

**NORTH DAKOTA STATE PLUMBING BOARD**  
**MEETING MINUTES**  
February 15, 2018

The North Dakota State Plumbing Board met on February 15, 2018, at 1:00 p.m., in conjunction with the North Dakota Association of Plumbing, Heating and Mechanical Contractors Convention at the Bismarck Ramada, 1400 E Interstate Avenue, Bismarck, ND, President Lon Drevecky presided.

Board members present were David Bruschwein – State Health Department, Jason Dirk – Journeyman Plumber, Lon Drevecky – President/Mechanical Engineer, Dean Eman – Master Plumber and Heather Jones – Consumer Member.

Staff members present were Brent Beechie – Secretary/Chief Inspector, Kimberley Tomanek – Business Manager, Dean Staska – Plumbing Inspector, Scott Samuelson – Plumbing Inspector and Aaron Kasper – Plumbing Inspector.

Others present were Dustin Hillman – City of Fargo, Matthew Marciniak – International Association of Plumbing and Mechanical Officials (IAPMO), Lon Lessard and Ivan Maas – North Dakota State College of Science, Chad Finken – City of Minot, Clarence Kuntz – Mandan Northwest Pipe Fittings, Mark Thompson and Travis Greff – H.A. Thompson and Sons, Edward Erickson – North Dakota Attorney General’s Office, Derek Schaff and Mindy Piatz – Brady Martz & Associates, Mike Birrenkott – Lakeside Services, LLC, Justin Gibb – Robert Gibb & Sons, Jerry Hoffarth – Lunseth Plumbing & Heating, John Cook and Rob Chapple – Ray Co., Inc., Greg Zenker – Northern Plains and Jeff Klemetsrud – Klemetsrud Plumbing, Heating and Air Conditioning.

**INTRODUCTION OF NEW BOARD MEMBER**

President Drevecky introduced and welcomed the new Board member, David Bruschwein. Mr. Bruschwein will serve as the representative from the North Dakota Department of Health.

**PRESENTATION OF THE 2016 AND 2017 AUDIT**

President Drevecky called on Mindy Piatz and Derek Schaff from Brady Martz & Associates to present the 2016 and 2017 audit.

Mindy Piatz presented the findings and reports of the 2016 and 2017 North Dakota State Plumbing Board audit.

**MINUTES**

President Drevecky called for the consideration of the minutes of the October 3, 2017 meeting.

**MOTION:** Mr. Dirk made a motion to approve the minutes of the October 3, 2017 meeting as received. Ms. Jones seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

## **YEAR-TO-DATE FINANCIAL STATEMENTS AND BUDGET**

President Drevecky called on Ms. Tomanek to review the financial statements and the Fiscal Year-to-Date Budget.

Ms. Tomanek presented the financial statements and the Fiscal Year-to-Date Budget.

**MOTION:** Ms. Jones made a motion to approve the financial statements as presented. Mr. Eman seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

## **OLD BUSINESS**

### **Online Continuing Education Training – At Your Pace Online**

President Drevecky called on Mr. Beechie to provide an update in regards to the online continuing education training with At Your Pace Online.

Mr. Beechie stated that At Your Pace Online originally submitted a proposal to provide online continuing education for North Dakota plumbers that would cover the 2015 Uniform Plumbing Code with all the chapters in October. At Your Pace then submitted a revised proposal that excluded the chapters that were not adopted by the Board for reconsideration.

There was a brief discussion among the board members about the continuing education proposal.

**MOTION:** Mr. Dirk made a motion to approve At Your Pace's offer to provide online continuing education. Mr. Bruschwein seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

## **NEW BUSINESS**

### **Guidelines for Applicants and Licensees with Felonies**

President Drevecky called on Mr. Beechie to discuss guidelines for applicants and licensees with felonies.

Mr. Beechie said that staff is looking for guidelines to follow when reviewing and approving applications or renewal forms received which have felonies listed. For example, staff would like to know if all applications and renewal forms with felonies should be presented to the Board or are there certain convictions that would not have to be presented to the Board. Mr. Beechie explained that staff is looking for direction from the Board as well as guidance from Mr. Erickson.

Mr. Erickson stated that the North Dakota Century Code sets a five year boundary after the person successfully completes probation or parole, not five years from the date of the crime or



conviction. He went on to say that if it is still within that five year time frame from commission of the crime, the presumption is essentially that the application to show that the crime does not relate to the public safety concerns that lead to licensing of the profession or the licensing board may take that evidence that the applicant is unfit. Mr. Erickson added that after five years, the presumption changes and the application is presumed to be rehabilitated if they have not committed any additional crimes, unless the Board can show that the crime has a particular nexus or relationship back to the regulated profession. He continued by saying that different boards have different concerns and he is aware the North Dakota State Plumbing Board has concerns of violent crimes or assault, especially in the context of a plumber who might be going into someone's home that will be alone with a person who might be vulnerable and could be attacked. Mr. Erickson said that each situation would have to be reviewed and it is not uncommon for boards to give the Executive Directors or office staff the authority to approve applications or renewals with felonies that are beyond the five year boundary, unless something looks it should be brought to the Board as it relates to the field. Mr. Erickson concluded by saying that if it is within the five year timeframe, generally boards want to see any applications or renewals, but those are policies that each individual board gets to make within the standards set by the Legislature through the Statutes.

Mr. Beechie asked if a licensee that is a nonviolent drug offender who was sentenced to serve time, was released from jail a year ago, has a plumbing job again, can be approved to reinstate the licensure with conditions even though it is not beyond that five year period. Mr. Beechie also asked if attaining employment is considered a form of rehabilitation. Mr. Erickson explained that the policy of the State, shown by numerous legislative actions, is to encourage rehabilitation. If a person cannot get a viable job once they get out of prison, then the likelihood of reoffending greatly increases. He commented that the Board should consider whether or not a particular offense can be tied back to the profession. Mr. Erickson continued by saying that a drug offense may not be able to be tied back in, especially if there has been a term of successful parole or probation where there have been periodic drug testing to show they are drug free. He went on to say that the individual would have a history that could be relied on that they are not going to be showing up to work drunk or stoned and do a bad job. Mr. Erickson added that it could be tied back in if a pattern of behavior is shown to where the individual has an additional problem that affects their work performance and puts the public at risk.

Ms. Jones asked where the line is drawn between the Board's responsibilities in proving the risks of the individual reoffending, the risks to the public, etc. versus the employer's liability. She also inquired who holds the larger liability and is there a line to be drawn. Mr. Erickson answered by saying that the State is never considered the employer and if someone shows up at work drunk or stoned, or commits an assault against a customer or client of the employer, the employer will be the one looked at in terms of a lawsuit about whether or not they did what was necessary to protect the public. He added that as a government agency, the Board has a different responsibility and will be protected so long as the Board made a good faith decision without bribery, corruption or advocating of responsibilities. Mr. Erickson went on to say that if the Board analyzes the facts, takes a look at the situation and makes a determination that that the individual will be licensed and fails, as long as the Board can show it made a good faith deliberation, then hindsight cannot be created against the board. He concluded by saying that as long as the Board is following proper procedure, then the Board does not have any liability and it is a governmental type of decision that should be able to be made without that kind of a

fear. The Board should be evaluating the individual based on his or her circumstance and what it thinks would be right for the public.

There was some discussion among the board members, staff and Mr. Erickson about felony guidelines and it was the general consensus of the board that staff will prepare proposed policies for review at a future meeting.

### **Felony Question Verbiage on Applications and Renewal Forms**

President Drevecky called on Ms. Tomanek to talk about the felony question verbiage on applications and renewal forms.

Ms. Tomanek indicated that while attending the 2017 Federation of Associations of Regulatory Boards training in June, it was suggested that the felony question on applications should read "Have you ever been arrested, charged or convicted of a felony or had a felony dismissed, discharged, reduced, pardoned or expunged in this state or any other jurisdiction?" She continued by saying that the suggestion for renewals should read "Have you ever been arrested, charged or convicted of a felony or had a felony dismissed, discharged, reduced, pardoned or expunged in this state or any other jurisdiction, not previously disclosed on an application or renewal form?".

Mr. Erickson said that the proposed language is accurate and correct. He added that pardoned and expunged is an important thing to ask because in some states, the effect of a pardon or expungement means different things. In some states if a person has received a pardon, that person can truthfully answer no to the question, "have you been convicted". In other states if a person has been pardoned, they still have to answer yes with an explanation. Mr. Erickson concluded by saying that North Dakota does not have a decision on that, so it is good to ask especially about pardoned and expunged.

**MOTION:** Mr. Eman made a motion to approve the felony question verbiage on applications and renewal forms as written. Mr. Dirk seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

### **Apprentice Plumber Applications**

President Drevecky called on Ms. Tomanek to present the Apprentice Plumber Applications.

Ms. Tomanek stated that Anthony Haase registered as a 1<sup>st</sup> Year Apprentice in 2008 and as of 2011 he accumulated 4701 hours, which made him a 3<sup>rd</sup> Year Apprentice. He reapplied for his apprentice license in October 2017, while serving a four and a half year sentence as an inmate in the James River Correctional Center in Jamestown. Mr. Haase has felony charges from 2001, 2004, 2006 and 2013 that are all drug related for Possession of various Controlled Substances, with the Intent to Deliver and Possession of Drug Paraphernalia. He has since been released from custody and is currently employed with Lunseth Plumbing & Heating in Grand Forks. There are two letters included in the packet from Mr. Haase, one from Lyle Nagle, the Master Plumber from the James River Correction Center and one from Phil Kraemer, the Master



Plumber from Lunseth Plumbing & Heating that are all in support of Mr. Haase reinstating his apprentice plumber license.

There was some discussion among the board members about the license application.

**MOTION:** Ms. Jones made a motion to approve the application with the condition that the employer and parole officer reports any further offenses and to have staff perform a court record search on the licensee in six months. Mr. Dirk seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

Ms. Tomanek stated that Dylan Stoppler's 1<sup>st</sup> Year Apprentice Application was received in November 2017. He was convicted of Possession of a Controlled Substance and Possession of Drug Paraphernalia in 2014. There is one letter included in the packet from Mr. Stoppler and one letter of support from Josh Weibye, owner of All American Plumbing & Heating, where Mr. Stoppler is employed.

There was some discussion among the board members about the license application.

**MOTION:** Mr. Eman made a motion to approve the application with the condition that the employer reports any further offenses and to have staff perform a court record search on the licensee in six months. Mr. Bruschwein seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

### **Continuing Education Requirements and Fees**

President Drevecky called on Mr. Beechie to discuss continuing education requirements and fees.

Mr. Beechie indicated that after the Board approved a \$30.00 fee for the North Dakota State Plumbing Board Continuing Education Sessions, he received a telephone call from House District 32 Representative, Pat Heinert, who received a telephone call from Michael Marback, who questioned whether or not apprentice plumbers and any other attendees should also have to pay the fee. He added that the law states that Apprentice Plumbers are not required to attend continuing education.

There were a few comments from attendees in support of not charging the \$30.00 fee for apprentice plumbers or unlicensed individuals that are associated with plumbing whom attend the continuing education sessions.

There was a brief discussion among the board members and staff about the current continuing education requirements, fee policies and the surrounding states' policies.

**MOTION:** Ms. Jones made a motion to not make any policy changes for continuing education requirements. Mr. Eman seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

## **Certificates of Deposit**

President Drevecky called on Ms. Tomanek to talk about certificates of deposit.

Ms. Tomanek explained that there are currently three CDs that are \$100,000.00 each. The one at BlackRidge Bank matures on August 15, 2018 and the other two at Plains Commerce Bank that will mature on June 5, 2018. She asked the Board what they would like done with the funds at maturity.

**MOTION:** Mr. Dirk made a motion to continue with the policy of contacting the banking institution at maturity and reinvest with the instruction that provides the highest rate of return. Mr. Eman seconded the motion and it was unanimously approved with board members Bruschwein, Dirk, Drevecky, Eman and Jones voting in favor.

## **2018 Uniform Plumbing Code Adoption Schedule**

President Drevecky called on Mr. Beechie to provide an update on the 2018 Uniform Plumbing Code adoption schedule.

Mr. Beechie said that proposed amendments to the 2018 Uniform Plumbing Code will be presented to the board members at the meeting scheduled for October 15, 2018. Once the Board has approved the amendments, they will be submitted to Legislative Council, the public hearing notice will be published and the hearing will be held. He stated that once the deadline for public comments has expired, the proposed amendments and supporting documents will be submitted to the Office of Attorney General for opinion. After the opinion is received from the Attorney General's Office, items will be submitted to Legislative Council and staff will appear at an Administrative Rules Committee meeting. Mr. Beechie went on to say that the process takes approximately six to eight months to complete, depending on when the public hearing is held. He concluded by saying the estimated effective date will be April 1, 2019 or July 1, 2019, depending on when the public hearing is held.

## **Content Management System Application Caching Proposal**

President Drevecky called on Ms. Tomanek to present the Content Management System caching proposal.

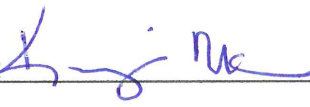
Ms. Tomanek explained that over the past couple of months the Content Management System has become increasing slow. She went on to say that the internet provider was contacted and found that the internet and modem was not the issue. Then the company that provides IT support for the Board office was contacted and the router was replaced, but nothing fixed the problem. Ms. Tomanek ended by saying Agency MABU was contacted about the issue and was provided with a caching proposal to develop and implement a system within the current application to improve the speed. The proposal costs \$5,000.00.

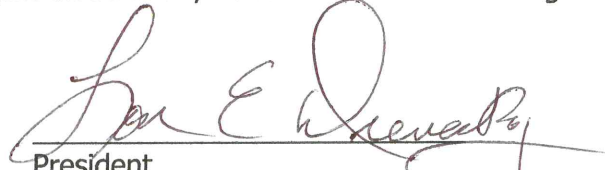
**MOTION:** Ms. Jones made a motion to increase the IT Support budget line item be increased by \$5,000.00 and to approve the caching proposal. Mr. Eman

**ADJOURNMENT**

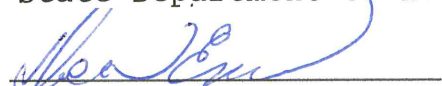
**MOTION:** Mr. Eman made a motion to adjourn the meeting. Mr. Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Eman, and Kern voting in favor.


The meeting adjourned at 2:40 p.m., to meet again on June 11, 2018 in Bismarck for a regular meeting.

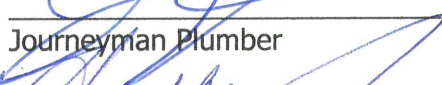
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President

  
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State Department of Health

  
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Master Plumber

  
\_\_\_\_\_  
Journeyman Plumber

  
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Consumer Member