

# **RECORD OF PROCEEDINGS**

## **MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, December 6, 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 9:36 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
John Muniz	Plumbing Contractor
Robin Vidimos	Public Member
Michael Wieseler	Journeyman Plumber

### **MEMBERS ABSENT:**

None

### **OTHERS PRESENT:**

Charles H. Adams	Program Director
Stephen Conrad	Chief Inspector
Betty Wytias / John Roberts	Assistant Attorneys General
Robert Scott	State Plumbing Inspector
Ofelia Duran	Office of Expedited Settlement
Joyce J. Young	Enforcement Unit Supervisor
Donna Norman	Complaint, Applications and Felony Analyst
Marian Zabel	Administrative Assistant

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

A motion was made to approve the minutes of the November 1, 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:

- The new Enforcement Unit Supervisor, Joyce J. Young, was introduced to the Board members. Joyce comes to the Electrical and Plumbing Board Program from the Architects, Engineers and Land Surveyors Board staff.
- Board Members and Staff were reminded that the Board packets contain sensitive information that should be kept in a secured place at all times.
- Board members were reminded that a meeting is scheduled for Friday, December 7, 2007, hosted by John Breece and held at Red Rocks Community College to educate interested parties about the new law requiring Plumbing Contractors to register with the State. Mr. Adams, Chief Inspector Steve Conrad, Inspector Robert Scott, and Board Members Steven Callahan and Donald Crandell plan to attend this meeting with the intent to answer public questions. Dave Davia from the Plumbing and Heating Contractors of Colorado volunteered to sponsor the meeting by providing refreshments.

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### **IV STAFF COMMENTS (continued)**

- Mr. Adams and Steve Conrad returned Wednesday, December 5, 2007 from a three-day statewide visit with the plumbing and electrical inspectors. A final meeting with inspectors is scheduled for Friday, December 7, 2007 in Lakewood. These meetings were designed to provide information to the state inspectors on administrative and technology matters. In addition, Michelle Peterson and Mike Whatley discussed matters concerning personnel and information services.

Board Chair Tom Fox asked for clarification concerning the process to follow when a state inspector is not immediately available to inspect a school facility. Inspector Bob Scott stated that by statute state inspectors are mandated to perform the inspection. A verification form is one tool that allows a plumbing contractor to verify testing of the plumbing installation; however, the state inspector should finalize the inspection. Typically the inspector should be available to follow-up in a day or two.

Board Member Steven Callahan asked if licenses are being checked at the job site. Inspector Scott verified that state inspectors are instructed to check licenses and registrations.

After reviewing the Plumbing Renewal Statistics chart, Board Member Donald Crandell asked if statistics could be obtained on newly licensed plumbers. Staff will provide this information at the next meeting.

### **V GENERAL SESSION**

**Business:** Correspondence from Marshall A. Grant regarding apprentice supervision  
**Summary:** The Board reviewed correspondence received from Marshall A. Grant concerning enforcement of §12-58-117(1), C.R.S. that states:  
"Any person may work as a plumbing apprentice for a licensed plumber but shall not do any plumbing work for which a license is required pursuant to this article except under the supervision of a licensed plumber. Supervision requires that the licensed plumber supervise apprentices at the jobsite."  
Mr. Grant's concern is that this statute does not clearly define what "supervision" at the "jobsite" entails. The Board determined that the terms did not require further clarification.

**Action:** No action was taken.

**Business:** Eagle County Plumbing and Heating - Permit 621214 - variance request  
**Summary:** The Board considered a variance request submitted by Gypsum Capital Partners LLC to allow a 2" drain pipe for a stacked washer/dryer along with 2 sinks at the New America School located at 500 Red Table Drive in Gypsum, Colorado. 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 grant this request. The motion was seconded and unanimously carried with the following provisions:

- This request is for a one-time variance and is limited to this location.
- A laundry tub with a faucet shall be added to this installation.
- The washing machine shall discharge into the laundry tub.
- The standpipe for the washer box shall be capped.
- The water connections shall remain connected to the washer box.

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

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**Business:**

Carmin Teeple - Permit 630971 - variance request

**Summary:**

The Board considered a variance request submitted by Carmin Teeple to allow the use of an Eemax tankless electric water heater in her permanent residence. 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 variance and the use of this tankless water heater. The motion was seconded and unanimously carried for the following reasons:

- The water storage tank (cistern) is not listed to conform to NSF-61 as required by P2608.5.
- The GPM does not meet P2903.6 in the 2003 edition of the IRC.
- Hot water piping is undersized (1/2" piping) according to Table P2903.7 in the 2003 edition of the IRC.

It is the opinion of the Board that granting this variance would compromise public safety.

**Business:**

Plumbing Contractor's loss of responsible master

**Summary:**

The Board was provided a copy of a proposed policy to allow a registered plumbing contractor who loses the services of his responsible master plumber twenty days to hire a new master plumber to meet requirements set out in §12-58-102 (7), C.R.S.

**Action:**

A motion was made, seconded and unanimously carried to adopt the following policy to become effective January 1, 2008:

**08-1 Plumbing Contractor's loss of responsible master.** It is the policy of the Examining Board of Plumbers to allow a plumbing contractor who loses the services of the responsible master plumber, for any reason, twenty days in which to hire a new master plumber. If a new master plumber has not been hired during the twenty-day period, the plumbing contractor registration will be placed into a lapsed status until such time as a master has been hired, and the appropriate fee paid.

## VI COMPLAINTS / DISCIPLINE

**Business:**

Report of final agency actions - September 15, 2007 through November 15, 2007

**Summary:**

Cease and Desist Order

- Serafin Vigil, unlicensed
- Eugene L. Marsh, journeyman

Finalized Letter of Admonition (LOA)

- Benjamin H. Durham, master
- Benamin Gordon Noel, residential

Stipulation

- Henry Nunez Newman, master
- Robert E. Stupelli, master
- Chez C. Yund, master

**Action:**

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

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**Business:** Felony audit progress reports through November 8, 2007  
**Summary:** The Board reviewed the reports on the progress that the administrative staff has made on the backlog resulting from the felony audits of October 2005 and April 2006.  
**Action:** A motion was made, seconded and unanimously carried to ratify the report.

**Business:** Compliance with a Stipulation and Final Agency Order (FAO)  
**Case:** 2006-000220 Philip J. Stone, AP 17196  
**Summary:** The Board reviewed Philip J. Stone's fourth quarterly report dated October 20, 2007 in compliance with his Stipulation and FAO.  
**Action:** A motion was made to accept Mr. Stone's report. The motion was seconded and unanimously carried.

**Business:** Compliance with a Stipulation and Final Agency Order (FAO)  
**Case:** 2006-002971 Joshua Alan Ridgway, AP 19208  
**Summary:** The Board reviewed Joshua Alan Ridgway's fourth quarterly report received October 26, 2007 in compliance with his Stipulation and FAO.  
**Action:** A motion was made to accept Mr. Ridgway's 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 David Eugene Schmidt's first and second quarterly reports dated July 17, 2007 and October 5, 2007 in compliance with his Stipulation and FAO.  
**Action:** A motion was made to accept Mr. Schmidt's reports. The motion was seconded and unanimously carried.

**Business:** Complaint reconsideration  
**Case:** 2006-001121 Carl Himes - MP176091  
**Summary:** The Board discussed complaint 2006-001121 issued against master plumber Carl Himes. During the July 10, 2007 meeting and as a result of reviewing a related case against Scott Bruzelius (2005-002025), the Board took action to initiate a complaint against Mr. Himes for allegedly selling his license. Office staff notified the Board that complaint 2006-001121 against Mr. Himes was initiated at that time and had been closed by Board action on September 16, 2005.  
**Action:** A motion was made, seconded, and unanimously carried to rescind the Board's decision on July 10, 2007 to open a new complaint.

**Business:** Initial complaint review with response  
**Case:** 2007-002997 Robert Browne - AP 7708 / MP pending  
**Summary:** The Board discussed complaint 2007-002997, initiated by the Examining Board of Plumbers. Mr. Browne is an active plumbing apprentice. His advertisement to contract plumbing work in the Clear Creek Courant was submitted to the Board. Mr. Browne responded in a letter dated April 25, 2007 stating that he canceled his advertisement.  
**Action:** A motion was made, seconded, and unanimously carried to dismiss this matter.

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**Business:** Initial complaint review with response  
**Case:** 2007-003443 Vincent Lopez, Lopez Plumbing - MP 1176  
**Summary:** The Board discussed complaint 2007-003443, initiated by Examining Board of Plumbers against Lopez Plumbing. Vincent Lopez responded in a letter dated October 17, 2007 stating that he allowed Mike Sullivan to install the pipe from the potable water to his storage tank and that Lopez Plumbing installed the backflow preventer.  
**Action:** A motion was made, seconded, and unanimously carried to dismiss this matter with no apparent violation.

**Business:** Initial complaint review with response  
**Case:** 2008-000045 James Lembo - RP 300416  
**Summary:** The Board discussed complaint 2008-000045, initiated by the Examining Board of Plumbers. James Lembo was issued a Warning Notice for failure to obtain a permit, inspections, and for not providing certification on the backflow preventers. Mr. Lembo stated in a letter, dated November 14, 2007, that the backflow preventers were installed in 1990 by a plumbing contractor.  
**Action:** A motion was made, seconded, and unanimously carried to dismiss this matter.

**Business:** Initial complaint review - no response  
**Case:** 2008-000296 Steven Miller, Unlicensed  
**Summary:** Richard Norelius initiated complaint 2008-000296 against Steven Miller for allegedly advertising to install plumbing without a license. The Board noted that Mr. Miller did not respond to these allegations.  
**Action:** A motion was made to issue a Cease and Desist Order to Steven Miller to refrain from working as a plumber or advertising to install plumbing. The motion was seconded and unanimously carried.

**Business:** Initial complaint review with response  
**Case:** 2008-000652 Patrick M. Sisneros - Unlicensed  
**Summary:** State Inspector Dennis Gardner initiated complaint 2008-000652 against Patrick M. Sisneros. A Warning Notice was issued to Mr. Sisneros for installing plumbing without a license. In Mr. Sisneros' response dated October 31, 2007, he stated that he worked for Richard Padilla owner of RP Mechanical in New Mexico. Neither Patrick Sisneros nor Richard Padilla are licensed in Colorado.  
**Action:** A motion was made, seconded, and unanimously carried to issue a Cease and Desist Order to Patrick M. Sisneros to refrain from working as a plumber or contracting to provide plumbing work in Colorado without a license.  
**Second Action:** A second motion was made, seconded, and carried to issue a Cease and Desist Order to Richard Padilla to refrain from working as a plumber.

**Business:** Initial complaint review - no response  
**Case:** 2008-000701 Anthony Gibson, AP 14397  
**Summary:** The Board discussed complaint 2008-000701 against apprentice Anthony Gibson. Travis T. Bedore alleges that Mr. Gibson is contracting and installing plumbing without a license and without obtaining a permit or inspection. Anthony Gibson did not respond to these allegations.  
**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:** 2008-001102 Ray Johnson - Unlicensed  
**Summary:** The Board discussed complaint 2008-001102, initiated by the State Inspector Dennis Gardner against Ray Johnson for advertising to install plumbing without a license. Mr. Johnson responded to the Board in a letter dated November 6, 2007 stating that the advertising flyer is four years old and that he only provides plumbing repair services.  
**Action:** A motion was made, seconded, and unanimously carried to issue a Cease and Desist Order to Ray Johnson to refrain from advertising to install plumbing.

### **VIII EXECUTIVE SESSION**

Tom Fox 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 Steven Callahan and unanimously carried.

The Board was in Executive Session from 11:51 a.m. to 12:35 p.m. By unanimous agreement, the Board moved to go out of Executive Session.

### **IX ADJOURNMENT**

With all business completed, the meeting was adjourned at 12:35 p.m. The next meeting is scheduled for Thursday, January 3, 2008 at 9:30 a.m.

*Approved by: Tom Fox, Chair      Date: January 3, 2008*

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## **EXECUTIVE SESSION ATTESTATION December 6, 2007**

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: January 3, 2008*

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

*Approved by: Betty J. Wytias, Assistant Attorney General      Date: January 3, 2008*