

RECORD OF PROCEEDINGS

MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1550, DENVER, COLORADO ON WEDNESDAY, August 25, 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 9:00 a.m.

II RECOGNITION OF MEMBERS PRESENT

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

MEMBERS ABSENT

Thomas B. Fox	General Contractor, Chair
Robin A. Vidimos	Public Member

OTHERS PRESENT

Mark Browne	Program Director
Steve Conrad	Chief Inspector
Jill Fransua	Administrative Assistant
Dennis Rhodes	Office of Expedited Settlement
John J. Roberts	Assistant Attorney General
Les Roberts	Investigator, Office of Investigations
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 June 3, 2010, meeting.

IV REPORTS FOR RATIFICATION

A. Review of Report of Final Agency Actions – May 18, 2010 to August 3, 2010

Stipulations, Final Agency Orders, and Board Orders

- | | |
|------------------------|--------------------------------------|
| 1. Chad A. Lais, JP | 4. Confidence Plumbing Co., Inc., PC |
| 2. Dwayne L. Reed, JP | 5. Heating & Plumbing Engineers, PC |
| 3. James J. Killen, MP | |

Revocations

- | | |
|--------------------------------|---------------------------|
| 1. Christopher S. Crespino, MP | 3. Kristopher M. Barr, AP |
| 2. Henry Nunez, MP | |

A motion was made, seconded and carried 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, October 2008, and October 2009. A motion was made, seconded and carried to ratify the reports.

V STAFF COMMENTS

Program Director Mark Browne stated that CLEAR on-line training is required for all Board members. Acknowledgement of completion of this training should be forwarded to Mr. Browne.

Chief Inspector Steve Conrad updated the Board on the new plumbing inspector supervisor hired to fill the vacancy left when Daryl Kuiper retired. Kye Lehr was hired to begin September 1, 2010. Mr. Lehr has over 15+ years working for Pikes Peak Regional Building Department.

Unit Enforcement Supervisor, Joyce J. Young informed the Board that the next meeting scheduled for October 27, 2010 will be paperless. One-on-one Board member training for the implementation of Diligent Board Books will be scheduled in the near future.

VI REVIEW OF BOARD BUSINESS

A. Requests for Variance

The following variance requests were submitted to the Board by August 3, 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: Mark Trujillo, Homeowner

Summary: Mr. Trujillo requested a variance to §12-58-104.5(4), C.R.S. This request was to allow the covered piping to be approved without inspection in his cabin located at 594 Freemont Knoll Lane in Jefferson 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 permit 688312 located at 594 Fremont Knoll in Jefferson, Colorado.

Findings of Fact

1. Removal of the existing installation would result in an unreasonable economic burden.
2. The existing installation does not compromise public safety.

Business: Mark Broyles, RB+B Hutton Architects, Sage Canyon Elementary School

Summary: Mr. Broyles requested a variance to section 405.3.1 of the IPC. This request was to allow the installation of lavatories spaced 27" center-to-center in lieu of the required 30" spacing, located in four toilet rooms at the Sage Canyon Elementary School, 2420 Autumn Sage Street in Castle Rock, Colorado. Mr. Broyles was in attendance and provided members with room drawings.

Action: A motion was made, seconded, and carried to deny this request with the following:

Finding of Fact

It is the opinion of the Board that:

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1. Code requirements have not been met. Installation standards have not been met.

Business: RK Mechanical, Inc., Pinnacle High School
Summary: RK Mechanical, Inc. requested a variance to section 416.5 of the IPC. This request was to waive the requirement for ASSE 1070 valves at all hand washing facilities in lieu of the tempering valve installed off the water heater at Pinnacle High School, 8412 North Huron in Thornton, Colorado.
Action: A motion was made, seconded, and carried to deny this request with the following:
Findings of Fact
It is the opinion of the Board that:

1. Code requirements have not been met. Installation standards have not been met.
2. Denying this variance would not result in unreasonable operational conditions or cause an unreasonable economic burden.
3. Granting this variance may compromise public safety.

B. Consideration of Initial Decisions

Subject: Initial Decision Review
Case No.: 2009-004345 Antoine G. Garcia, AP 1276
Summary: The Board reviewed the Administrative Law Judge's (ALJ) Initial Decision in the matter of disciplinary action concerning the license of Antoine G. Garcia, to practice as a plumber. Mr. Garcia did not appear before the ALJ or the Board.
Action: A motion was made, seconded, and carried to reject the hearing of oral arguments.
A motion was made, seconded, and carried to accept all the Findings of Fact.
A motion was made, seconded, and carried to accept all the Conclusions of Law.
A motion was made, seconded, and carried to accept the recommended sanction.
A motion was made, seconded, and carried to direct disciplinary counsel to prepare the Final Agency Order by September 17, 2010.

Subject: Initial Decision Review
Case No.: 2009-004350 Timothy G. Robichaud, JP 288372
Summary: The Board reviewed the Administrative Law Judge's (ALJ) Initial Decision in the matter of disciplinary action concerning the license of Timothy G. Robichaud, to practice as a plumber. Mr. Robichaud did not appear before the ALJ or the Board.
Action: A motion was made, seconded, and carried to reject the hearing of oral arguments.
A motion was made, seconded, and carried to accept all the Findings of Fact.
A motion was made, seconded, and carried to accept all the Conclusions of Law.
A motion was made, seconded, and carried to accept the recommended sanction.
A motion was made, seconded, and carried to direct disciplinary counsel to prepare the Final Agency Order by September 17, 2010.

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Subject: Initial Decision Review
Case No.: 2009-003453 Dominick F. Ryken, RP 386520
Summary: The Board reviewed the Administrative Law Judge's (ALJ) Initial Decision in the matter of disciplinary action concerning the license of Dominick F. Ryken, to practice as a plumber. Mr. Ryken did not appear before the ALJ or the Board.
Action: A motion was made, seconded, and carried to reject the hearing of oral arguments.
A motion was made, seconded, and carried to accept all the Findings of Fact.
A motion was made, seconded, and carried to accept all the Conclusions of Law.
A motion was made, seconded, and carried to accept the recommended sanction.
A motion was made, seconded, and carried to direct disciplinary counsel to prepare the Final Agency Order by September 17, 2010.

C. Complaints Review

Subject: Anthony G. Abeyta, MP 2
Case No.: 2010-005029
Summary: The Board reviewed the complaint filed against Mr. Abeyta by Debra Meeks and the response to the complaint provided by Mr. Abeyta's attorney, Douglass B. Auer, on his behalf. 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.

Subject: Apple Aire, Inc., Unregistered
Case No.: 2010-005030
Summary: The Board reviewed the complaint filed against Apple Aire, Inc. by Steve Lanyon and the company's response to the complaint. This complaint alleged that Apple Aire, Inc. is offering plumbing contracting services without the proper registration.
Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Apple Aire, Inc. for offering to perform plumbing work without the proper registration.

Subject: Colorado's Best Plumbing & Heating, PC, pending
Case No.: 2010-005018
Summary: The Board reviewed the complaint filed against Colorado's Best Plumbing & Heating (CBPH) by Shane Hyde, MP for Conifer Plumbing, Heating & Drain Cleaning, and the response to the complaint provided by the CBPH's attorney, James L. Gilles, on their behalf. This complaint alleged that CBPH is offering plumbing contracting services using another company's registration.
Action: A motion was made, seconded, and carried to dismiss the case as being without merit.

Subject: John E. Hayes, MP 175056
Case No.: 2010-005026
Summary: The Board reviewed the complaint filed against Mr. Hayes by Dennis Gardner and Mr. Hayes' response to the complaint. This complaint alleged that Mr. Hayes is offering plumbing contracting services without the proper registration.

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Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to John E. Hayes for offering to perform plumbing work without the proper registration.

Subject: Matthew S. Husmann, MP 180139

Case No.: 2010-003669

Summary: The Board reviewed the complaint filed against Mr. Husmann by Dennis Gardner and Mr. Husmann's response to the complaint. This complaint alleged that Mr. Husmann 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.: 2010-004009

Summary: The Board reviewed the complaint filed against Mr. Husmann by Dennis Gardner and Mr. Husmann's response to the complaint. This complaint alleged that Mr. Husmann failed to correct code violations.

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

Subject: George A. Kingery, MP 179114 lapsed

Case No.: 2010-005028

Summary: The Board reviewed the complaint filed against Mr. Kingery by Dennis Gardner and Mr. Kingery's response to the complaint. This complaint alleged that Mr. Kingery was offering plumbing contracting services without the proper license or registration.

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

Subject: Nathan C. Whitten, MP 189386

Case No.: 2010-003663

Summary: The Board reviewed the complaint filed against Mr. Whitten by Dennis Gardner and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Whitten failed to make the jobsite accessible for inspection and failed to correct code violations.

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

D. Compliance Monitoring

1. Compliance with Board Order

Subject: Dominic C. Cardenas, MP 187102

Case No.: 2006-003394

Summary: The Board reviewed Mr. Cardenas' request for early termination of Board probation after completing four years of reporting as required in his Stipulation and Final Agency Order.

Action: A motion was made, seconded, and carried to approve Dominic C. Cardenas' request for early release from Board probation and probation requirements.

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Subject: Rod M. Craig, MP 188594
Case No.: 2006-002152
Summary: The Board reviewed Mr. Craig's request for early termination of Board probation and information regarding his release from Court probation on August 2, 2008.

Action: A motion was made, seconded, and carried to approve Rod M. Craig's request for early release from Board probation and probation requirements.

Subject: Shannon M. DeVore, JP 280713
Case No.: 2009-001846
Summary: The Board reviewed information regarding Mr. DeVore's violation of the terms of the September 12, 2008, Stipulation and Final Agency Order he signed with the Board. Mr. DeVore has failed to provide the required reports and respond to the Board's request to do so. He completed the terms of his court probation on October 23, 2008.

Action: Based on the information reviewed, a motion was made, seconded, and carried to initiate a complaint against Shannon M. DeVore for violating a Board Order by failure to comply with reporting requirements and failure to respond to the Board's request to do so.

Subject: Daryl N. Moore, AP 15098
Case No.: 2008-001422
Summary: The Board reviewed information regarding Mr. Moore's violation of the terms of the December 21, 2009, Stipulation and Final Agency Order he signed with the Board. Mr. Moore has failed to provide the required fine payment and respond to the Board's request to do so.

Action: Based on the information reviewed, a motion was made, seconded, and carried to initiate a complaint against Daryl N. Moore for violating a Board Order by failure to comply with payment requirements and failure to respond to the Board's request to do so.

Subject: Joshua A. Ridgway, JP 290034
Case No.: 2006-002971
Summary: The Board reviewed Mr. Ridgway's request for early termination of Board probation and information regarding his release from Court probation in December 2005.

Action: A motion was made, seconded, and carried to approve Joshua A. Ridgway's request for early release from Board probation and probation requirements.

Subject: Curtis G. Stednitz, JP 289444
Case No.: 2006-004801
Summary: The Board reviewed Mr. Stednitz' request for early termination of Board probation and information regarding his release from Court probation on September 11, 2008.

Action: A motion was made, seconded, and carried to approve Curtis G. Stednitz' request for early release from Board probation and probation requirements.

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2. Compliance Monitoring – Quarterly Reports

The Board reviewed the following quarterly reports were reviewed and voted on as noted.

Subject: Michael A. Gentala, JP 288065
Case No.: 2008-003801
Action: A motion was made, seconded, and carried to accept the report.

Subject: Travis J. Guerrero, JP 287791 lapsed; AP 12471
Case No.: 2008-003801
Action: A motion was made, seconded, and carried to table this matter pending additional information from Mr. Guerrero.

Subject: David L. Luna, AP 23920
Case No.: 2009-003435
Action: A motion was made, seconded, and carried to accept the report.

Subject: Daniel C. Rains, RP 386716, AP 22164 lapsed
Case No.: 2009-000257
Action: A motion was made, seconded, and carried to accept the report and initiate a complaint against Daniel C. Rains for working as a commercial plumber without the proper registration.

Subject: Russell L. Ralston, JP 279539
Case No.: 2009-001585
Action: A motion was made, seconded, and carried to accept the report.

VII REVIEW OF REINSTATEMENTS

Business: Sky M. Baski, MP by endorsement request
Summary: the Board considered Mr. Baski's master application and request for license by endorsement during the December 21, 2009 meeting where he was denied. Additional information was submitted to reconsider license by endorsement.
Action: A motion was made, seconded, and carried to concur with the Board's original decision to deny license by endorsement.

Business: Philip A. Jagodzinski, JP 285027
Summary: The Board reviewed Mr. Jagodzinski's application for the reinstatement of his journeyman plumbing license 285027, information regarding his felony conviction, and the completion of his probation on November 8, 1996. Mr. Jagodzinski indicated on his application that he continued to work as a plumber after the lapse of his license on August 31, 2007.
Action: A motion was made, seconded, and carried to deny Mr. Jagodzinski's reinstatement and refer this matter to executive session for possible discipline.

Business: Christian L. Knight-Walker, RP 386096
Summary: The Board reviewed Mr. Knight-Walker's application for the reinstatement of his residential plumbing license. Mr. Knight-Walker indicated on his application that he continued to work as a plumber after the lapse of his license on August 31, 2009. This is his second offense. Mr. Knight-Walker completed his court probation on November 8, 1996.
Action: A motion was made, seconded, and carried to deny Mr. Knight-Walker's reinstatement and refer this matter to executive session for possible discipline.

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VIII EXECUTIVE SESSION

At 12:47 p.m., Board Vice-Chair, Steven J. Callahan, 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 2010-002608;
- The Case Status Report of the Office of Expedited Settlement and the settlement issues, counteroffers, and other legal questions pertaining to the following open cases referred to the Office of Expedited Settlement: Richard Wiscomb;
- The Case Status Report of the Office of the Attorney General and settlement issues, counteroffers, and other legal questions pertaining to the following open cases referred to the Office of the Attorney General: William Hatter and Colorado's Best Plumbing & Heating.

The motion was seconded by Donald Crandell and unanimously carried with six members in attendance, five 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 2:00 p.m.

IX OTHER BUSINESS

Business: Review of Report of Investigation
Case: 2010-002608 Unknown Plumber
Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against an Unknown Plumber by Louis Struna, Jr. This complaint alleged that an Unknown Plumber advertising on Craigslist to lease a master plumber's license for money.
Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to initiate a complaint against Shawn Briggs for leasing his license.

X REQUESTS FOR RECONSIDERATION

Business: 2010 Green Plumbing and Mechanical Code Supplement (GPMCS)
Summary: The Board reopened the tabled discussion on green code adoption and information in the GPMCS. The Board directed that a committee be formed to review possible options for green codes.

Business: Gray Water Reclamation
Summary: The Board reopened the tabled discussion concerning the adoption of Appendix C, IPC 2009 and additional information from staff regarding gray water systems in Colorado. The Board determined that gray water systems would be reviewed on a case-by-case basis.
Action: A motion was made, seconded, and carried to take no action.

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Business:

Plastic Pipe and Fitting Association (PPFA)

Summary:

During the rulemaking hearing held February 4, 2010, PPFA submitted comments regarding testing plastic pipe systems with air. A second notice was submitted to the Board for review.

Action:

A motion was made, seconded, and carried to take no action at this time.

XI ADJOURNMENT

With all business completed, the meeting was adjourned at 2:10 p.m. The next meeting is scheduled for Wednesday, October 27, 2010 at 9:00 a.m.

Approved by: Steven J. Callahan, Acting Chair

Date: October 27, 2010