christopher A. Zec, Master Application

**Summary:** Mr. Zec appeared before the Board to request credit for 47.25 months of plumbing experience obtained in British Columbia, Canada. Board staff has verified the required the one year (12.75 months) of in-country experience.

**Action:** It was the decision of the Board to approve the 47.25 months of experience Mr. Zec obtained in Canada and approve his application to take the master examination.

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### B. Requests for Variance

The following variance requests were submitted to the Board by July 17, 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:** Michael Atanian, Owner RV Park

**Summary:** Michael Atanian requested a variance to section 405.31 of the IPC. This request was to allow a 10" side clearance from center to side wall of the lavatory in lieu of the code required 15" clearance at four cabins in an RV Park located at 120 Conejos Avenue in Antonito, Colorado. Photographs of the cabins were presented during the review.

**Action:** It was the consensus of the Board 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.
2. Denying this variance would not result in unreasonable operational condition or cause an unreasonable economic burden
3. Granting this variance may compromise public safety.

**Business:** John Fuentes, H+L Architecture, Battle Mountain High School

**Summary:** John Fuentes requested a variance to section 410.2 of the IPC. This request was to allow drinking fountains to be located in a public restroom at the Battle Mountain High School located at 1051 Miller Ranch Road in Edwards, Colorado.

**Action:** A motion was made to grant this request. The motion failed by a consensus of the Board.

**Business:** Gregory B. Even, Cobb Mechanical, Colorado Department of Corrections

**Summary:** Gregory B. Even requested a variance to sections 303.0, 605.2, and 605.7 of the IPC. This request was to waive the requirement for NSF listed water piping appurtenances at the new state prison located at Hwy 50 W and Evans Boulevard in Canon City.

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

**Provisions**

1. This is a one-time variance for the Colorado Department of Corrections facility, permit # 640680.
2. This variance only applies to currently installed appurtenances.

**Findings of Fact**

It is the opinion of the Board that:

1. Removal of the existing installation would result in an unreasonable economic burden.
2. The existing installation does not compromise public safety.

**Business:** Quad County Plumbing & Heating, Yuma Middle School and High School

**Summary:** Quad County Plumbing & Heating requested a variance to sections 105.4.1, 105.4.3, and 803.3 of the IPC. This request was to allow the installation of unlisted Studor Chem-Vent air admittance valves for eight (8) small peninsula type biology lab sink vents at the Yuma Middle School and High School.

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

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### Findings of Fact

It is the opinion of the Board that:

1. Studor has not met the safety criteria that the Board requires to consider it as an "alternate material" for permit #668926 for Yuma Middle school located at 500 S Elm in Yuma, Colorado and permit #672371 Yuma High school located at 1000 S Albany in Yuma Colorado.
2. This unlisted appurtenance has not met or been subject to acceptable testing guidelines.
3. Code requirements have not been met.
4. Granting this variance could compromise public safety.

### **Business:**

Ben Faber, Design Engineer, Auraria Higher Education Arts Foundry

### **Summary:**

Ben Faber requested a variance to section 412 of the IPC. This request was to allow the installation of an unlisted trench drain system at the Auraria Higher Education Arts Foundry located at 1150 10<sup>th</sup> Street in Denver, Colorado.

### **Action:**

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

### Provision

1. This is a one-time variance for permit #662767.

### Findings of Fact

It is the opinion of the Board that:

1. The materials are equivalent to the code requirements.
2. Removal of this trench drain system would result in an unreasonable economic burden.
3. The existing installation does not compromise public safety.

### **Business:**

John Harold, Property Owner

### **Summary:**

John Harold requested a variance to section 417.4.1 of the IPC. This request was to allow the use of Rhino FastFloor lining product for the shower walls and bases for the migrant worker housing located at 59655 David Road in Olathe, Colorado.

### **Action:**

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. The unlisted lining product has not met or been subject to acceptable testing guidelines.
2. Granting this variance may compromise public safety.

### **Business:**

Capt Travis Higgs, Homeowner

### **Summary:**

Capt Travis Higgs requested a variance to section 405 of the IPC. This request was to allow less side clearance for the water closet in lieu of the code required 15" clearance at the Higgs residence located at 880 Bull Run in Canon City.

### **Action:**

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

### Provisions

1. This is a one-time temporary variance for permit #669090.
2. Owner agrees that within two years he will disconnect this building and discontinue use.

### Findings of Fact

It is the opinion of the Board that:

1. This is a temporary installation
2. The proposed installation does not compromise public safety.

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**Business:** MOA Architecture, Boulder Valley School District, Southern Hills Middle School  
**Summary:** The consultant from MOA Architecture requested a variance to section 405.3.1 of the IPC. This request was to waive the requirement for 60" depth for existing water closet compartments at the Southern Hills Middle School located at 1500 Knox Drive in Boulder, Colorado.

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

**Provision**

1. This is a one-time variance for the remodel at Southern Hills Middle School.

**Findings of Fact**

It is the opinion of the Board that:

1. 51.5" is sufficient depth in the water closet compartments for this facility.
2. Removal of the existing installation would result in an unreasonable economic burden.
3. The installation would not compromise public safety.

**Business:** Palante Plumbing and Heating, Teleski Corporation project  
**Summary:** Palante Plumbing and Heating requested a variance to sections 401.2 and 405.2 of the IPC. This request was to allow the use of an unlisted composting toilet at the Teleski Corporation project located at 12100 Camels Garden Road in Telluride, Colorado.

**Action:** 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. Unlisted fixtures have not met or been subject to acceptable testing guidelines.
2. Code requirements have not been met.
3. Denying this variance would not result in unreasonable operational conditions or an unreasonable economic burden
4. Accepting this variance may compromise public safety.

**Business:** Cory Bungard, River Valley Plumbing & Heating, Vineyard Christian Fellowship  
**Summary:** Cory Bungard requested a variance to section 1002.4 of the IPC. This request was to waive the requirement for trap primers on two separate floor drains in the two main bathrooms of the Vineyard Christian Fellowship facility located 245 S Reynolds in Canon City.

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

**Provisions**

1. This is a one-time variance for permit #642075.
2. The owner agrees to prime the traps on a regular basis per the signed agreement.

**Finding of Fact**

It is the opinion of the Board that the proposed agreement to prime the traps on a regular basis is sufficient to meet the intent of the code and therefore shall not compromise public safety.

### **C. Complaints Review**

**Subject:** Best Way Plumbing, Inc., PC #1713

**Case No.:** 2009-004005

**Summary:** The Board reviewed the complaint filed against Best Way Plumbing, Inc. by Stacey Bickler and information regarding the company's failure to respond to the complaint. This complaint alleged that Best Way Plumbing failed to meet

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generally accepted standards of the plumbing practice by failing to make corrections indicated on an inspection report in a timely manner.

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

It was the decision of the Board to initiate a complaint against Innovative Concepts & Design LLC for providing plumbing contracting services without the proper license or registration.

**Subject:** Tony Carinci, dba South Fork Propane, Unlicensed and Unregistered

**Case No.:** 2009-004125

**Summary:** Board staff requested that the Board consider tabling this item to allow for additional information submitted by the state inspector to be reviewed by Mr. Carinci.

**Action:** It was the decision of the Board to table this matter and send the additional information to Mr. Carinci for review and response.

**Subject:** Done Services Group, Inc., PC #1109

**Case No.:** 2009-004012

**Summary:** The Board reviewed the complaint filed against Done Services Group, Inc. by Laura M. Bendell, and the response provided by Michael H. Hessel on behalf of the company.

**Action:** It was the decision of the Board to dismiss the case as being without merit.

**Subject:** Chris Garton, of AAA Jetting Services, Unlicensed / Company Unregistered

**Case No.:** 2009-003843

**Summary:** The Board reviewed the complaint filed against Mr. Garton, of AAA Jetting Services by Eileen Brown, and Mr. Garton's response to the complaint. This complaint alleged that Chris Garton, of AAA Jetting Services is contracting plumbing work without the proper license or registration.

**Action:** It was the decision of the Board to dismiss this matter as being without merit.

**Subject:** Joe Gonzales, dba Ebbie's Gonzales Home Service, Unlicensed / Company Unregistered

**Case No.:** 2009-004086

**Summary:** The Board reviewed the complaint filed against Mr. Gonzales, dba Ebbie's Gonzales Home Service by David Hoots, and Mr. Gonzales' response to the complaint. This complaint alleged that Mr. Gonzales is advertising, offering to contract, and contracting plumbing work without the proper license or registration.

**Action:** It was the decision of the Board to issue a Cease and Desist Order to Joe Gonzales, dba Ebbie's Gonzales Home Service.

**Subject:** Jose L. Guaderrama Murillo

**Case No.:** 2009-003376

**Summary:** The Board reviewed the complaint filed against Mr. Guaderrama Murillo by the Board and Mr. Guaderrama Murillo's response to the complaint. This complaint alleged that, based on the information discovered as part of his application to take the journeyman electrician's examination, Mr. Guaderrama Murillo obtained his apprenticeship experience under a fraudulent social security number.

**Action:** It was the decision of the Board to deny recognizing the hours Mr. Guaderrama Murillo accumulated prior to December 14, 2007. Further, it was the decision of the Board to deny Mr. Guaderrama Murillo's application to take the journeyman examination.

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**Subject:** Brandon Hoyt, Unlicensed and Unregistered  
**Case No.:** 2009-003376  
**Summary:** The Board reviewed the complaint filed against Mr. Hoyt by William W. Gray, and information regarding Mr. Hoyt's failure to respond to the complaint. This complaint alleged that Mr. Hoyt is offered to practice and practiced as plumbing contractor without the proper licensure or registration.  
**Action:** It was the decision of the Board to issue a Cease and Desist Order to Mr. Hoyt.

**Subject:** Peter LaBella & Sons Plumbing & Heating, PC #2298  
**Case No.:** 2009-004209  
**Summary:** The Board reviewed the complaint filed against Peter LaBella & Sons Plumbing & Heating (the company) by the Board and the response to the complaint provided by the company's attorney, Louis A.J. Rubino, on the company's behalf. This complaint alleged that the company may not have the proper worker's compensation documentation to retain their plumbing contractor's registration.  
**Action:** It was the decision of the Board to table pending additional information.

**Subject:** Marvin Norris, MP #187689  
**Case No.:** 2009-004123  
**Summary:** The Board reviewed the complaint filed against Mr. Norris by David Hoots, and Mr. Norris' response to the complaint. This complaint alleged that Mr. Norris was contracting plumbing services without the proper registration.  
**Action:** It was the decision of the Board to dismiss the case as being without merit.

**Subject:** Brian Vandermark, Unlicensed and Unregistered  
**Case No.:** 2009-004010  
**Summary:** The Board reviewed the complaint filed against Mr. Vandermark by Paul D. Ore, and Mr. Vandermark's response to the complaint. This complaint alleged that Mr. Vandermark was contracting plumbing services without the proper license or registration.  
**Action:** It was the decision of the Board to issue a Cease and Desist Order to Mr. Vandermark.

### **D. Compliance Monitoring**

**Subject:** Quarterly Reports Consent Agenda  
**Summary:** The Board reviewed the consent agenda for the quarterly reports submitted through July 17, 2009.  
**Action:** It was the decision of the Board to approve the following quarterly reports:

Steven L. Caple, MP	Curtis a. May, JP
Dominic C. Cardenas, MP	Dennis L. Meadows, Jr. JP
Jeffrey s. Dannaker, MP	Daniel C. Rains, AP, RP
Michael A. Gentala, JP	Melinda R. Schell, JP
Paul D. Kisselbach, MP	Curtis G. Stednitz, JP
Jason P. Maldonado, JP	Philip J. Stone, RP

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

**Subject:** Kelly B. G. Corrado, MP #187883

**Action:** It was the decision of the Board to accept the report and deny Mr. Corrado's request for early release from the probation and probation requirements.

**Subject:** Rod M. Craig, MP #188594

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

**Subject:** Neil W. Husted, AP #19236

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

**Subject:** Kevin S. King, JP #287006

**Action:** It was the decision of the Board to accept the report and lift the probation on M. King's license.

### **E. Request for Consideration of Policy**

**Business:** Request for Policy Regarding the Process for Handling Complaints Involving Board Members of the Examining Board of Plumbers.

**Summary:** The Board reviewed Policy 07-5 for inclusion into the current Board Policies. This policy provides written notice regarding the process by which specific types of complaints against current Board members, licensees who have served on the Board within the past five years, or licensees who have an ongoing formal relationship with the Board, will be handled. The purpose of this policy is to assure the integrity of the disciplinary process and prevent any appearance of bias or preferential treatment.

**Action:** It was the decision of the Board to adopt Board Policy 07-5 as proposed.

**Business:** Request for Policy Regarding Apprentice Registrations

**Summary:** The Board reviewed the proposed policy for inclusion into the current Board Policies. This policy is to establish guidelines for submitting an apprentice registration more than thirty (30) days after the hire date of an apprentice.

**Action:** It was the decision of the Board to renumber the current Policy 08-2 to 08-3 and adopt the as proposed.

### **E. Request for Review and Implementation of New Quarterly Reports**

**Summary:** The Board reviewed the revised quarterly report format to monitor licensees and registrants currently on probation/parole for a felony offense.

**Action:** It was the decision of the Board to adopt the revised and proposed quarterly report format for monitoring future felony offenders entering into a stipulation agreement with the Board. The Board will continue to review quarterly reports that indicate negative feedback from the probation/parole officer, cases in which an individual fails to provide the required report, and cases in which the individual is requesting that the probation be lifted.

The Board further requested research into updating currently active stipulation agreements to the same criteria.

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## **VII REVIEW OF APPLICATIONS**

**Business:** Ronald Crider, AP registration

**Summary:** The Board reviewed the apprentice registration submitted by Mr. Crider's previous employer, and information regarding his current incarceration.

**Action:** It was the decision of the Board to deny Mr. Crider's apprentice registration.

## **VIII EXECUTIVE SESSION**

At 1:00 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 recommended settlement guidance regarding: the legal basis for potential disciplinary action and, where warranted, recommend settlement guidance regarding the following matters: Bestway Plumbing, Inc.; the Report of Investigation in case number 2009-000480; the Case Status Report of the Office of Expedited Settlement; the informal legal opinion concerning Board fining authority; and the Case Status Report of the Office of the Attorney General.

The motion was seconded by Don Crandell and unanimously carried with six members in attendance, five 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 2:10 p.m.

## **IX OTHER BUSINESS**

### **A. Reports of Investigation**

**Subject:** Colorado's Best Plumbing & Heating, PC #2237

**Case:** 2009-000480

**Summary:** The Board reviewed the Report of Investigation submitted by Investigator William Schlitter regarding the complaint filed against Colorado's Best Plumbing & Heating Inc. The complaint alleged that the company was contracting without the proper licensure or registration.

**Action:** In open session, the Board voted to refer the matter to the Office of Expedited Settlement for further action.

## **X ELECTION OF BOARD OFFICERS**

Pursuant to its bylaws, the Board is required to hold elections for Board officers each year. It was the decision of the Board to elect the following slate of officers:

Board Chair – Thomas B. Fox  
Board Vice-Chair – Steven J. Callahan  
Secretary – Donald P. Crandell

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### **XI ADJOURNMENT**

With all business completed, the meeting was adjourned at 2:14 p.m. The next meeting is scheduled for Thursday, October 1, 2009 at 9:00 a.m.

*Approved by: Tom Fox, Chair*

*Date: October 1, 2009*