

# Meeting Minutes: SPECIAL Plumbing Board

Date: March 25, 2021  
Time: 9:30 a.m.  
Minutes by: Lyndy Logan  
Location: WebEx Event

## Members

1. Sam Arnold
2. Richard Becker (Secretary)
3. Michael Dryke
4. Kent Erickson
5. Mike Herman (Vice Chair) (joined at 9:55 a.m.)
6. Rick Jacobs (Chair)
7. Natasha Lawrence
8. Justin Parizek
9. Troy Seitz
10. Scott Stewart
11. Cathy Tran (DLI Commissioner's Designee)
12. Rick Wahlen (joined at 10:05 a.m.)
13. Shane Willis  
David Weum (MDH CO's Designee – NV)

## DLI Staff & Visitors

Suzanne Todnem (Gen. Counsel, DLI)  
Lyndy Logan (DLI)  
Kate Perushek (DLI)  
Brad Jensen (DLI)  
Nick Erickson (Housing First)  
Adam Hanson (ABC)  
Joel Hipp (Hobart)  
*Stephanie Menning (MUCA)*  
Steven Nuebel (City of Plymouth)  
Gary Schick (City of Rochester)  
David Skallet (City of St. Louis Park)  
Brian Soderholm (Water Control Corp)  
Gary Thaden (MMCA)  
Charlie Ismert (Schier Products)

## Members Absent

None

### 1. **Call to Order, Chair Presiding**

- A. The meeting was called to order by Chair Jacobs at 9:33 AM. Roll call was taken by the Secretary and a quorum was declared with 11 of 13 voting members (Herman and Wahlen joined the meeting late), and one non-voting member (Weum), present via WebEx.
- B. Announcements – Introductions (members and attendees)
  - **Re-appointed members:** Mike Dryke
  - **Welcome new member:** Shane Willis
  - Statement from the Chair and/or Attorney regarding virtual meetings: Thank you for joining this remote meeting via WebEx. As the board chair, I have determined today's meeting is via the WebEx platform due to the current status of the state of Minnesota operating under the peacetime emergency due to the COVID-19 pandemic. Per Minnesota Statutes, section 13D.021, of the Open Meeting Law, electronic meetings are acceptable when an in-person meeting is "not practical or prudent because of a health pandemic or an emergency declared under Chapter 12."
  - Board members and attendees present on this WebEx are able to hear all discussions.

- All handouts discussed and WebEx instructions are posted on the Board’s website at: <https://www.dli.mn.gov/about-department/boards-and-councils/plumbing-board>
  - All votes will be by roll call.
- C. Journal of Votes – Per Minnesota Statutes 13D.01, Subd. 4, the vote of each member will be recorded in a journal available to the public.
- D. WebEx instructions/procedures were read aloud

## 2. Approval of meeting agenda

A motion was made by Dryke, seconded by Erickson, to approve the agenda as presented. The roll call vote was unanimous with 11 votes in favor; the motion carried.

## 3. Regular Business

Approval of expense reports – Jacobs approved.

## 4. Special Business

- A. Review and discuss proposed legislation relating to the purview of the Minnesota Plumbing Board – the Minnesota Plumbing Code and plumber licensing – including [Senate File 2116](#) and [Senate File 1972](#).
- Kate Perushek, DLI’s Assistant Commissioner and Legislative Director, provided background on the legislative process and where in the process SF 2116 and SF 1972 were. Senator Rarick and Representative Baker are the authors of these Bills. SF 2116 had one hearing in the Senate Labor Committee, was passed on March 17, 2021, and moved to the Rules Committee. The Bill now awaits another hearing in the Senate Jobs Committee. Neither Bill has been heard in the House Committee. SF 1972 has not been heard in the Senate Committee.
  - The Chair said he would like to review and discuss current legislation related to the purview of the MN Plumbing Board and MN Plumbing Codes and Licensing which includes SF 2116 and SF 1972. Each Bill would be discussed separately.

### [Senate File 2116](#)

- SF 2116 – The Chair invited Board members to comment and discuss the bill as the Plumbing Board has a stake in this Bill. The Chair opened Board discussion.
- Becker said he reviewed SF 2116 and has potable water safety concerns and that the bill contradicts everything for which the MN Plumbing Code is intended to stand. One key issue is protecting the potable water system and Plumbers are required to complete 4 years (7,000 hours) of training with an exam and this proposal of 10-15 hours of training is not enough to protect the potable water system. These are systems with chemicals.
- The Chair agreed with Becker based on how the Bill is currently written. The Chair opined that the Bill needs to be re-written specifically to the chemical dispensing system and not include dishwashing machine installation.

- Tran said the department is responsible for protecting public health and safety by requiring individuals to be currently licensed in order to work on plumbing systems. This includes the protection of building drinking water systems from low and high hazards from plumbing equipment connections so as not to compromise the drinking water system. Based on the Bill as introduced, there are concerns with permitting, enforcement, licensing, and training. Tran’s questions and concerns with the current Bill are as follows:
  - ✓ Currently, only licensed individuals can apply for permits and inspections. Would SF 2116, as introduced, still require an inspection permit for these installations or would they be exempt?
  - ✓ What authority, if any, is responsible for inspecting and determining whether an ASSE dispenser is installed correctly?
  - ✓ What authority, if any, is responsible for issuing corrections if not installed correctly?
  - ✓ The proposed Bill allows individuals to work on plumbing systems who may not be trained in the installation of plumbing systems to service and install chemical dispensing systems and commercial dishwashers which would increase risk to the safety of drinking water.
  - ✓ Servicing chemical dispensers and dishwashers would include repair work on integral backflow devices so the proposed language is too broad.
  - ✓ Installations and servicing could include modifications of existing faucets and/or piping, which is plumbing work, so the Bill is too broad.
  - ✓ The consistency and quality of training if provided only by manufacturers including the qualifications of the trainers.
  - ✓ The Bill, as introduced, adds a definition of chemical dispensing systems and in dishwashing machines that is too broad. Currently the definition of chemical dispensers list compliance with ASSE 1055 to be exempted but also adds verbiage that says, “or dispensers that contain integral backflow prevention.” The Bill would allow any chemical soap dispenser to be installed regardless of certification of ASSE 1055.

*Mike Herman joined the meeting at 9:55 a.m., resulting in 12 voting members present via WebEx.*

- The Chair agreed that the Bill, as introduced, is too broad. In particular, concern that integral backflow would set it aside regardless of 1055. He wants the Legislature to be aware of where the Plumbing Board stands on the current Bill and recommended the Board state their case, and why, and not focus on specific modifications. The Chair invited Board members to discuss and what they would like conveyed to the legislators.
- Becker asked why the Bill is proposing unlicensed individuals perform this work – he was unaware there were any issues. The Chair said he thinks the intention is for chemical dispensing systems to be installed but because the Bill is so broad, it involves dishwashing machines also. Some commercial dishwashing machines have integral chemical dispensing systems in them. One style has the water pipe coming out of the wall, install a backflow prevention, then the chemical, and then to the dishwasher. The dishwasher itself has sprayers that have an air gap that discharge

per the Plumbing Code. Another way is where the water line comes out of the wall, or supply the equipment, goes into the equipment, and the whole backflow prevention device is integral with the chemical being integral and all the plumber or installer would do is hook up a water line to it. The plumber is bound and charged with ensuring the proper backflow prevention is there. Allowing individuals without plumbing licenses to hook up dishwashers without the understanding of these two types of installations could result in safety issues.

*Rick Wahlen joined the meeting at 10:05 a.m., resulting in 13 voting members present via WebEx.*

- Becker agreed with Chair Jacobs assumptions. Herman asked if the Board could share any instances of where this has happened. The Chair said he doesn't have any instances but what happens often is that a chemical dispensing system is installed after the dishwasher installation, after the point of backflow. This could be regulated so this would not happen. He would rather see something of this nature not happen than to see a situation where chemical dispensing installers hook up dishwashers – the Bill, as mentioned, is too broad, and shouldn't include anyone other than a Plumber to install a dishwasher.
- Willis asked if this was a recent Bill due to Covid and inspection requirements to ensure work was completed in a timely fashion?
- The Chair said he isn't aware the proposed Bill is coming from anything relating to Covid or any industry changes. Plumbers have always installed dishwashing machines, and this would be a change to the industry. He believes it is coming from the chemical system dispensing manufacturers or installers looking for an opportunity to be able to hook up their equipment.
- Willis asked if there would be an issue with chemicals, or the dishwasher itself, draining into the sewer. The Chair said backflow would be related to the potable water which would be the water supply line and there could be concerns that there could be a shutoff of the water, draining the water on the downstream side where it would pull chemicals back into the water line; therefore, backflow is required on the water supply line. The types of backflow are many and varied and depends on degree of hazard.
- Brad Jensen, Plumbing Inspector, CCLD, DLI, said he has seen many chemical soap dispensers that were hooked up by modifying faucets and tying into water lines, using illegal fittings and connections. His main concern is the lack of permitting and inspections due to a lack of licensing.
- The Chair clarified that currently a licensed plumber performs the installation and there are permits and inspections. Who would be monitoring the system since this Bill takes the licensed plumber and permitting out even if put in per code, who would monitor?
- Erickson said he runs into this often on existing building inspections where chemical dispensing installers have gone in and it's typical to see the mop sink with a Y splitter – they don't want to use the bleed device because it is an expensive. He sees dishwashers tied with three-way t's. This is already an issue and allowing this Bill would multiply and amplify concerns. The Chair asked if the educational piece would or would not help with this and Erickson said he doesn't believe the educational piece would help.

- Wahlen said from the municipal side of things, they see all kinds of aberrations of backflow prevention on various device installations. There seems to be a very common misunderstanding of what is acceptable and appropriate. Having the expertise and the understanding of what is appropriate, not only to match the code but also the specific conditions of that particular device are important. A plumbing permit should be required regardless of whether the manufacturer provides training, especially when a licensed plumber isn't involved.
- Wahlen stated a permit should be required regardless if a washing machine is installed by an installer's representative just like homeowners are required to pull a permit if a homeowner installs a dishwasher. The Chair said he understands the comparison but clarified this would pertain to commercial installations so it would not include homeowners. He agreed that permits should still need to be obtained but doubts they would be if the Bill was passed.
- Becker said plumbing contractors are required to be bonded and insured so there is financial recourse if work is not done correctly. There is no recourse if an individual causes a backflow incident and they aren't licensed; no license or penalty to prevent them from doing incorrect work again. The Chair said he doesn't see anything in the Bill, as introduced, that bonding is required.
- Tran said under the Bill, the department cannot enforce if an ASSE 1055 (chemical dispenser) is installed incorrectly by a manufacturer for non-compliance issues if permits, licenses, and inspections aren't required. Even if a permit were pulled, how would this be handled if no licensed person installed.
- Weum agreed that the Bill appears to be geared towards commercial dishwashers due to the chemical dispensing systems but the way the Bill is written, it appears to apply to all dishwashers, including residential, being open to manufacturer installations.
- The Chair said chemical dispensing systems means a method of dispensing and diluting concentrated chemical solution in commercial settings that comply with ASSE 1055 or contains an integral backflow protection and without that definition it could be anytime chemical dispensing systems are installed but with this definition it leads him to believe it is concentrated to a commercial solution in a commercial setting. However, the verbiage says dishwashers, not commercial dishwashers.
- Becker said the sanitizing final rinse is referenced so he doubts residential dishwashers would meet this definition.
- The Chair said that the presenter of the Bill needs to verify exactly what they want to do – do they want to connect a chemical dispensing system without a plumber? The way the Bill is worded is too broad and it cuts into and carves out a section of the code specifically for dishwashers. More work needs to be done to fine-tune the Bill.
- Becker said he believes that is the exact intend of the Bill. Manufacturers' installers could tie into a potable water line without having to call a plumber. There is no control by the State as to what type of training would be required if done by manufacturers. It only says training provided by the manufacturer. Licensed plumbers have an apprenticeship program and an exam. Same with water conditioning contractors, they have to take a state exam to establish a minimum

level of competency. With this Bill, there is no established level competency, only training, no testing mentioned.

- The Chair said that is a good correlation with the water licensing contractors – licensing, bonding, education all required and governed by the Department of Labor and Industry and the Plumbing Board. Is this an avenue the Bill could travel to further it along?
- Becker asked what the Board can do with their concerns to protect public health and safety.
- The Chair said he will formulate a comprehensive, well-thought out statement to legislators based on the recording/minutes of the meeting.
- Todnem said there would need to be a motion authorizing Rick to prepare a letter to the legislators, the Board could restate a bulleted list of what needs to be brought forward that accurately reflects the Board’s comments to the legislators. A draft cannot be shared via email due to open meeting laws.
- The Chair said he has made statements on behalf of the Board in the past – he would include concerns such as:
  - ✓ Illegal installations
  - ✓ Education/Exams
  - ✓ Bonding/Insurance
  - ✓ Regulating/Enforcement
  - ✓ Permitting/Inspection

**A motion was made by Becker, seconded by Erickson, to authorize the Chair to formulate a document expressing the Board’s concerns with SF 2116 and share the document with the Senate, House, and any other appropriate Committees. The roll call vote was unanimous with 12 votes (Parizek was no longer present); the motion carried.**

- Tran asked if there would be an opportunity for the Board to consider a “carve-out”?
- The Chair said he was alluding to this earlier – in addition to expressing the Board’s concerns to the legislators, should the Board include a “carve-out” to allow chemical dispensing installers to do their work without having to call a plumbing inspector? Language such as: If potable water protection has been provided on the inlet side of the fixture, or limited licensing – is this something the Board wants included in the document to legislators?
- Becker said his concern with this is, where does it stop? Next time it could be someone installing a boiler that says they don’t want to have to call a plumber, they just want to tie-in, or an irrigation installer that just wants to tie-in and put in the backflow preventer – it becomes a very slippery slope.
- The Chair said he would not include a “carve-out” in his comments to legislators.
- Jensen asked if the Chair would want to add language regarding an appliance license, there is a similar license used in South Dakota. A carve-out could include a license allowing training of dishwasher installations, commercial and residential, and possibly adding chemical soap dispensers. This way at least there would be some type of license requirement and non-compliance would have the enforcement piece in place.

- The Chair said this would be a good idea. He does not want chemical dispensing companies installing dishwashers. He has zero tolerance with any type of contamination of potable water. When it comes to chemical system installations – can it be regulated – the Bill is very broad, but this isn't part of what he would want the Board's statement to say. He would leave this up to the Bill presenters to review the Board's comments through the Board's minutes.
- Becker clarified the Chair's comments and said it isn't the Board's position to draft the legislation, the Board is only providing feedback on the proposed legislation. If the Bill was revised, as Jensen suggested, then the Board would address at that time and provide feedback on any new proposed legislation. The Chair replied, yes, absolutely.

### Senate File 1972:

- The Chair said he isn't sure what process this bill is at and whether the Board needs to comment at this time.
- Kate Perushek said the bill has not been heard in either the House or the Senate Committees.
- The Chair said the Plumbing Board should monitor but it doesn't appear comments are needed as this time. Does anyone have concerns that need to be forwarded to legislators?
- Becker said he wants to clarify that based on the Board's past interpretation a few years ago, the Board agreed that the code stated that anything in the property boundaries were covered by the Plumbing Code unless it was covered by municipal utility easements.
- The Chair said the implications of the bill would be far reaching and in the interest of our time, how much time do we want to spend on this?
- Wahlen asked what may have facilitated the need for this Bill. There is always a question from a property owner as to where their responsibility begins and ends. Wahlen inquired if incorrect plumbing has been done. The Chair said he doesn't know from where the bill is coming.
- The Chair said he recommends the Board not comment on SF1972 at this time and the Board agreed.
- Weum asked if there was any precedence how the materials would be managed inside versus outside the building.
- The Chair agreed with Weum and said the implications are far reaching. Weum said he has concerns about public health that the bill presents.

### B. Chapter 4714 rulemaking update

Todnem said the Notice of Adoption was published in the State Register on March 22, 2021, and there is a mandatory 270-day lag period between publication of the Notice of Adoption and the effective date; therefore, the effective date will be December 17, 2021. The current code will remain effective until this date. For more information, visit the Board's rulemaking docket at: <https://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minn-r-chpt-4714-2018-upc>

**5. Announcements**

Next regularly scheduled meetings in 2021, 9:30 a.m., in-person or via WebEx

- April 20, 2021 – WebEx
- July 20, 2021 (Annual meeting – officer nominations) – remote/in-person TBD
- October 19, 2021

**6. Adjournment**

A motion was made by Becker, seconded by Herman, to adjourn the meeting at 10:54 a.m. The roll call vote was unanimous with 12 votes in favor of the motion; the motion passed.

Respectfully submitted,

*Richard Becker*

Richard Becker  
Board Secretary