

# RECORD OF PROCEEDINGS

## MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, SUITE 1550, DENVER, COLORADO ON THURSDAY, June 4, 2009

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 Giles Schurman called the meeting to order at 9:30 a.m.

### **II RECOGNITION OF MEMBERS PRESENT**

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**

Tom Fox	General Contractor, Chair
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### **OTHERS PRESENT**

Charles H. Adams	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 April 2, 2009, meeting.

### **IV REPORTS FOR RATIFICATION**

#### **A. Review of Report of Final Agency Actions – March 16, 2009 to May 15, 2009**

##### Citations Issued

1. Scott Cannell, JP

##### Finalized Letter of Admonition

1. James P. Adamson, JP

2. Dieter Cantrup, MP

3. William Griner, Jr., JP

4. Robert O. Hoffarth, JP

5. Lance E. Richeal, JP

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

1. James P. Conrardy, JP

2. William R. Hanes, JP

It was the decision of the Board to ratify the report.

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### **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.

### **V STAFF COMMENTS**

Program Director Charles H. Adams stated that the residential permit adjustment that was implemented beginning May 1, 2009 is providing an increase in revenue. The fee adjustment notice posted on the website and the E-News sent to Master Plumbers and Plumbing Contractors helped in the smooth transition to a new fee structure.

Mr. Adams stated that the CBS4 Help Center interviews of DORA employees were aired on TV from 3:00 p.m. to 7:00 p.m. on May 21, 2009. A link for the Board Members was set up at the meeting for their viewing. Other DORA employees helped answer the telephones at the Help Center as well. The purpose of the event was to inform consumers of the services that DORA can provide.

Inspector Supervisor, Daryl Kuiper stated that the 2009 Code Review Committee is nearly ready to present their recommendations for code adoption with the most recent meeting being held June 3, 2009 where the 2009 Uniform Plumbing Code was discussed.

Mr. Kuiper is continuing to provide State Inspector training classes. Major topics include plumbing and mechanical venting.

Mr. Kuiper attended the Colorado Chapter of the International Code Council (ICC) in Aspen on April 24, 2009 with the topic of discussion being the changes between the 2006 and 2009 plumbing codes.

On May 10, 2009, Mr. Kuiper attended a day and a half of training by Julius Ballanco, P.E. and President of JB Engineering and Code Consulting, P.C. for residential fire suppression systems.

Mr. Kuiper stated that he is continuing to work on 2012 code proposals for the ICC. Mr. Kuiper presented changes during the May 21, 2009 CAPMO meeting to meet the June 2, 2009 deadline.

On May 27 and 28, 2009 Mr. Kuiper presented a two day class in Fort Morgan for contractors and inspectors for the northeast quadrant of Colorado. The first day covered the 2009 IFGC and the 2<sup>nd</sup> day covered the International Plumbing Code (IPC) and the International Residential Code (IRC). Mr. Kuiper reviewed the code changes from the 2006 to 2009 editions and provided additional training on plumbing venting, water pipe sizing, residential fire suppression, combustion air, mechanical venting, and gas piping.

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

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

The following variance requests were submitted to the Board by March 13, 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.

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**Business:** Walker Jones Consultant – Boulder Valley School District, Middle School  
**Summary:** Walker Jones requested a variance to section 1002.1 of the IPC. This request was to waive the requirement for individual fixture traps to use the sand and oil interceptor as a common trap at the Boulder Valley Middle School facility.

**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 #665951

Findings of Fact

It is the opinion of the Board that:

1. Installing traps in unheated spaces is not a solution.
2. The impact of providing freeze protection for traps in unheated areas would result in an economic burden.
3. Using the sand and oil interceptor as a common trap in lieu of individual floor drain traps does not compromise public safety.

**Business:** Terry and Karen Parker, residence  
**Summary:** Mr. and Mrs. Parker requested a variance to section 416 of the IPC. This request was to allow the installation of an unlisted copper sink vessel in the upstairs guest bathroom of their residence.

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

This is a one-time variance for the Terry and Karen Parker residence.

Finding of Fact

It is the opinion of the Board that the copper vessel sink does not compromise public safety.

### **B. Complaints Review**

**Subject:** Bagi Mechancial LLC, PC #1207  
**Case No.:** 2009-001916  
**Summary:** The Board reviewed the tabled complaint filed against Bagi Mechanical LLC by Chris Busch and the response provided by Wendy Bagi on behalf of the company. The complaint alleged that Bagi Mechanical LLC allowed apprentices to install plumbing without supervision on October 10, 2008.

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

**Subject:** Bagi Mechancial LLC, PC #1207  
**Case No.:** 2009-001917  
**Summary:** The Board reviewed the tabled complaint filed against Bagi Mechanical LLC by Chris Busch and the response provided by Wendi Bagi on behalf of the company. This complaint alleged that Bagi Mechanical LLC allowed apprentices to install plumbing without supervision on November 11, 2008.

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

**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 tabled complaint filed against Trinity Mechanical Inc. by Sean Britton and the response provided by the responsible master, Mark L. Dalton, on behalf of the company. This complaint alleged that Trinity Mechanical Inc. failed to register a plumbing apprentice and provide the apprentice with the verification of his time with the company.

**Action:** It was the decision of the Board to dismiss the case as:

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- the allegations regarding the company's failure to register this apprentice are being considered in case number 2008-003900; and,
- the allegations of failing to provide the Complainant with the verification of his time is not within the Board's jurisdiction to consider.

**Subject:** H.T. Austin, MP #1028

**Case No.:** 2009-002594

**Summary:** The Board reviewed the complaint filed against H.T. Austin by the Board and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Austin failed to register as a plumbing contractor while performing and offering to practice as such.

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

**Subject:** John P. Caven, MP #178035

**Case No.:** 2009-003289

**Summary:** The Board reviewed the additional information provided by the complainant, Kirk and Beth Martelon, to the case they filed against Mr. Caven. The complaint alleged that Mr. Caven failed to report to the Board final judgments entered against him by Delta County District Court. As the judgments were unrelated to the plumbing practice and not within the Board's jurisdiction to consider, the complaint was originally administratively dismissed by the Program Director.

**Action:** It was the decision of the Board to take no further action regarding this matter.

**Subject:** Antonio Garcia, MP #187783

**Case No.:** 2009-002692

**Summary:** The Board reviewed the complaint and Mr. Garcia's response to the complaint filed against him by the Board. This complaint alleged that Mr. Garcia failed to respond to a previous complaint 2009-001805 as required by Board Rule 6.

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

After discussion in executive session the Board voted in open session to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Subject:** Daniel G. Melsen, MP #178494

**Case No.:** 2009-003345

**Summary:** The Board reviewed the complaint and Mr. Melsen's response the complaint filed against him by the Board. This complaint alleged that Mr. Melsen violated the terms of the May 17, 2004 Stipulation and Final Agency Order he signed with the Board by failing to provide the required reports and failing to respond to the Board's request to do so.

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

**Subject:** Isaac S. Xinol, AP #14282

**Case No.:** 2009-002591

**Summary:** The Board reviewed a complaint against Mr. Xinol by the Examining Board of Plumbers and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Xinol submitted documentation indicating a social security number that does not belong to him and appears to be in use by more than one person.

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

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### C. Compliance Monitoring

**Subject:** Quarterly Reports Consent Agenda

**Summary:** The Board reviewed the consent agenda for the quarterly reports submitted through May 15, 2009.

**Action:** It was the decision of the Board to approve the following quarterly reports:

Michael E. Black, JP, MP	Michael A. Gentala, JP/MP
Larry A. Brennan, JP	Neil Husted, AP
Steven L. Caple, MP	Kevin S. King, JP
Kelly B.G. Corrado, MP	Paul D. Kisselbach, MP
Jeffrey S. Dannaker, MP	Curtis A. May, JP

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

**Subject:** James A. Beal, Cancelled AP

**Action:** It was the decision of the Board to accept reports eleven and twelve and require continued reporting.

Based on this information, it was the decision of the Board to initiate a complaint against Cobb Mechanical Contractors for failing to register an apprentice.

**Subject:** Kenneth M. Miller, Cancelled AP

**Action:** As Mr. Miller has failed to provide the required reports and his registration is not in active status, it was the decision of the Board to place an alert on Mr. Miller's record with the Board should their be future activity toward licensure.

**Subject:** Daniel C. Rains, AP #22164, RP #386716

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

**Subject:** Joshua A. Ridgway, AP 19208

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

**Subject:** Larry J. Shaw, JP #281139

**Action:** It was the decision of the Board to accept the final report and lift probation on Mr. Shaw's journeyman license.

**Subject:** Curtis G. Stednitz, JP #289444

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

**Subject:** Glen R. Stevens, MP #189474

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

### D. Request for Consideration of Policy

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

**Summary:** The Board reviewed the amended version of policy 07-2 to clarify the disciplinary action allowed in the current statutes.

**Action:** It was the decision of the Board to adopt the amended language to Board Policy 07-2 as proposed.

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**Business:** Request for Consideration of Policy, Unpaid Citation Fines  
**Summary:** The Board reviewed the current Delegation of Authority regarding unpaid citation fines for inclusion into the current Board Policies. The purpose of this policy is to allow timeliness of action for unpaid citation offenders and clarify disciplinary action allowed by statutes.  
**Action:** It was the decision of the Board to adopt as Board Policy 07-4 as proposed.

### **E. Request to Consider 2009 Uniform Plumbing Code**

**Business:** Request to Consider 2009 Uniform Plumbing Code – Carmen Rhodes, Executive Director, FRESC  
**Summary:** The Board reviewed a letter dated March 27, 2009, from Carmen Rhodes, Executive Director, FRESC. Ms. Rhodes requested that the Board consider the adoption of the 2009 Uniform Plumbing Code (UPC) as the model code.  
**Action:** The Board instructed staff to inform FRESC of the current code review committee.

## **VII REVIEW OF REINSTATEMENTS**

**Business:** Clint P. Cover, Lapsed JP #285359  
**Summary:** The Board considered Mr. Cover's application for reinstatement of his journeyman plumbing license #285359. Mr. Cover stated on his reinstatement application that he continued to work under a license that lapsed on August 31, 2005.  
**Action:** It was the decision of the Board to approve Mr. Cover's reinstatement with conditions and refer this matter for discipline.

**Business:** Robert E. Haines, Lapsed MP #187259  
**Summary:** The Board reviewed Mr. Haines' application for the reinstatement of his master plumbing license #187259. Mr. Haines stated on his reinstatement application that he continued to work under a license that lapsed on August 31, 2005.  
**Action:** It was the decision of the Board to approve Mr. Haines' reinstatement with conditions and refer this matter for discipline.

## **VIII EXECUTIVE SESSION**

It was the decision of the Board to go into executive session pursuant to section 24-6-402(3)(a)(II), (III), and (IV) of the Colorado Revised Statutes 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 1:27 p.m. to 2:35 p.m. By unanimous agreement, the Board went out of executive session.

## **IX OTHER BUSINESS**

**Business:** August 2005 Performance Audit of the Division of Registrations - Follow-Up on Audit Recommendation #12  
**Summary:** The Board reviewed the confidential information regarding the Follow-Up to Audit Recommendation #12.

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**Subject:** Salamon Montan, Unlicensed  
**Case:** 2009-002125  
**Summary:** In executive session, the Board discussed the Report of Investigation submitted by Investigator William Schlitter regarding the complaint filed against Salamon Montan alleging unlicensed practice.  
**Action:** In open session, the Board voted to dismiss the case as being without merit.

**Subject:** City of Craig, Unregistered  
**Case:** 2008-002650  
**Summary:** In executive session, the Board reviewed the complaint against the City of Craig by Kevin Woodbury that was referred to the Office of the Attorney General. The complaint alleged that the City of Craig refused to grant Mr. Woodbury a city contractor's license.  
**Action:** In open session, the Board voted to rescind the referral to the Office of the Attorney General and dismiss the case as being without merit.

**Subject:** Peter J. LaBella, MP  
**Case:** 2008-002701  
**Summary:** In executive session, the Board reviewed the Memorandum from Rebecca A. Connors regarding the case against Mr. LaBella that referred to the Office of the Attorney General.  
**Action:** In open session, the Board voted to initiate a complaint against Mr. LaBella alleging that he may have provided inconsistent information when applying for his company's Plumbing Contractor's registration.

### **X BOARD MEMBER RETIREMENTS**

Appreciation plaques were presented by Program Director Charles H. Adams to retiring Plumbing Board Members Giles Schurman, Board Vice-Chair and Building Official appointed member having served the Board since July 1, 2001; and Michael Wieseler, Journeyman Plumber appointed member having served the Board since July 1, 2001.

### **XI ADJOURNMENT**

With all business completed, the meeting was adjourned at 2:40 p.m. The next meeting is scheduled for Thursday, August 6, 2009 at 9:30 a.m.

*Approved by: Giles Schurman, Board Vice-Chair*

*Date: August 6, 2009*

#### **Attestation:**

Pursuant to section 24-6-402(3)(a)(II),(III), and (IV) of the Colorado Revised Statutes, 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, Board Vice-Chair*

*Date: August 6, 2009*

Pursuant to section 24-6-402(3)(a)(II),(III), and (IV) of the Colorado Revised Statutes, 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: August 6, 2009*