

**Plumbing Board
Meeting Minutes
October 21, 2008**

**Department of Labor and Industry (DLI) – Minnesota Room
443 Lafayette Road No., Saint Paul, MN 55155-4344**

DLI.CCLDBOARDS@State.MN.US

Members Present:

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

Members Absent:

None

Staff Present:

Cathy Tran
Wendy Legge
Annette Trnka
Brad Erickson
Chuck Olson

Visitors:

Matthew Marciniak
Brian Soderholm
Phil Raines
Gary Thaden
John Gunderson
Carl Crimmins
Jack Hettwer
Bob Wolf
Laura Millberg
Gretchen Sabel

I. Call To Order

The meeting was called to order by Parizek at 9:46 a.m.

- A. Announcements – The Chair made parking announcements and wished Jim Gander “Happy 50th Birthday.”
- B. Introductions – Introductions were made.

II. Approval of Agenda

The Chair asked if there were any revisions or objections to the Agenda and, hearing none, declared the Agenda approved.

III. Approval of Previous Meeting Minutes

- A. August 26, 2008 Minutes
 - i. Gander stated that on page three of six of the August 26 Minutes, the paragraph that starts with “Legge stated...”; the third line down should be revised to read “Gander states that by definition, plumbing systems include potable water treatment.” Legge then stated that the paragraph above should be amended to read, “She stated that because there is separation of code and licensing, she recommended that the code and licensing rules be put into separate chapters. Legge also recommended that...” Parizek then mentioned that on page five, under Item D; the “Product and Code Amendment Committee” should be changed to “Product and Code Review Committee.” Gander made a motion, seconded by Kittelson, to accept the previous Minutes, as amended. The vote was abstained by Christenson and Justin, as they did not attend the previous meeting. The rest voted Aye and the motion passed.

IV. Regular Business

- A. Approval of Expense Reports
 - i. The Chair stated he had reviewed the expense reports and Per Diems and found them in order and declared them approved.

V. Committee Reports

- A. Executive Committee – The Committee met this morning and discussed policies of Presenters of RFAs and how the Board/Committees should deal with the requested information which is outstanding. This will be further discussed under “Board Discussion.
- B. Product and Code Review Committee – This Committee met on August 27, 2008. Items which were reviewed were File PB0031, Toto USA and the items which were requested from Presenter, File PB0012, with requested information from Presenter; File PB0035, all of which will be further discussed at the October 29, 2008 meeting. All three of these Presenters were requested to supply further information, which has not been provided to date.
- C. Code Interpretation Committee – Gander stated this Committee has not met and to his knowledge, there are no outstanding items which have been presented to this Committee.
- D. Licensing and Registration Committee – Gander stated this Committee has not met; however, the issue of water conditioning is outstanding, which will be discussed at the Product and Code Review Committee on October 29, 2008.
- E. Green Committee – Parizek stated the Green Committee has not met. Follow-up information regarding the waterless urinals is outstanding before the RFA can be moved forward. Parizek also stated that the information on reclaimed rainwater and grey water systems is being reviewed.

VI. Special Business

A. Minnesota Plumbing Code – Updates / Board Action

- i. Proposed Rule Amendments / SONAR – Wendy Legge reviewed the Revisor’s draft of Chapters 4715 and 4716 Rules dated 09-09-08 with Legge’s marked changes with the Board.

Justin made a motion to accept Legge’s recommendation on line 16.13 to change from “...~~the manufacturer’s recommendation, and requirements.~~” to “...and the manufacturer’s recommendations and requirements.” seconded by Kammerer. The vote was Parizek, Justin, Abrahamson, Ames, McGowan, Kammerer, Christenson, Palmateer, Kittelson and Lamm voted Aye. Sullwold and Gander opposed. The majority ruled and the motion passed.

Kammerer made a motion, seconded by Ames, to change line 16.22 from “~~recommendations~~” to “instructions” and line 17.15 from “~~recommendation~~” to “instructions.” The vote was unanimous and the motion passed.

Justin made a motion, seconded by Gander, to change “~~may~~” to “shall” on line 17.13. The vote was unanimous and the motion passed.

Justin made a motion, seconded by Gander, to change “~~may~~” to “shall” on line 29.15. The vote was unanimous and the motion passed.

Justin made a motion, seconded by Gander, to change “~~may~~” to “shall” on line 30.23. The vote was unanimous and the motion passed.

Justin made a motion, seconded by Lamm, to change “~~with~~” to “to” on line 1.19, and the statute number changes on lines 1.12 and 1.13. The vote was unanimous and the motion passed.

Abrahamson stated that regarding water distribution joints for the removable and non-removable push-fit fittings as listed in rule 4715.0805, Subp. 2; he’s been seeing a number of these fittings getting installed and the manner in which they are installed in and he wanted to bring it to the Board’s attention whether they should be allowed to be put in concealed walls or ceilings. He states, especially on the removable ones, that people are putting sheet rock up tight against these fittings, which is touching the mechanism that can release it. His concern is that if there is a water hammer problem whether those fittings could come apart.

Justin asked Cathy Tran if ASSE 1061 references any installation locations for these fittings. Tran stated she couldn't remember specifically, but under 4715.0850, Subp. 6, starting at line 18.17 of the Revisor's draft, it references that it must not be embedded in concrete. Tran asked if Abrahamson was requesting that in addition to the prohibition of embedding in concrete that these fittings not be allowed to be concealed in walls, to which Abrahamson stated yes. Tran stated she would need to look specifically into ASSE's recommendations.

Parizek stated that this issue was brought to the Board from the previous Advisory Committee. He stated that this stipulation was for copper only above ground, which are the requirements that the Board placed on the fittings. Parizek went on to state that the manufacturers allowed these fittings to be installed anywhere. Abrahamson stated that if the fittings were only allowed to be installed in the open, where they can be seen, the chances of having an obstruction touch the fittings would be lessened.

Sullwold stated that he agreed with Abrahamson's concerns, but on the other hand, the purpose of this fitting is if the installer got into a bind where they couldn't solder or otherwise to get it back in that space, this would be the ideal situation in which to use these fittings. Sullwold stated that these fittings would be mostly used by the do-it-yourselfer and homeowners and they wouldn't be aware of this type of concern and the fact that the pipes do expand and contract and could potentially disengage themselves that way. McGowan stated there are a couple of manufacturers that have locking devices for those fittings, which is basically a clip that goes behind so it can't be released by accident. McGowan asked if that would change Abrahamson's concerns. Abrahamson stated that the problem is that the rule is approving all fittings, not specific ones.

Kammerer stated that he also agreed with Abrahamson, but asked if the rule is going to be changed, shouldn't the manufacturer also be involved in the decision. Parizek stated that it would be a Board decision only as to what would be allowed regarding the installation, but the manufacturer could be asked to join the discussion.

Legge stated that the proposed language could go forward as it is, and the issue could be addressed during the next rulemaking process. She went on to state that the options the Board has are that 1) the Board could decide not to go forward with this amendment at all; or 2) the Board could go forward with the amendment as it stands and consider further amendments later, including the manufacturer's input; or 3) make a change to the language right now.

Peterson stated that if this is something the Board would like to pursue, it will take research and crafting to cover the range of fittings that are out there. Gander stated that although he agrees with Abrahamson, he feels that the current rulemaking should go forward as it is and continue this issue to the next rulemaking. Parizek stated that there are a number of sections in the proposed rules that would need to be addressed if any changes were made to the language as it stands. Parizek asked Abrahamson if he objected to moving forward with the rules as they stand and deferring this issue to the next rulemaking to which Abrahamson stated he would agree to that.

The meeting took a break at 11:02 a.m. and reconvened at 11:18 a.m.

Lamm made a motion, seconded by McGowan, to pass the following resolution:

Resolution to be considered by Plumbing Board on October 21, 2008

1. The Chair of the Plumbing Board is authorized and directed to sign and to give the Notice of the Board's Intent To Adopt Rules, using alternate notices of whether a hearing will be held, in the Revisor of Statutes draft, file number RD3791, dated 09/09/08, identified as Minnesota Rules, chapters 4715 and 4716, with any modifications approved by the Board. The Chair must give this notice to all persons who have registered their names with the Board or with the Department of Labor and Industry for that purpose. The Chair must also publish the Notice in the State Register. Furthermore, the Chair is authorized and directed to do anything else needed to complete this Notice.
2. If there are fewer than 25 outstanding hearing requests, the Chair of the Plumbing Board is authorized and directed to sign the Order Adopting Rules and to do anything else needed to adopt these rules without a hearing.
3. If there are 25 or more outstanding hearing requests, the Chair of the Plumbing Board is authorized and directed to act as the Board's representative at the hearing and do anything else needed to adopt these rules with a hearing. This includes authority to sign the Order Adopting Rules if there are no modifications to the rules other than modifications approved by the Board.

The vote was unanimous and the motion passed.

Legge talked about the SONAR, which is still a rough draft, and asked if any Board members had any input on any of the cost of compliance with the proposed rules.

Kammerer made a motion, seconded by McGowan, that the Board has determined that the cost of compliance of the proposed rules for any

small business or small city will not exceed \$25,000. The vote was unanimous and the motion passed.

Legge stated that as an update, Parizek will be signing Proposed Rule and SONAR form that goes to the Governor's office, along with a draft SONAR, along with the revised proposed rules as modified at today's meeting, for the Governor's approval. After the Governor approves, then the rules can be published. Legge said that statutes require that the rules be published, however, a request can be made of the Administrative Law Judge to make an exception if you put the proposed rules on the Board's website, along with some other actions, and that request will be made to the ALJ.

- ii. Multipurpose Potable Water Piping Systems – the International Code Council met in September. One of the things they are including in the 2009 "I" code is multi-purpose systems for fire sprinklers where they would be tying into potable water systems where they would be running not only the plumbing fixtures, but sprinkler heads off those systems also. This will be mandated by 2011, and will be in the 2009 code, which would go into effect on January 1, 2011.

Gary Thaden stated that in order to install a multipurpose potable water piping system, you must be a licensed plumber and also be certified by the State Fire Marshal's office. There is also an installation standard that already exists, which is NFPA 13D, for putting in these systems. Mr. Thaden stated that this was put into Statute in 2003. Mr. Thaden also went on to state that this hasn't happened in Minnesota yet, however, the Minnesota Builder's Association doesn't like it and he feels that they will oppose it.

Gander stated that Rochester has required this in some neighborhoods as the fire trucks can't get into the cul-de-sacs so they've approved subdivision ordinances that allow residential fire sprinklers. Mr. Thaden stated that in light of this development with the IRC, he's contacted the Fire Marshal and has had conversations regarding their certification method and what's involved in that.

Parizek stated that ASSE is coming out with their 7000 Standard that deals with the requirements for the installer, so the Board will be able to look at that down the road. Parizek also stated that a licensed plumber can install these systems but it's not known what standard to install them to, or how they should be installed in a residential building if potable water is going through the system. There shouldn't be any "dead legs" in the system, and flow would definitely need to be going through everything. There is nothing in the plumbing code at this time addressing this issue. Parizek feels that it should be looked at by the

Board and what code language could address these systems, so if it is mandated by 2011, that not only is there language to address it, but people would be trained to install these systems.

Tran said that it's not mandated yet, however, some insurance agencies require fire protection in one or two family dwelling units, and in 2003 statutes were in place to deal with multi-purpose potable water piping systems. There may be some contradiction between 299M and the plumbing code. Tran states that 299M allows multi-purpose potable water piping systems, however, 4715 does not address these systems. She feels that there is some urgency to this request. Justin stated he doesn't feel the code prohibits these systems however, the code doesn't address it. Tran stated that it's not specifically prohibited, but is a sprinkler head considered a fixture? She feels there are safety concerns if it's not designed correctly; then there could be stagnant water. The Department has always treated a fire sprinkler as a separate system.

iii. Other – there were no further issues.

- B. Department Updates/Comments –
 - i. Commissioner - None
 - ii. Legislative - None

VII. Complaints

Parizek received a complaint in the mail from the Minnesota Pipe Trades regarding yellow pages advertisements not having license numbers published along with the advertising. Any time complaints are received by the Plumbing Board that regards unlicensed plumbers or businesses – those complaints need to be referred to the Commissioner of the Department of Labor and Industry.

VIII. Open Forum

There were no requests for Open Forum.

IX. Board Discussion

- A. RFA response policy – There are RFAs received which, after discussion at the Board meeting or a Committee meeting, are incomplete and further information is requested by the Board/Committee of the Presenters of the RFA. Parizek would like to have a form letter go to the Presenter listing which items and/or information the Board/Committee needs in order to further process the RFAs. Justin stated that if Presenters wait until the meeting Minutes are published to the Board's website, it will be a delay of at least one month, as the Minutes are not published until they are approved by the Board/Committee at the following meeting.

Gander made a motion, seconded by Abrahamson, that a form letter be assembled to respond to the Submitter which lists items that are missing or are required to be submitted to the respective Committee/Board in order to ensure that the request will be placed on the Agenda of the next Committee/Board meeting. The vote was unanimous and the motion passed.

- B. Parizek discussed the issue where an e-mail is sent which requests passing on the e-mail to select members of the Board. Parizek stated that he feels it should either be forwarded to all members of the Board, or not forwarded at all. The Board members were in agreement with that assessment. Parizek stated that all responses will be forwarded to Board members and DLI staff as well. A number of e-mails which have been received request responses to comments and it should be that all e-mail from Presenters go through the Department first. Tran asked about e-mails she receives that are directed to Committees – should DLI staff respond that the e-mail has been forwarded to the Chair of the Board/Committee. Parizek responded that if it's directed to a specific Committee, the Committee Chair should work with DLI staff to work out a response.

Gander stated that the issue of water conditioning was directed to the Licensing and Registration Committee at the last Board meeting and stated he's not sure what direction he should go with that or if it should be put on hold. Parizek stated that there is some discrepancy on which rules are Department rules and which are Board rules. Legge stated she represents the Department on water conditioning rules. The Department asserts that they have authority over water conditioning rules. Legge stated that if the Board feels there's a conflict on this issue, the Attorney General's office can be contacted to get an opinion from independent counsel. Legge stated that if the Board challenges that the Department has authority over these rules, the Board could also go to the Legislature for a change or clarification in statute.

Gary Thaden stated that the Board is welcome to make recommendations to the Department on their views. Gander asked if the Licensing and Registration Committee should meet on water conditioning licensing. Legge asked if this also related to separation of rules issue that she had brought up at the last Board meeting, of which the Board voted not to separate the rules at that time. Parizek responded yes.

Legge asked if the Board wants to take the position that these are Board rules, if so, they would need independent advice from the Attorney General's office, as she represents the Department of Labor and Industry. Mr. Thaden stated that part of the reason that it was sent to Committee was because the statute and the rules were unclear on some issues that staff brought up. The report from the Committee would be a report to the Department on rules they make or a report to the full Plumbing Board on rules the Committee thinks the Plumbing Board should take, he feels that those issues brought up by the Department should still

be examined. Mr. Thaden also felt that input should be presented by those in the water conditioning industry. Gander agreed and stated that the meeting could be scheduled before January. Parizek stated that there are some issues that need to be addressed. It was stated that McGowan's schedule should be taken into account when scheduling a Committee meeting as he is the water conditioning representative on the Board.

X. Announcements

- A. Next Regularly Scheduled Meetings:
- i. Tuesday, January 20, 2009, 9:30 a.m. – Minnesota Room, DLI
 - ii. Tuesday, April 21, 2009, 9:30 a.m. – Minnesota Room, DLI

XI. Adjournment

Abrahamson made a motion, seconded by Lamm, to adjourn the meeting. The vote was unanimous, and the motion passed. The meeting adjourned at 12:00 p.m.

Respectfully Submitted,

Jim Gander

Jim Gander