

**Plumbing Board
Meeting Minutes
January 10, 2008
Minnesota Room
Department of Labor and Industry (DLI)
443 Lafayette Road North, Saint Paul
DLI.CCLDBOARDS@State.MN.US**

Members Present:

Karl Abrahamson
Rebecca L. Ames
Steve Christenson
Jim Gander
Lawrence G. Justin
Kenneth Kammerer
James Kittelson
Allen J. Lamm
Michael McGowan
Rick Palmateer
John A. Parizek
Paul Sullwold
Ronald Thompson (MDH Commissioner's designee)
Randy Ellingboe (DLI Commissioner's designee)

Members Absent:

None

Visitors:

John S. Meier
Carl Crimmins
Dick Welchons
Bob Wolf

Staff Present:

Kevin Wilkins
Wendy Legge
Cathy Tran
Annette Trnka
Jim Peterson
Jim Shay
Chris Thompson

I. Call To Order

The meeting was called to order by John Parizek at 9:32 a.m.

II. Approval of Meeting Agenda

The Chair asked if there was any objection to the Agenda and hearing none, declared that the Agenda is approved.

III. Approval of Previous Meeting Minutes

The Chair asked if there were any additions or changes to the Minutes for the November 13, 2007 Plumbing Board Meeting. Hearing none, the Chair declared the Minutes approved as presented.

IV. Regular Business

- A) Approval of Meeting Dates for 2008.
Chair outlined a plan to hold monthly meetings for the Plumbing Board through the month of April, at which point the Board could have Quarterly Meetings, unless otherwise needed. Gander moved and was seconded by Ellingboe to accept the meeting dates of February 19, March 18, April 15, July 15 and October 21. Vote was unanimous and the motion passed, 11-0. Member Lamm was not present for this vote.

V. Special Business

- A) PowerPoint presentation by Wendy Legge on The Open Meeting Laws.
- B) Expense and compensation reimbursement.
1. Approval of Expense Reports and Agreement to Approve Per Diems automatically when meetings are attended by Board Members.
Motion made by Lamm, seconded by Sullwold to approve Per Diem payments when meetings are attended by Board Members. The vote was unanimous and the motion passed 12-0.
- C) Adoption of Bylaws
1. Change of Annual Meeting from January to July of every year to allow for new Board Appointments by the Governor, if any, and the election of Officers. Motion made by Lamm, seconded by Abrahamson to change the Annual Meeting Date to July of each year. The vote was unanimous 12-0 and the motion passed.
 2. Approve Executive Committee.
 - a. The Executive Committee would consist of the Chair, the Vice-Chair, the Secretary and the Commissioner's Designee. Motion to approve the Executive Committee was made by Sullwold, seconded by Kittelson. The vote was unanimous 12-0 and the motion passed.
 - b. Product Review and Code Committee. The Committee would be responsible for review of all products and requests for Code change that are presented to the Board and then make recommendations to the Board based on their review. The Committee would consist of a Committee Chair, a Department of Labor and Industry staff member and any other Committee members would be appointed by the Board Chair. The Motion was made by Kammerer, seconded by Gander to approve a Product Review and Code Committee. Discussion included whether it would mean a presentation to both the Sub-Committee and the Plumbing Board and it was stated that it could come to that, pending what the request for approval was. However, one of the presentations may be able to be electronically submitted (e.g. by e-mail.) The Committee could also make the recommendation to the Board that certain things be presented to the Board and others not

presented, and the Board could over-rule that recommendation. The vote was unanimous 12-0 and the motion passed.

- c. Code Interpretations and Complaint Committee. The Committee would be responsible for fielding any complaints to the Plumbing Board and also any requests for interpretations on the Plumbing Code. This Committee would be given authority to act on behalf of the Board as any interpretation requests given to the Board must be responded to within a thirty day period from the time they are received. Any code interpretation requests received would be e-mailed to all of the Board members and there would be a brief period of time for members to respond to the Committee Chair and the Committee would meet with the responses and come to a final ruling on the code interpretation. As long as no final decisions or votes are taken by e-mail and the Committee meets to make final interpretations, the Open Meeting Laws would not be violated. If there is to be a public discussion of any materials, those materials have to be available to the public at the meeting location by the beginning of the discussion. Things could be sent out in advance of the meeting to Board members, and if it's public information, that information could also be posted on the web site or e-mailed to interested parties. The Open Meeting Law applies to all committees. Thompson recommended that Ellingboe be a member of this Committee and that legal counsel be available for the decisions. Quite often some of these issues involve data practices issues with protected information, such as names of complainants, it sometimes strays into interpretation of statute where the Board or Agency may not have authority to make those interpretations and legal counsel would be needed to ensure that these issues don't arise. The Chair responded that he would take that suggestion under consideration when making appointments. Motion made by Gander, seconded by Abrahamson to approve a Committee for Code Interpretations and Complaints. Vote was unanimous 12-0, and the motion passed.

D) Meeting process

1. Executive Committee Recommendations
 - a. Minutes approval process
 - i. Minutes will be sent out electronically prior to the Board Meetings for review.
 - b. Electronic distribution of materials
 - i. The Proposer/Requestor should submit all requests electronically, so those documents were available to call Committee Members. There will be some materials that would not be available electronically, because of copyright laws. Ellingboe suggested one option would be to have the request form and instruction for submittal on the Plumbing Board's web site and then to direct the party to submit the packet electronically to the Board's e-mail address. That way the information could be made available electronically to anyone interested in it.

It was suggested that DLI staff should review complaints and submissions first, to make sure the request/submission is complete before giving them to the committees or presentation to the Board. MN statute lists that the Board has the authority to make final interpretation, so the Board could state that initial interpretations be given by the Department. If a final interpretation is issued by the Board and a party is aggrieved, they can make a request to have a hearing before an Administrative Law Judge. It was suggested that the process be listed on the submission form that initial interpretation would be by the Department of Labor and Industry, if it's disputed then it would go to the Committee and, if disputed, before the Board, then to Administrative Law Judge if still disputed.

The Chair called for a break at 10:46 a.m. and the Board reconvened at 10:57 a.m.

E) Minnesota Plumbing Code

- a. Publish Request For Comments regarding possible amendments to the Minnesota Plumbing Code.
- b. Schedule for review of work of Plumbing Code Advisory Committee.
The Board reviewed the list of all Requests For Action that had been reviewed, but not resolved, by the Plumbing Code Advisory Committee, and also the Requests For Action that have come in after the PCAC's conclusion, and not yet reviewed. The Executive Committee will decide which Committee will consider the various Requests. All of the previously reviewed Requests by the Plumbing Code Advisory Committee will be looked at by the Product Committee, as the list of pending Requests was hastily put together and may have omitted Requests.
- c. Process for submittals of requests for Rule revisions and Rule interpretations.

It was discussed having a form available on the Plumbing Board web site for a Request For Interpretation of Plumbing Code. It is estimated by Jim Peterson of DLI that 100 – 150 Requests for code interpretation come in per month. These requests would first be interpreted by DLI staff (as discussed under D)(1)(b).)

Jim Peterson stated that one of the items that would probably need to be reviewed by the Board would be Cement Mortar Joints as far as manhole connections to RCP.

Ellingboe stated that the Well Contractors in Minnesota, who are licensed by the Minnesota Department of Health, have expressed a strong interest in coming to address the Board and/or the appropriate Committee about the Well Code in conjunction with Plumbing Code; particularly because of the recent changes which put into effect a requirement to have a license state-wide, they want to discuss some issues such as what's "Well work," what's "plumbing work," and what's

crossover and perhaps other issues as well. Their request was made to be able to address the Board as quickly as possible. Chair agreed that they should get onto one of the Committee's Agendas as soon as possible.

d. Schedule for Rulemaking

The soonest that the Plumbing Board could publish proposed Rule changes would be sixty days after January 7, 2008. After recommendations are made, the Rules have to be in a format approved by the Revisor's Office and Governor's Office Approval has to be obtained before they can be published. As soon as the Board decides it wants to move forward with changes, it can be decided if the Board would like to move forward with Rulemaking, changing all the Rules at once, or splitting it into two Rulemakings. The Request For Comments has opened up all of Chapter 4715. When the Proposed Rule is published, there is a requirement that additional notice be given.

e. Code Interpretation Requests

It was determined this had been discussed under D)(b)(i).

F) Plumbing Licensure and Registration

- a. License reciprocity agreements with North Dakota and South Dakota. A Motion was made by Lamm, seconded by Kammerer to accept the Reciprocity Agreements with North Dakota and South Dakota. Lamm amended his motion, and was seconded by Kammerer, that reciprocal agreements should be reviewed annually. A vote on the review of reciprocal agreements was unanimous 12-0, and the motion passed. A vote was taken on the Motion to accept the reciprocity agreements with North Dakota and South Dakota. The vote was unanimous 12-0, and the motion passed.
- b. Kevin Wilkins, DLI Licensing Unit Manager, spoke on the changes in the license numbers on plumbing license cards, the new DLI database process, license renewals and on-line renewals.

VI. Committee Reports

A) Appointments by Chair

- a. Executive Committee – John Parizek - Chair, Larry Justin – Vice Chair, Jim Gander – Secretary, and Randy Ellingboe – Commissioner's Designee.
- b. Interpretation and Complaint Committee – Jim Gander – Chair, Rebecca Ames, Paul Sullwold, Randy Ellingboe and John Parizek.
- c. Product Review Committee – Larry Justin – Chair, Karl Abrahamson, Allen Lamm, Randy Ellingboe and John Parizek.

VII. Complaints

Statement by Wendy Legge – the Board has the power to refer complaints to the Commissioner, but there's nothing that requires complaints to come in to the Board. Complaints can come into the Department, the Board or the

Commissioner. If the Board chooses to encourage people to file complaints with the Board, they could put a form on the Plumbing Board web site for this purpose. There is a link on the Department of Labor and Industry's website for filing complaints, but that is separate from the Plumbing Board. The Plumbing Board should assume that not everything is public about a complaint, the information should not be shared in a public setting about the complaints. The Open Meeting Law allows discussion of non-public to the extent needed to transact business. Since the only power of the Plumbing Board is to refer complaints to the Department of Labor and Industry, it isn't necessary to reveal anything public about the complaint to do that. Non-identifying numbers could be assigned in order to maintain privacy for Board Meetings. When the complaints come into the Board, the Board has the right to refer them to DLI and expect a report back from DLI. Regarding complaints that come directly to the Department of Labor and Industry, certain private information cannot be disclosed to the Board, unless there is a public decision that would become public information.

VIII. Open Forum

There were no requests for Open Forum time.

IX. Board Discussion

Larry Justin asked Product Code Committee members about their availability and members were told to check their availability and let Annette Trnka know for coordination on a Committee date. There was discussion regarding if there is a cancellation plan in place due to weather. Members were told to think about options, such as having a recording on a phone number here at the Department of Labor and Industry, having an appointed person call each member of the Board, or having something posted on the web site. Being that it would most likely be a last minute decision, it was asked if there was a phone number that the Board Members could call to find out whether the Meeting was cancelled. Members appeared to like that option the most. Wendy Legge reminded Members that if telephone conference was going to be used by any member, notice had to be given to all Interested Parties that this was going to take place, to comply with the Open Meeting Law. This is a cost associated with telephone conferencing with each party joining the conference by telephone. It was stated this discussion should be continued at the next regularly scheduled Board meeting.

X. Announcements

- A) Next Regularly Scheduled Meetings:
- i. Tuesday, February 19, 2008, 9:30 a.m. – Minnesota Room, DLI
 - ii. Tuesday, March 18, 2008, 9:30 a.m. – Minnesota Room, DLI

XI. Adjournment

The Chair declared the meeting adjourned at 1:20 p.m.

Respectfully Submitted,

Jim Gander
Jim Gander