

# **RECORD OF PROCEEDINGS**

## **MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, April 2, 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 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
Steven Callahan	Master Plumber, Secretary
Donald Crandell	Plumbing Contractor
Jorge Delgado	Ex Officio Member
Michael Trapp	Plumbing Contractor
Robin Vidimos	Public Member
Michael Wieseler	Journeyman Plumber

### **MEMBERS ABSENT**

### **OTHERS PRESENT**

Charles H. Adams	Program Director
Rico Munn	Executive Director
Rosemary McCool	Division Director
Angeline Kinnaird Linn	Section Director
Steve Conrad	Chief Inspector
Daryl Kuiper	Plumbing Inspector Supervisor
Kennetha Julien	Office of Expedited Settlement
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**

It was the decision of the Board to approve the minutes of the February 5, 2009, meeting, as amended.

### **IV REPORTS FOR RATIFICATION**

#### **A. Review of Report of Final Agency Actions**

##### **Cease and Desist Orders**

1. Brian Malouff, unlicensed

##### **Citations Issued**

1. Troy L. Eaton, JP

##### **Finalized Letter of Admonition**

1. Guillermo Ornelas, Jr. JP
2. Steven J. Spransy, JP
3. H. T. Austin, MP
4. Steven L. Caple, MP

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

1. Frank O. Carlson, JP
2. Shannon M. Devore, JP
3. Dennis L. Meadows, Jr., JP
4. Russell L. Ralston, JP
5. Melinda R. Schell, JP
6. Kenneth J. Hartley, 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 April 2007, October 2007 and October 2008. It was the decision of the Board to ratify the reports.

## **V STAFF COMMENTS**

### **A. Program Director &/or Enforcement Unit Supervisor**

Program Director, Charles H. Adams, stated that Senate Bill 09-064 concerning electrical and plumbing school inspections will not go forward in the legislature. Mr. Adams has implemented an informal and internal tracking system for school inspections. This will allow Board staff to keep apprised of the inspection timeliness issues, if there are any. A copy of the memorandum and complaint form were provided for the Board's information.

### **B. Executive Director, D. Rico Munn**

Executive Director, D. Rico Munn addressed the Board concerning the potential to raise permit fees. The Plumbing Board is a cash-funded Board that annually forecasts expenditures and sets fees for the coming fiscal year. A considerable deficit has been noted and subsequently requires attention prior to the upcoming fiscal year. Members were asked to provide input on several permit fee increase options designed by management staff and provide comments to the Program Director by April 16<sup>th</sup>. The optimal time to execute an increase is May 1<sup>st</sup>, 2009.

### **C. Update from State Inspector Supervisor, Daryl Kuiper, MP**

State Inspector Supervisor, Daryl Kuiper taught classes for the Colorado Chapter of the International Code Council (ICC) on March 3 and 4, 2009. State Inspectors attended the advanced plumbing class with Inspector Bob Scott assisting in the basic plumbing class. The classes were well received.

Mr. Kuiper attended a class for symphonic roof drainage on March 5, 2009, and will be arranging training for state inspectors.

Mr. Kuiper, Mr. Conrad, and Mr. Adams attended a meeting promoted by the ICC and fire protection personnel to discuss residential fire suppression systems. Further meetings are being planned to discuss the licensing requirements in fire protection installations and the possible training of inspectors in fire protection inspections.

Mr. Kuiper attended the Rio Grande County Commissioners meeting in Monte Vista on March 18, 2009 where discussion regarding plumbing inspections by county inspectors took place.

Mr. Kuiper attended the Colorado Association of Plumbing and Mechanical Officials meeting on the March 19, 2009. Attendees discussed the economic stimulus money received from the governor's office to retrofit low income homes to be more energy efficient. Retrofit may affect plumbing installations if drains for high efficiency furnaces are required.

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A second informal code adoption committee met at 1:30 on April 1, 2009, to discuss the possible revision of current rules and exceptions to the code.

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

#### **A. Request for Board Opinion – RTA Architects, Swink School**

**Business:** The Board reviewed the request from RTA Architects for an opinion regarding the use of epoxy materials in the showers at Swink School in Swink, Colorado.

**Action:** It was the opinion of the Board that Macropoxy 646 manufactured by Sherwin Williams is compliant with section 417.4.1 of the IPC as a smooth, noncorrosive, and nonabsorbent waterproof material for shower walls.

#### **B. Review of the Uniform Plumbing Code, 2009 Edition – Pete Crow, Field Manager, IAPMO**

Pete Crow, Field Manager for IAPMO discussed the potential water and monetary savings by adopting the Uniform Plumbing Code, 2009 edition as the model code. Members were asked to give consideration to the UPC during future code adoption committee meetings.

#### **C. Requests for Variance**

The following variance requests were submitted to the Board by November 14, 2008, 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:** Fred Lai, H+L Architecture, Mead High School

**Summary:** Fred Lai, H+L Architecture requested a variance to section 417.5.2 of the IPC. This request was to waive the shower pan lining in the locker rooms at Mead High School.

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

##### **Provisions**

1. This is a one-time variance for Mead High School.
2. The removal of the existing Cure & Seal J-20 product from the shower floors shall be required.
3. A seamless, non-slip, non-absorbent material shall be used on the shower floors and shall meet with the approval of State Inspector Supervisor, Daryl Kuiper.

##### **Findings of Fact**

It is the opinion of the Board that:

1. The seamless, non-slip, non-absorbent material meets code requirements.
2. Once the floor is sealed, public safety will not be compromised.

**Business:** Timothy McKay, Klipp Architecture, Dakota Ridge High School

**Summary:** Timothy McKay, Klipp Architecture, requested a variance to section 310.5 of the IPC. This request was to waive the requirement of urinal partitions at Dakota Ridge High School.

**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. The school district and professionals in the industry are expected to be aware of the code requirements and adhere to them.

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2. The installation of urinal partitions will not cause an unreasonable economic burden and enhances public safety.

**Business:** Jeff Shanahan, Otis School District, Otis Preschool addition #4882  
**Summary:** Jeff Shanahan requested a variance to section 405.3.2 of the IPC. This request was to allow the hand washing facilities to be located outside the toilet rooms.  
**Action:** It was the decision of the Board to approve this request with the following:  
**Provisions**  

1. This is a one-time variance for Otis School District, Preschool addition, #4882.
2. This variance is not conditional on the brand of lavatory used.

**Finding of Fact**  

1. It is the opinion of the Board that to allow the group lavatory to be located outside of the toilet rooms at the Otis Preschool addition would not compromise public safety.

### D. Complaints Review

**Subject:** Kenneth C. Ament, MP #178773  
**Summary:** The Board reviewed the tabled complaint filed against Mr. Ament by the Plumbing Board and his response to the complaint. The complaint alleged that Mr. Ament practiced as a plumber while his licensed was lapsed and operated as a plumbing contractor prior to obtaining registration from the Board.  
**Action:** It was the decision of the Board to issue a Letter of Admonition to Kenneth C. Ament for the above allegations.

**Subject:** Scott E. Cannell, JP #289323  
**Case No.:** 2009-002002  
**Summary:** The Board reviewed the complaint filed against Mr. Cannell by Benjamin T. Lunt and his response to the complaint. This complaint alleged that Mr. Cannell offered and advertised to contract plumbing work without securing a master plumber and plumbing contractor registration.  
**Action:** It was the decision of the Board to issue Scott E. Cannell a \$250 citation for the above allegations.

**Subject:** Richard L. Shaffer, MP #179616  
**Case No.:** 2009-002699  
**Summary:** The Board reviewed the complaint filed against Mr. Shaffer by Ismael Garbar and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Shaffer was acting as a responsible master for two plumbing contractors.  
**Action:** It was the decision of the Board to issue Richard L. Shaffer a \$500 citation for the above allegation.

**Subject:** Paul S. Ferreira, MP #185418  
**Case No.:** 2009-002658  
**Summary:** The Board reviewed the complaint filed against Mr. Ferreira by the Regional Building Department along with his response to the complaint. This complaint alleged that Mr. Ferreira allowed apprentices to work without supervision.  
**Action:** It was the decision of the Board to issue Paul S. Ferreira a \$250 citation for the above allegation.

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**Subject:** Matthew Husmann, MP #180139  
**Case No.:** 2009-002163  
**Summary:** The Board reviewed the complaint filed against Mr. Husmann by the Colorado State Electrical Board along with his response to the complaint, and the Board's previous decision to issue a citation. This complaint alleged that Mr. Husmann failed meet the generally accepted standard of plumbing practice by failing to obtain a permit prior to the commencement of installing plumbing. Mr. Husmann is requesting a negotiated settlement.  
**Action:** It was the decision of the Board to re-affirm the citation issued to Mr. Husmann.

**Subject:** Husmann Plumbing, Inc., PC #1679  
**Case No.:** 2009-002372  
**Summary:** The Board reviewed the complaint filed against Husmann Plumbing, Inc. by Ila Tafoya along with the company's response to the complaint. This complaint alleged that Husmann Plumbing, Inc. failed to meet the generally accepted standard of plumbing practice by failing to obtain a permit or inspections.  
**Action:** It was the decision of the Board to issue Husmann Plumbing, Inc. a \$250 citation for the above allegation.

**Subject:** ProPlumbers, Inc., PC #1830  
**Case No.:** 2009-002562  
**Summary:** The Board reviewed the complaint filed against ProPlumbers, Inc. by Raymond Hughes along with the company's response to the complaint. This complaint alleged that ProPlumbers, Inc. did not meet generally accepted standards of plumbing practice by:

- Failing to provide supervision of apprentices at the job site;
- Failing to install the shower valve to manufacturer's standards; and
- Failing to properly support plastic pipe.

**Action:** It was the decision of the Board to issue a Letter of Admonition to ProPlumbers, Inc. for the above allegations.

**Subject:** Trinity Mechanical, Inc., PC #2108  
**Case No.:** 2009-002735  
**Summary:** Board member Steve Callahan recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against Trinity Mechanical, Inc. by Sean Britton along with the company's response to the complaint. This complaint alleged that Trinity Mechanical, Inc. failed to register Mr. Britton as a plumbing apprentice.  
**Action:** It was the decision of the Board to table this matter and request that Trinity Mechanical, Inc. provide employment records for Mr. Britton.

### **E. Compliance Monitoring**

**Subject:** Russell L. Ralston, JP #279539  
**Case No.:** 2009-001585  
**Summary:** The Board reviewed Mr. Ralston's response to paragraph 20 of his Stipulation and Final Agency Order requesting documentation listing the plumbing contractors that he worked for during the time his license was lapsed.  
**Action:** It was the decision of the Board to accept Mr. Ralston's documentation.



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confidential letter of concern will be retained in the Board's files for a period of 5 years.

The Board may reopen a case that was dismissed with a letter of concern in the face of a change in circumstances. Such a change in circumstances would include but not be limited to:

- Discovery of new evidence supporting the underlying charges
- Evidence that the licensee has engaged in further unprofessional conduct/grounds for discipline following issuance of the letter of concern in which there is a nexus between the new conduct and that was addressed in the case that was dismissed with the letter of concern.

After 5 years from the date of the letter of concern, the file will be disposed of in accordance with the Division's records management procedures. If the licensee has other active cases pending at the end of the 5 year retention period, the letter of concern may be kept for a longer period of time at the discretion of the Board/Program staff.

**Business:** Request for Policy Regarding Delegation of Authority to Program Director  
**Summary:** The Board reviewed Policy 07-03 for inclusion into the current Board Policies. The purpose of this policy is to assist in expediting orders in a timely and cost effective manner.

**Action:** It was the decision of the Board to adopt Board Policy 07-03 subsection 1 and subsection 2 delegating the Board's Program Director the authority to execute the subpoenas and Orders as stated below:  
(1) The Board delegates to the Program Director authority to sign and issue, on behalf of the Board, subpoenas necessary in the course of investigations or hearings.  
(2) The Board delegates to the Program Director authority to execute, on behalf of the Board, the following documents, the terms of which the Board has previously approved: Do Not Endorse letters, Letters of Admonition, Cease and Desist Orders, stipulations and other settlement agreements, and Final Agency Orders. Execution of such documents by the Program Director shall be considered execution by the Board.

### **VII REVIEW OF APPLICATION**

**Business:** Jose L. Guaderrama Murillo  
**Summary:** The Board reviewed Mr. Murillo's application for the journeyman license indicating a different social security number than his apprentice registration. Mr. Murillo was requesting credit for work obtained under an incorrect social security number.  
**Action:** It was the decision of the Board to table action on Mr. Murillo's application.

It was the decision of the Board to initiate a complaint against Mr. Murillo for deception, misrepresentation or fraud in attempting to obtain a license.

### **VIII REVIEW OF REINSTATEMENTS**

**Business:** Brandon W. Bowen, RP #300736 lapsed  
**Case #.:** 2008-003758  
**Summary:** The Board reviewed the disciplinary action initiated against Mr. Bowen and information regarding his failure to respond to the Board.  
**Action:** It was the decision of the Board to deny reinstatement for failure to respond.

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### **IX EXECUTIVE SESSION**

A motion was made for the Board to go into executive session pursuant to § 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 and unanimously carried.

Attorney-client items were considered in executive session from 2:20 p.m. to 3:40 p.m. By unanimous agreement, the Board went out of executive session.

### **X OTHER BUSINESS**

Member Jorge Delgado addressed the Board concerning the new requirement to install residential fire suppression systems. Mr. Delgado asked the Board's opinion on the annual inspection of backflow preventers (BFP). Will annual inspections be required inside the residence, at BFP connected to the sprinkler system, and at the main line before entry into the home? It was the consensus of the Board that it will hold off on discussion at this time and address this matter more fully at the time of code adoption.

#### **A. Request to Reconsider Board Action**

**Subject:** David J. Darling, dba Godly Plumbing, unregistered/unlicensed  
**Case #:** 2008-000504  
**Summary:** The Board reviewed information from the Office of the Attorney General (OAG) regarding the Board's request for action against Mr. Darling.  
**Action:** After discussion in executive session, it was the decision of the Board in open session, to rescind the Board's referral of this case to the OAG and dismiss this matter as being without merit.

**Subject:** Steven Ellison/Miller  
**Case #:** 2008-002781  
**Summary:** The Board reviewed information from the Office of the Attorney General regarding the Board's request for action against Mr. Ellison/Miller.  
**Action:** After discussion in executive session, it was the decision of the Board in open session, to rescind the Board's referral of this case to the OAG and dismiss this matter as being without merit.

**Subject:** Josiah Perkins, lapsed MP #188627  
**Case #:** 2009-001946  
**Summary:** The Board reviewed information from the Office of the Attorney General regarding the Board's request for action against Josiah Perkins.  
**Action:** After discussion in executive session, it was the decision of the Board in open session, to rescind the Board's referral of this case to the OAG and dismiss this matter as being without merit.

### **XI ADJOURNMENT**

With all business completed, the meeting was adjourned at 3:40 p.m. The next meeting is scheduled for Thursday, June 5, 2009 at 9:30 a.m.

*Approved by: Giles Schurman, Vice Chair*

*Date: June 4, 2009*

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### **Attestation:**

Pursuant to §24-6-402(2)(d.5)(I)(B), C.R.S., I attest that 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: Giles Schurman, Vice Chair*

*Date: June 4, 2009*

Pursuant to §24-6-402(2)(d.5)(I)(B), C.R.S., a portion of this executive session was not recorded because the discussion constituted a privileged attorney-client or work product communication.

*Approved by: John J. Roberts, Assistant Attorney General*

*Date: June 4, 2009*