

**NORTH DAKOTA STATE PLUMBING BOARD  
MEETING MINUTES**

March 9, 2015

The North Dakota State Plumbing Board met on March 9, 2015, at 1:00 p.m., at the Bank of North Dakota, 1200 Memorial Highway - Leadership Hall, Bismarck, ND, President Lon Drevecky presided.

Board members present were Jason Dirk – Journeyman Plumber, Lon Drevecky – President/Mechanical Engineer, Heather Jones – Consumer Member, Wayne Kern – Vice President/State Health Department and Howard Wrigley – Master Plumber.

Staff members present were Brent Beechie – Secretary/Chief Inspector, Kimberley Tomanek – Business Manager, Scott Samuelson – Plumbing Inspector, Dean Staska – Plumbing Inspector and Laurie Walcker – Administrative Assistant.

Others present were Lon Lessard – North Dakota State School of Science, Jerry Hoffarth – Lunseth Plumbing & Heating, Dave Romine – North Dakota Plumbing-Heating-Cooling Contractors Association, Leonard Schwindt – City of Dickinson, Dustin Hillman – City of Fargo, Darrell Zaback – City of Minot and Edward Erickson – Office of the Attorney General.

**PUBLIC HEARING**

President Drevecky, the acting hearing officer, opened the public hearing at 1:00 p.m. The purpose of the public hearing was to allow interested individuals an opportunity to submit information concerning the following proposed amendments to the future N.D. Administrative Code.

Proposed amendments to N.D. Administrative Code

Chapter 62-03.1-02 General Regulations  
Section 62-03.1-02-02 Uniform Plumbing Code – Exceptions and modifications  
Subsection 4 – Plumbing fixtures and fixture fittings

and

Chapter 62-03.1-03 Private Sewage Disposal Systems  
Section 62-03.1-03-01 General provisions  
Subsection 12 "Administrative authority"

The review of the proposed amendments was completed, no comments were received and the public hearing was closed.

**MINUTES**

President Drevecky called for the consideration of the minutes of the October 28, 2014 meeting.

**MOTION:** Heather Jones made a motion to approve the minutes of the October 28, 2014 meeting as received. Howard Wrigley seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

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

President Drevecky called on Ms. Tomanek to review the Financial Statements and Fiscal Year to Date Budget.

Ms. Tomanek presented the Financial Statements and Fiscal Year to Date Budget.

**MOTION:** Howard Wrigley made a motion to approve the Financial Statements as presented. Jason Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

## **NEW BUSINESS**

### **Plumber Applications**

President Drevecky called on Mr. Beechie to go over Craig Elser's application.

Mr. Beechie indicated that Mr. Elser lives in Williston but is originally from California. He went on to say that Mr. Elser has three felony convictions in California. In 1988 Mr. Elser was charged with a lewd and lascivious act with a minor, in 1998 was charged with transporting marijuana and in 2007 was charged with failure to register as a sex offender. Mr. Beechie said that the board office received a copy of the letter sent to Mr. Elser from the Office of the Attorney General, stating his term of registration for the offense of a lewd and lascivious act with a minor has ended in North Dakota. Mr. Elser no longer needs to update his address with law enforcement and his name will be removed from the offender registration file.

Mr. Erickson said that the end goal with this is to protect the public, not an additional punishment. He added that many states have adopted sex offender registries with different levels of risk and Mr. Elser's risk was approximately a medium risk. Mr. Erickson indicated that Mr. Elser did have two parole violation issues, most recently dated December of 2008 where conditions were added to his probation, but he was not sent back to jail. Mr. Erickson stated that the conditions added were: 1) The defendant shall not initiate, establish or maintain any contact either direct or indirect with anyone under the age of 18, unless said minor is in the presence of his or her parent or guardian; 2) Defendant shall not loiter within 10 yards of the perimeter of places where children congregate; 3) Defendant shall not reside with anyone under the age of 18; and 4) Defendant shall notify any law enforcement officer of his status as a PC290 (California offense number) registrant upon making contact or interaction with law enforcement. Mr. Erickson went on to say that the Board should consider the following three principles from N.D.C.C. § 12.1-33-02.1(2)(c): 1) The nature of the offense and whether it has a direct bearing upon the qualifications, functions or duties of a plumber; 2) Information pertaining to the degree of Mr. Elser's rehabilitation; and 3) The time elapsed since Mr. Elser's conviction or release. Please note that completion of a period of five years after final discharge or release from any term of probation, parole, community corrections, or imprisonment, without

subsequent conviction is deemed prima facia evidence of sufficient rehabilitation. Mr. Erickson outlined the different options on how the Board could proceed.

There was some discussion between the board members and Mr. Erickson about the different options on how the Board could proceed.

**MOTION:** Howard Wrigley made a motion to deny Mr. Elser's Application for Plumber's License. The motion failed due to lack of a second.

**MOTION:** Heather Jones made a motion to register Mr. Elser as a 5<sup>th</sup> Year Apprentice license, making him eligible to take the North Dakota Journeyman exam. Jason Dirk seconded the motion with board members Dirk, Drevecky, Jones and Kern voting in favor of the motion and board member Wrigley voting against. The motion passed 4 to 1.

President Drevecky called on Mr. Beechie to discuss Keith Strimple's application.

Mr. Beechie said that Mr. Strimple lives in Tulsa, Oklahoma and has held an Oklahoma Contractor (Master) Plumber license for the past 36 years. Mr. Beechie went on to say that Mr. Strimple was convicted in Federal Court in 2012 to one count of attempted possession of a visual depiction of a minor engaging in sexually explicit conduct. The charges were from 2007, while Mr. Strimple was working in Iraq and the images were found on his computer system. Mr. Beechie stated that Mr. Strimple served 18 months in prison and will be on supervised probation until 2017.

**MOTION:** Jason Dirk made a motion to deny Keith Strimple's application for Plumber's License. Wayne Kern seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

*Secretary's note: A certified letter will be mailed to Mr. Strimple returning his money order and to notify him of the Board's decision to deny his application.*

### **Revocation of License**

President Drevecky called on Mr. Beechie to talk about Revocation of License of Chad Gourneau.

Mr. Beechie explained that Chad Gourneau, who is licensed as a North Dakota Journeyman plumber, was recently charged with multiple accounts of theft of property and burglary from Jamestown residences where he was doing service work. Mr. Gourneau is currently residing at the North Dakota State Penitentiary. Mr. Beechie went on to say that revocation of license would be appropriate with this matter.

Ms. Tomanek added that it was recently discovered that Mr. Gourneau is also a registered sex offender and was charged in Federal Court with sexual abuse of a minor in 1998. Ms. Tomanek stated that this conviction was not disclosed because the Apprentice Plumber application does not include a felony disclosure question and that is the type application on file for Mr. Gourneau.

Mr. Erickson indicated that with the theft of property, burglary offenses and the sexual abuse of a minor, there are grounds to invoke disciplinary action with the intent to revoke Mr. Gourneau's plumbing license. Mr. Erickson stated that he would handle the legal involvement in the matter, which may include an administrative hearing. Mr. Erickson concluded by saying this situation points out that the Board may want to consider attaining statutory authority to require criminal background checks on applicants.

**MOTION:** Heather Jones made a motion to proceed with disciplinary action with intent to revoke Mr. Gourneau's plumbing license. Howard Wrigley seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

Mr. Erickson, board members and staff discussed the requirements and steps for gaining statutory authority to require criminal history background checks on applicants.

**MOTION:** Howard Wrigley made a motion to give Edward Erickson authority to request an emergency bill for criminal history background checks through the delayed bills committee. Heather Jones seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

### **Floor Drains**

President Drevecky called on Mr. Zaback to discuss floor drains.

Mr. Zaback said that there are so many buildings that are designed that do not include a floor drain in the mechanical room and leave it up to the inspectors to pick out an approved location. He continued by saying he has dealt with this issue many times over the years and thinks it should be addressed in the code. Mr. Zaback suggested that the verbiage "Mechanical rooms containing water heaters, boilers and condensing appliances in residential and commercial applications" be added to Section 411.2 Location of Floor Drains.

Mr. Beechie indicated that Matthew Marciniak with IAPMO is researching this issue and will determine whether or not the verbiage can be added to the 2015 Uniform Plumbing Code (UPC). He said that if the verbiage cannot be added to the UPC, then it can be addressed the next time the North Dakota State Plumbing Board proposes amendments to the Administrative Rules.

### **North Dakota State School of Science Recruitment**

President Drevecky called on Mr. Lessard to discuss North Dakota State School of Science (NDSCS) recruitment.

Mr. Lessard explained that the President of NDSCS recently held a meeting to address the low number of students in the plumbing program and that the program cannot continue with the number of students enrolled. He went on to say that in 2013 HVAC program was in danger of being cut, so the solution was for contractors to sponsor students in the program. Mr. Lessard stated that he would like to see the same kind of sponsorships for plumbing students because

this year 14 out of the 18 students in the HVAC program are sponsored. He said that a sponsorship usually includes contractors offering to pay for tools or hire the students when they complete the program. Mr. Lessard added that he brought handouts that outline sponsorship opportunities and would appreciate if they were distributed.

*Secretary's note: This agenda item was added when the meeting was called to order.*

At 2:38 p.m., the Board recessed for a short break.

At 2:45 p.m., the Board reconvened.

## **OLD BUSINESS**

### **Administrative Rules**

#### **62-03.1-03-04 Location of a Sewer System Table**

President Drevecky called on Ms. Tomanek to review Chapter 62-03.1-03-04 Location of a Sewer System.

Ms. Tomanek explained that after speaking with Vonette Richter at Legislative Council, it was determined that the typos could be corrected without having to go through the formal administrative rule change process. The errors are with the < and > signs and an extra added line. She ended by saying that the corrections have been made to the North Dakota Administrative Code on the Legislative Council's website and will be reflected in the North Dakota State Plumbing Laws, Rules and Plumbing Installation Standards of North Dakota the next time they are printed.

### **Administrative Rules**

#### **Interpretive Rules**

President Drevecky called on Mr. Beechie to discuss Interpretive Rules.

Mr. Beechie said that at the last meeting, it was decided that he would work with Mr. Kern to review the rules. He recalled that the interpretive rules were repealed at the request of Health Districts and the State Health Department because they were thought to be redundant.

Mr. Kern expressed that the Interpretive Rules do not need to be re-added because the recent Administrative Rules amendments addressed the issues that others were using the Interpretive Rules for.

There was a brief discussion on whether or not the Interpretive Rules should be removed from the North Dakota State Plumbing Laws, Rules and Plumbing Installation Standards of North Dakota. It was the consensus of the Board that the Interpretive Rules will be deleted at the next printing.

## **Future Legislation**

### **Chapter 43-18-11.4 Inspections by Political Subdivisions**

President Drevecky called on Mr. Beechie to talk about the proposed future legislation.

Mr. Beechie said that at the last meeting, he was concerned about political subdivisions taking away jurisdiction from the North Dakota State Plumbing Board because of the way it is written in the law. Chapter 43-18-11.4 Plumbing Inspectors – License required – Exception reads “A person employed by the state board of plumbing or a political subdivision to inspect plumbing installations must be licensed as a journeyman or master plumber. This section does not apply to an inspector employed by the board of plumbing or a political subdivision as of July 2, 1989”. He indicated that he proposed that the verbiage be changed to say that cities and municipalities are the only entities that can make provisions for their own inspections and eliminate political subdivisions. Mr. Beechie ended by saying that this proposal will not be pursued at this time.

## **Reciprocity with Minnesota**

President Drevecky called on Mr. Beechie to discuss reciprocity between North Dakota and Minnesota.

Mr. Beechie explained that while attending the PHCC Conference in February, he and several other individuals from North Dakota met with John Parizek, the Chairman for the Minnesota State Plumbing Board, to continue discussions about continuing education. He indicated that the Minnesota State Plumbing Board is still having discussions on how they would like to proceed. Mr. Beechie said, as it stands, North Dakota plumbers must complete eight hours of continuing education per year in order to keep their Minnesota plumbing license current. He stated that he will provide an update at the next meeting.

## **REPORTS**

### **Western North Dakota Plumbing Inspector Position Update**

President Drevecky called on Ms. Tomanek to provide an update about the Western North Dakota Plumbing Inspector position.

Ms. Tomanek said that interviews will be held on Friday, March 20, 2015 and there are four applicants.

### **Administrative Rules Update**

#### **Chapter 62-03-01-02-02 Plumbing Fixtures and Chapter 62-03.1-03-01 Administrative Authority**

President Drevecky called on Ms. Tomanek to provide an update about the proposed Administrative Rules amendments.

Mr. Tomanek indicated that there is now a 10 day public comment period which ends on March 19, 2015. At that time, a letter will be sent to the Attorney General’s Office for review. She said that once the approval letter is received, correspondence is then sent to Legislative Council

and a hearing is scheduled for final review of the amendments. The changes are scheduled to be effective July 1, 2015.

### **Website/Content Management System**

President Drevecky called on Ms. Tomanek to provide an update about the website/Content Management System (CMS).

Ms. Tomanek indicated that she continues to receive compliments on the website and can tell that more people are utilizing it. She said that credit and debit cards have been accepted since November 2014 and the process is going very well. Ms. Tomanek added that code books can now be purchased online.

Ms. Tomanek explained that in December 2014, all the Plumbing Inspectors received smart phones, which enabled them to use their phones as mobile hotspots, thus allowing them to have internet access in their vehicles. She stated that some of the inspectors already take their laptops with them on a daily basis to update their reports and access email.

Ms. Tomanek said that the switch to the new Content Management System has not happened yet, but the project is moving forward and it should be operational soon.

Ms. Tomanek indicated that starting in April, 2015, all receipts will be processed through Quickbooks rather than Microsoft Access. She stated that once staff is comfortable with this process, the next step will be to switch to the Content Management System.

### **Inspectors from Local Jurisdictions**

President Drevecky called on attendees, Darrell Zaback – City of Minot, Dean Staska – North Dakota State Plumbing Board, Dustin Hillman – City of Fargo, Scott Samuelson – North Dakota State Plumbing Board, Laurie Walcker – North Dakota State Plumbing Board, Leonard Schwindt – City of Dickinson and Jerry Hoffarth – Lunseth Plumbing & Heating to report on plumbing issues and work within their jurisdictions. President Drevecky thanked the attendees.

### **ANNOUNCEMENTS**

There were no announcements.

**ADJOURNMENT**

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

The meeting adjourned at 3:18 p.m., to meet again on June 29, 2015.

Attest *Kelsey Tomarek*

*Don E. Drevecky*  
President

*D. Wayne Kern*  
Vice-President

*H. Wrigley*  
Master Plumber

*[Signature]*  
Journeyman Plumber

*[Signature]*  
Consumer Member