

# RECORD OF PROCEEDINGS

## **MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1550, DENVER, COLORADO ON WEDNESDAY, October 27, 2010**

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

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

Board Vice Chair Steven J. Callahan called the meeting to order at 9:07 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
Michael K. Trapp	Plumbing Contractor
Robin A. Vidimos	Public Member

### **MEMBERS ABSENT**

None

### **OTHERS PRESENT**

Brian Pritchard	Section Director
Steve Conrad	Chief Inspector
Kye Lehr	Plumbing Inspector Supervisor
Dennis Rhodes	Office of Expedited Settlement
John J. Roberts	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 August 25, 2010, meeting, as amended.

### **IV REPORTS FOR RATIFICATION**

#### **A. Review of Report of Final Agency Actions – August 4, 2010 to October 6, 2010**

##### Cease and Desist Orders

- |                                 |                        |
|---------------------------------|------------------------|
| 1. Jonathan Dunford, Unlicensed | 3. John E. Hayes, MP   |
| 2. Apple Aire Inc, Unlicensed   | 4. Mark R. McQuery, AP |

##### Finalized Letter of Admonition

1. Paul E. Prentiss, AP

\* LOA's are not final until the 20-day period has lapsed, allowing Respondent to contest the action.

##### Revocations

- |                             |                          |
|-----------------------------|--------------------------|
| 1. Timothy G. Robichaud, JP | 3. Dominick F. Ryken, RP |
| 2. Antoine G. Garcia, AP    |                          |

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### Stipulations, Final Agency Orders, and Board Orders

1. Brandon S. Roberts, JP
2. Gregory E. Heise, MP
3. Daniel J. Quine, MP
4. Lance J. Wheeler, MP
5. Richard Wiscomb, 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 2007, October 2008, and October 2009. Members determined that the 2007 and 2008 reports were complete. Members will continue to review the 2009 report at future meetings. A motion was made, seconded, and carried to ratify the reports.

## **V STAFF COMMENTS**

Section Director Brian Pritchard stated that he was pleased to see the Plumbing Board begin the process of paperless meetings.

Mr. Pritchard also acknowledged the inspectors for their diligent efforts to fulfill their responsibilities during their understaffed period. He stated that all inspector positions are filled.

Chief Inspector Steve Conrad introduced the new plumbing inspector supervisor, Kye Lehr.

Inspector Supervisor, Kye Lehr stated that he will present information to the American Society of Plumbing Engineers (ASPE) during a luncheon to be held on November 10<sup>th</sup>. He will address the Board's concern that many variance requests relate to improper fixture spacing. Mr. Lehr also stated that he will encourage state inspectors to ensure fixture spacing is in line with code requirements during the rough-in portion of the inspection process.

## **VI EXECUTIVE SESSION**

At 9:22 a.m., Board President, Thomas Fox, moved that the Board enter into executive session pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(III) for the sole purpose of considering test questions, scoring keys, and other examination data pertaining to the administration of licensing examination, which information is required to be kept confidential under Colorado Revised Statutes section 24-72-204(2)(a)(II), including request for review of ADA determination.

The motion was seconded by Janine Snyder and unanimously carried with eight members in attendance, seven 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 9:57 a.m.

**Business:** Request for ADA Determination

**Summary:** The Board reviewed information regarding a request to allow the accommodation of an interpreter for the plumbing licensing examination.

**Action:** After discussion in executive session, a motion was made, seconded, and carried in open session to deny accommodation of an interpreter for the licensing examination.

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## VII REVIEW OF BOARD BUSINESS

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

The following variance requests were submitted to the Board by October 7, 2010, 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:** Langley Architects, Frontier Charter Academy, Permit 682863  
**Summary:** David Langley, Langley Architects requested a variance to section 405.3.1, of the IPC 2009. This request was to allow a reduction in the clearance between a lavatory centerline and a toilet partition of 1" on each side, and a reduction in clearance between a urinal centerline and toilet partition of 1" each side at the Frontier Charter Academy located at 418 Yoder Street, Calhan, Colorado.  
**Action:** A motion was made, seconded, and carried to grant this request with the following:

Provision

1. This is a one-time variance for the Frontier Charter Academy property, Permit 682863.

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:** Cator, Ruma & Associates, Front Range Community College, Permit 681537  
**Summary:** Sean Convery, Cator, Ruma & Associates requested a variance to section 803.2 of the IPC 2009. This request was to allow the installation of sinks in a chemistry laboratory without providing diluting or neutralizing devices prior to discharge located at 4616 S Shields Street, Fort Collins, Colorado.  
**Action:** A motion was made, seconded, and carried to grant this request with the following:

Provision

1. This is a one-time variance for the Front Range Community College property, Permit 681537.

Findings of Fact

It is the opinion of the Board that:

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

### **B. Complaints Review**

**Subject:** American Rooter & Repair, Unregistered  
**Case No.:** 2010-00005039  
**Summary:** The Board reviewed the complaint filed against American Rooter & Repair by Les Eurich, Quad County Plumbing and the response provided by Robert Amador, on behalf of American Rooter & Repair. This complaint alleged that

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the company is advertising plumbing contracting services without the proper registration.

**Action:** A motion was made, seconded, and carried to issue a Cease and Desist Order to American Rooter & Repair for advertising to perform plumbing work without a plumbing contractor registration.

**Subject:** Bassett Plumbing & Heating, PC 2539

**Case No.:** 2011-000538

**Summary:** Board member Donald Crandell recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against Bassett Plumbing & Heating by Joe Cronen and the response provided by the company's master plumber of record, Nelson L. Wolfmeier. This complaint alleged that Bassett Plumbing & Heating failed to register an apprentice, Mark McQuery.

**Action:** A motion was made, seconded, and carried to dismiss the case as being without merit.

**Subject:** CPE Mechanical, LLC, PC 2300

**Case No.:** 2011-000272

**Summary:** Board member Steven Callahan recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against CPE Mechanical, LLC by Matthew Rolfe and Keesha Quezada's response to the complaint. This complaint alleged that the company was offering plumbing contracting services without retaining the services of a full-time master plumber.

**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 dismiss. The Board found that there was no reasonable cause to warrant further action at this time.

**Subject:** CPE Mechanical, LLC, PC 2300

**Case No.:** 2011-000320

**Summary:** Board member Steven Callahan recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against CPE Mechanical, LLC by Mathew Burtis' response to the complaint. This complaint alleged that the company was offering plumbing contracting services without retaining a full-time master plumber.

**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 dismiss. The Board found that there was no reasonable cause to warrant further action at this time.

**Subject:** Gavin Gallegos, MP 185161

**Case No.:** 2010-005042

**Summary:** The Board reviewed the complaint filed against Mr. Gallegos by the Board and his response to the complaint. This complaint alleged that Mr. Gallegos failed to properly supervise an apprentice, Levi Travis Jacobs on the jobsite at issue.

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- Action:** A motion was made, seconded, and carried to issue a Letter of Admonition to Gavin Gallegos for failure of a licensee to supervise an apprentice.
- Subject:** GDS Heating AC & Plumbing, PC 2187  
**Case No.:** 2010-005035  
**Summary:** The Board reviewed the complaint filed against GDS Heating AC & Plumbing by Kurt Scrivner and information regarding the company's failure to respond to the complaint. This complaint alleged that the company was offering plumbing contracting services without retaining a full-time master plumber.
- Action:** A motion was made, seconded, and carried to table pending additional information from Scott Freund.
- Subject:** Dave Heiman, Unlicensed  
**Case No.:** 2010-005032  
**Summary:** The Board reviewed the complaint filed against Mr. Heiman by the Board and his response to the complaint. This complaint alleged that Mr. Heiman performed plumbing work without a permit or inspections.
- Action:** A motion was made, seconded, and carried to refer to executive session for possible discipline.
- Subject:** Matthew S. Husmann, MP 180139  
**Case No.:** 2011-000388  
**Summary:** The Board reviewed the complaint filed against Mr. Husmann by the Board and his response to the complaint. This complaint alleged that Mr. Husmann performed plumbing work without a permit or inspection.
- Action:** A motion was made, seconded, and carried to refer to executive session for possible discipline.
- Subject:** Albert M. Lincon, AP 13912, canceled  
**Case No.:** 2010-004068  
**Summary:** The Board reviewed the complaint filed against Mr. Lincon by the Board for violating Board Rule 7.1, failure to respond to a Board investigation, and information regarding an application that was received from Confidence Plumbing Co., Inc. to register Mr. Lincon as an apprentice.
- Action:** A motion was made, seconded, and carried to deny Mr. Lincon's application for apprentice registration.
- Subject:** Brent McBride, Unlicensed, ME 4542  
**Case No.:** 2010-005021  
**Summary:** The Board reviewed the complaint filed against Mr. McBride by Zane Dennis and Mr. McBride's response to the complaint. This complaint alleged that Mr. McBride performed plumbing work without the proper license and without obtaining a permit or inspection.
- Action:** A motion was made, seconded, and carried to table for additional information from the inspection authority for the project at issue.
- Subject:** Jan Smith, MP 186374  
**Case No.:** 2010-005055  
**Summary:** The Board reviewed the complaint filed against Mr. Smith by the Board and his response to the complaint. This complaint alleged that Mr. Smith was offering plumbing contracting services without the proper licensure.

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

### C. Compliance Monitoring

#### 1. Compliance with Board Order

**Subject:** Wesley King, JP 285584, lapsed

**Case No.:** 2004-000750

**Summary:** The Board reviewed information regarding Mr. King's violation of the terms of the August 6, 2007, Stipulation and Final Agency Order he signed with the Board and Mr. King request for a three month extension on his fine payment.

**Action:** A motion was made, seconded, and carried to approve Mr. King's request.

#### 2. Quarterly Reports

The Board reviewed the quarterly reports submitted through October 7, 2010.

**Subject:** Darron A. Sainz, MP

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

**Subject:** Russell Ralston, JP

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

### D. Request for Reconsideration

**Business:** Anthony G. Abeyta, MP

**Summary:** The Board reviewed the complaint filed against Mr. Abeyta by Debra Meeks and information regarding the Board's August 25, 2010 disciplinary action. Based on new information this case was referred back to the Board for possible revision on discipline. This complaint alleged that Mr. Abeyta failed to maintain responsible control for plumbing work performed by the company.

**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 to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

### F. Request for Consideration of Board Policies

**Business:** Request for Policy Regarding Delegation of Authority to Program Director

**Summary:** The Board reviewed Policy 07-3 subsection 4 for inclusion into the current Board Policies. The purpose of this policy is to allow the Program Director, Section Director, or their designee the authority to issue an Order as defined in the "*Board's Procedural Order Regarding Review of Initial Decision*" with the flexibility to review an initial decision more than 30 days after issued.

**Action:** A motion was made, seconded, and carried to adopt Board Policy 07-3 subsection 4 and the corresponding "*Board's Procedural Order Regarding Review of Initial Decision*" and Delegation of Authority.

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A motion was made, seconded, and carried to repeal the current Minute Order allowing the Board additional time to review Initial Decisions.

**Business:** Request to Amend Policy 07-2 Disciplinary Action Regarding Expired Licenses

**Summary:** The Board reviewed the current policy 07-2 to update the citation to the Board Rule referenced in this policy.

**Action:** A motion was made, seconded, and carried to adopt the amended language to Board Policy 07-02.

**Business:** Request to Repeal Policy 08-1, Plumbing Contactor's loss of Responsible Master and Repeal Policy 08-3, Termination of Plumbing Apprentice

**Summary:** The Board reviewed Policy 08-1 to repeal the current policy that has been adopted as Rule 6.2. In addition the Board reviewed Policy 08-3 to repeal the current policy that has been adopted as Rule 6.3.

**Action:** A motion was made, seconded, and carried to repeal Board Policy 08-1 and 08-3.

### **VIII REVIEW OF REINSTATEMENTS**

**Business:** Patrick D. Kee, JP 289192

**Summary:** The Board reviewed Mr. Kee's application for reinstatement of his journeyman plumbing license 289192. Mr. Kee revealed in this application that he continued to work as a plumber under a license that lapsed on August 31, 2007. In addition, Mr. Kee revealed in this application he has been convicted of a felony and released from probation.

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

### **IX EXECUTIVE SESSION**

At 12:56 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 Report of Investigation regarding Case Number 2010-001188;
- 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 eight members in attendance, seven 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 2:06 p.m.

### **X OTHER BUSINESS**

**Business:** Review of Report of Investigation

**Case:** 2010-001188 Mark Tapia – JP 290095, MP 189907

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**Summary:** In executive session, the Board discussed the Report of Investigation dated October 7, 2010, regarding the case against Mr. Tapia. This complaint alleged that he contracted and provided plumbing services without the proper license or registration in violation of the October 11, 2007, Cease and Desist Order issued to him by the Board.

**Action:** After discussion in executive session, a motion was made, seconded, and carried in open session, to table action for additional information.

### **XI ADJOURNMENT**

With all business completed, the meeting was adjourned at 2:15 p.m. The next meeting is scheduled for Wednesday, December 15, 2010 at 9:00 a.m.

*Approved by: Thomas B. Fox, Chair*

*Date: December 15, 2010*