

## RECORD OF PROCEEDINGS

### MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, October 4, 2007

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
Donald Crandell	Plumbing Contractor
Steven Callahan	Master Plumber
Jorge Delgado	Ex Officio Member
John Muniz	Plumbing Contractor
Robin Vidimos	Public Member
Michael Wieseler	Journeyman Plumber

#### **MEMBERS ABSENT:**

None

#### **OTHERS PRESENT:**

Charles H. Adams	Program Director
Angeline Kinnaird-Linn	Section Director
Stephen Conrad	Chief Inspector
Billy McSwain	Plumbing Inspector
Betty Wytias / John Roberts	Assistant Attorney's General
Ofelia Duran	Office of Expedited Settlement
William Schlitter	DORA Investigator, Office of Investigations
Rita Carey	Complaint Analyst
Donna Norman	Complaint, Applications and Felony Analyst
Marian Zabel	Administrative Assistant
Public Rules Hearing Guests	List of testifying guests (attached)

#### **III APPROVAL OF PREVIOUS MEETING MINUTES:**

A motion was made to approve the minutes of the August 2, 2007 meeting as amended. The motion was seconded and unanimously carried.

#### **IV STAFF COMMENTS**

Program Director Charles H. Adams discussed several matters with the Board:

- Rita Carey was introduced as the new complaint analyst. Ms. Carey started work with the Board on September 10th.
- Forms have been posted on the website to allow Plumbing Contractors to register as contractors and to re-register their current apprentice(s). No fee is incurred to re-register apprentice(s).
- A letter has been drafted to educate master plumbers on the contractor registration process. Registration will be required to obtain permits through the Board
- The Division of Registrations, Office of Licensing, has hired temporary staff to process the anticipated influx of contractor registration applications.

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### IV STAFF COMMENTS (continued)

Chief Inspector Steve Conrad updated the Board:

- The plumbing supervisor inspector position has been re-classified and will be posted soon.

### V RULEMAKING HEARING

The formal hearing was held at 10:00 a.m. pursuant to §12-58-104(1)(d) and §24-4-103 of the Colorado Revised Statutes during which public testimony was received.

The Board reviewed the Rulemaking Notice dated August 20, 2007, the drafted rules filed with the Secretary of State on August 20, 2007 and published September 10, 2007, and the suggested modifications received during today's hearing.

After the hearing and the Board's deliberation, a motion was made to adopt the rules with the revisions, additions and deletions, as noted below, and incorporate by reference the statements and basis of purpose and statutory authority to become effective January 1, 2008.

- Section 2 Code adoption, alternate materials, and code amendments - approved as amended
- Section 3 Examinations and Applications - approved as amended
- Section 4 Temporary Work Permits - approved as amended
- Section 5 Licensure and Registration - approved as amended
- Section 6 Enforcement - approved as amended
- Section 7 Fees - approved as amended
- Section 8 Permits and Inspections - approved as amended
- Section 9 Declaratory Orders - approved as amended
- Section 10 Renewal and Reinstatement - approved as amended

In addition, the Board finds that:

- The record of the rule making 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 motion was seconded and unanimously carried.

### VI GENERAL SESSION

**Business:** James Colwell - Permit 615394 - variance

**Summary:** The Board considered a variance request that included pictures and informational sheets submitted by James Colwell to allow the installation of a rock wall shower.

In accordance with §12-58-104.5(4), C.R.S., the Board is authorized to review requests for exceptions to the code in unique construction situations where public safety is not compromised and a strict interpretation of the code would result in either unreasonable operational conditions or unreasonable economic burdens.

**Action:** A motion was made to approve this request. The motion was seconded and unanimously carried with the following provisions and findings of fact:

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Provisions:

- 1) Approved slip resistant coating shall be applied to the floor.
- 2) Rock shall be coated with approved sealer.

Findings of Fact:

- 1) The rock wall shower has proper backing and has passed all areas of plumbing inspections.

It is the opinion of the Board that granting this variance would not compromise public safety.

**Business:**

Paschal Engineering, Flying J Project - Permit N/A - variance

**Summary:**

The Board considered a variance request submitted by Paschal Engineering for the Flying J Project in Limon, Colorado for the installation of the Aquatherm Pipe System. The Board reviewed the NSF International Official Listing, the ES Report (ESR-1613), and excerpt from the 2006 IPC regarding Polypropylene pipe, and the ASTM Standard Specification for Pressure-rated Polypropylene (PP) Piping Systems.

In accordance with §12-58-104.5(4), C.R.S., the Board is authorized to review requests for exceptions to the code in unique construction situations where public safety is not compromised and a strict interpretation of the code would result in either unreasonable operational conditions or unreasonable economic burdens.

**Action:**

A motion was made to approve this request. The motion was seconded and unanimously carried with the following provisions and findings of fact:

Provision:

- 1) A permit shall be issued through the State Plumbing Board with all appropriate inspections conducted.
- 2) This material shall be used for water piping only.

Findings of Fact:

- 1) Aquatherm Pipe System has been added to the 2006 IPC.
- 2) This piping system will be used for potable water piping running to each island at the Flying J facility.
- 3) Compressed air lines outside of the building are not considered part of the plumbing system and are outside the Board's jurisdiction.

It is the opinion of the Board that granting this variance would not compromise public safety.

**Business:**

Slaterpaul Architects, Inc., AMI Mechanical, Inc. - Permit 620143 - variance

**Summary:**

The Board considered a variance request submitted by Slaterpaul Architects, Inc. for AMI Mechanical, Inc. regarding the installation of water closets at the Challenges, Choices & Images Charter School and Daycare center in Denver.

In accordance with §12-58-104.5(4), C.R.S., the Board is authorized to review requests for exceptions to the code in unique construction situations where public safety is not compromised and a strict interpretation of the code would result in either unreasonable operational conditions or unreasonable economic burdens.

**Action:**

A motion was made to deny this request. The motion was seconded and unanimously carried.

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### VI COMPLAINTS / DISCIPLINE

**Business:** Report of final agency actions - July 16, 2007 through September 16, 2007

**Summary:** Letter of Admonition

- Pavel N Shimkin, journeyman
- Danny L. Speece, master

Revocation

- Gary James Heilman, journeyman
- William R. Mamula, journeyman
- Ronald Lavern Rice, II, journeyman
- Frank Edward Schueller, journeyman

Stipulation

- Wesley D. King, journeyman

**Action:** A motion was made, seconded and unanimously carried to ratify the report.

**Business:** Felony audit progress reports through September 10, 2007

**Summary:** The Board reviewed the progress reports concerning the felony audits of October 2005 and April 2006. Staff noted that files from the April 2007 audit have been received and that the initial review is underway.

**Action:** A motion was made, seconded, and unanimously carried to ratify the report.

**Business:** Compliance with Stipulation and Final Agency Order (FAO)

**Case:** 2005-004764 Stephen Wilson, MP 178455

**Summary:** The Board reviewed the seventh/final quarterly report and request for release from probation provided by Stephen Wilson, dated August 13, 2007, in compliance with his Stipulation and FAO.

**Action:** A motion was made to accept Mr. Wilson's seventh/final report. The motion was seconded and unanimously carried.

**Second Action:** A motion was made to release Mr. Wilson from his Stipulation and Board probation. The motion was seconded and unanimously carried.

**Business:** Compliance with Stipulation and Final Agency Order (FAO)

**Case:** 2005-004901 Reggie Gene Burger, JP 279580

**Summary:** The Board reviewed the third quarterly report provided by Reggie Gene Burger, dated September 11, 2007, in compliance with his Stipulation and FAO.

**Action:** A motion was made to accept Mr. Burger's third report. The motion was seconded and unanimously carried.

**Business:** Compliance with a Stipulation and Final Agency Order (FAO)

**Case:** 2007-002347 David Eugene Schmidt, Jr., MP 189377 / JP 289174

**Summary:** The Board reviewed the first quarterly report provided by David Eugene Schmidt, Jr., dated July 17, 2007, in compliance with his Stipulation and FAO.

**Action:** A motion was made to table Mr. Schmidt's quarterly report to obtain more information from Mr. Schmidt. The motion was seconded and unanimously carried.

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**Business:** Compliance with a Stipulation and Final Agency Order (FAO)  
**Case:** 2007-002499 Gary Daniel Jensen, MP 179283  
**Summary:** The Board reviewed the first quarterly report provided by Gary Daniel Jensen, dated August 1, 2007, in compliance with his Stipulation and FAO.  
**Action:** A motion was made to accept the first quarterly report from Mr. Jensen. The motion was seconded and unanimously carried.

**Business:** Initial complaint review with response  
**Case:** 2007-003382 Louis Toth - unlicensed  
**Summary:** During the July 10, 2007 meeting, the Board tabled action on case 2007-003382 to obtain additional information from Mr. Toth. The Board reviewed Louis Toth's letter dated August 7, 2007 and noted that the requested documents were not provided due to water damage from flooding at a storage unit. Correspondence dated August 2, 2007 from Aspen Homes verified flooding damage at the storage facility.  
**Action:** A motion was made, seconded, and unanimously carried to issue Louis Toth a Cease and Desist Order from providing plumbing services.

**Business:** Initial complaint review with response  
**Case:** 2008-000045 James Lembo - RP 300416  
**Summary:** The Board discussed complaint 2008-000045, initiated by State Plumbing Inspector Dennis Gardner. Mr. Gardner issued three Warning Notices to James Lembo for performing plumbing services without proper licensure, and failing to obtain permits, inspections and certification on backflow preventers. Mr. Lembo responded to the Board in correspondence dated July 2, 4, and 26, 2007.  
**Action:** A motion was made, seconded, and unanimously carried to refer this matter for discipline. After discussion in executive session, a motion was made in open session to table and request more information from Mr. Lembo.

**Business:** Initial complaint review with response  
**Case:** 2008-000056 Stanley Champlain - MP 178614  
**Summary:** The Board discussed complaint 2008-000056, initiated by State Plumbing Inspector Bob Gallegos. Mr. Gallegos issued a Warning Notice to Stanley Champlain for failure to provide continual supervision of his plumbing apprentices at the jobsite. Mr. Champlain responded to the Board on July 31, 2007.  
**Action:** A motion was made, seconded, and unanimously carried to refer this matter for discipline.

**Business:** Initial complaint review with response  
**Case:** 2008-000278 Scott Peters - JP 281390  
**Summary:** The Board discussed complaint 2008-000278, submitted by Stephen C. Lanyon of Blue Sky Plumbing. Mr. Lanyon alleges that Scott Peters is contracting to perform plumbing services without a master plumbing license. Mr. Peters responded to the Board in a letter dated September 1, 2007.  
**Action:** A motion was made, seconded, and unanimously carried to refer this matter for discipline.

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**Business:** Initial complaint review with response  
**Case:** 2008-000280 Michael Welch, Confidence Plumbing Co. Inc. - MP 179530  
**Summary:** The Board discussed complaint 2008-00280, submitted by Dawn Hollingsworth-McKinny contending that Michael Welch of Confidence Plumbing Co. Inc. improperly installed a warranty replacement tub at her residence. Mr. Welch responded to the Board in a letter dated August 16, 2007 stating that this issue has been resolved.  
**Action:** A motion was made, seconded, and unanimously carried to dismiss this matter.

**Business:** Initial complaint review with response  
**Case:** 2008-000332 Scott Plutowski, Scott Free Plumbing - MP 179874  
**Summary:** The Board discussed complaint 2008-000332, submitted by Giles J. Schurman. Mr. Schurman observed unlicensed employees of Scott Free Plumbing working without proper supervision. Scott Plutowski responded to the Board in a letter dated August 27, 2007.  
**Action:** Member Giles J. Schurman recused himself from the discussion and vote. A motion was made, seconded, and carried to refer this matter for discipline.

**Business:** Initial complaint review with response  
**Case:** 2008-000408 Benjamin Durham, Durham's Plumbing and Heating - MP 186399  
**Summary:** The Board discussed complaint 2008-000408, submitted by Sharanne Lampe alleging that Durham's Plumbing and Heating failed to obtain a permit prior to providing plumbing services, that the installation leaked causing water damage and that this installation has not been repaired. Mr. Durham submitted a response to the Board for their review.  
**Action:** A motion was made, seconded, and unanimously carried to refer this matter for discipline. After discussion in executive session, a motion was made in open session to issue Benjamin Durham a Letter of Admonition for failing to obtain permits and inspections.

**Business:** Report of Investigation - Office of Investigations  
**Case:** 2006-004169 Eugene Marsh - E.L.M. Plumbing and Heating Inc. - unlicensed  
**Summary:** Investigator William Schlitter presented, in executive session, his report on case 2006-004169 involving respondent Eugene Marsh. Mr. Marsh is advertising as a plumber without proper licensure as shown by his business card.  
**Action:** After consideration in executive session, a motion was made in open session to issue a Cease and Desist Order to Eugene Marsh. The motion was seconded and unanimously carried.

**Business:** The Office of the Attorney General - case update  
**Case:** 2004-000221 Derick Munson - unlicensed  
**Summary:** In executive session, Assistant Attorney General Betty Wytias updated the Board on case 2004-000221 against Derick Munson on a matter that was referred to her office in September 2004 for failure to obtain a permit or inspections for plumbing he installed at his residence. No further activity has been reported since the case was referred.  
**Action:** A motion was made, seconded and unanimously carried to rescind this case from referral to the OAG and dismiss this matter without prejudice.

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**Business:** The Office of the Attorney General - case update  
**Case:** 7903000070 Mark Tapia - AP 8836  
**Summary:** In executive session, Assistant Attorney General Betty Wytias updated the Board on case 7903000070 against Mark Tapia on a matter that was referred to her office in December 2002 for disciplinary action for advertising and providing plumbing services without proper licensure.  
**Action:** A motion was made, seconded and unanimously carried to rescind this case from referral to the OAG and issue Mark Tapia a Cease and Desist Order through the Board.

### VIII EXECUTIVE SESSION


Steve Callahan moved that the Board go into Executive Session pursuant to section 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. The motion was seconded by Robin Vidimos and unanimously carried.

The Board was in Executive Session from 2:58 p.m. to 4:05 p.m. By unanimous agreement, the Board moved to go out of Executive Session.

### IX OTHER BUSINESS

With all business completed, the meeting was adjourned at 4:12 p.m. The next meeting is scheduled for Thursday, November 1, 2007 at 9:30 a.m.

Approved this 1st day of November, 2007

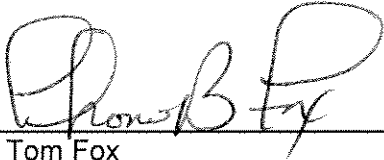
  
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Tom Fox, Chair

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## EXECUTIVE SESSION ATTESTATION October 4, 2007

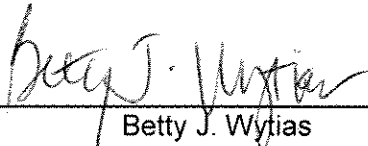
The portion of the executive session that was not recorded was confined to a discussion of the topic identified in the motion authorizing the Examining Board of Plumbers to convene in executive session.

APPROVED THIS 1st DAY OF November 2007.



Chair, Tom Fox

A portion of this executive session was not recorded because the discussion constituted a privileged attorney-client or work product communication.



Betty J. Wytias  
Assistant Attorney General