

State of Oregon
Final

OREGON STATE PLUMBING BOARD

Regular Meeting Minutes

October 17, 2003

MEMBERS PRESENT: Lewis Seagraves, Chairman
Robert Kimes, Vice-Chairman
Judy Bauman *(arrived at 9:15 a.m.)*
Brett Cook
Perry Shinn

MEMBERS ABSENT: Ken Carlson

STAFF PRESENT: Mark Long, Administrator of Building Codes Division
Andrea Simmons, Manager of Policy and Technical Services
Terry Swisher, Chief Plumbing Inspector, and Board Secretary
Roseanne Nelson, Interim Manager of Regulatory Services
Allen Aschim, Chief Compliance Officer
Debi Barnes-Woods, Division Boards Coordinator/Recorder

GUESTS PRESENT: Ron Murray, Local 290
Dave Hensley, City of Corvallis
Linda Lindsten, OAPHCC
Jay Beeks, Oregon Parks and Recreation Department
Betty Merrill, Oregon Office of Energy
Jerod Broadfoot, Plumbing and Mechanical
Contractors Association
Curtis Cheever, Hoffman Southwest Corp
Robert VanCreveld, Interested Individual
Daniel Gleiberman, Falcon Waterfree Technologies

I. BOARD BUSINESS

I.A. Call to Order

Chairman Lewis Seagraves called the State Plumbing Board to order at 9:00 a.m. The meeting was held at the Building Codes Division, 1535 Edgewater NW, Salem, Oregon.

I.B. Roll Call

Ken Carlson was absent, (excused).

I.C. Approval of Agenda and Order of Business

Andrea Simmons, Manager of Policy and Technical Services, said that compliance case III.A.2., final order – Harter Plumbing, Inc.- will be removed from the agenda to be heard at a later date. Corey Ormandy, III.A.1. will be amended due to the information on the agenda is inaccurate. The hearings officer found that Mr. Ormandy is qualified to sit for the exam. The item will be changed to “Corey Ormandy was granted permission to sit for the exam, based on hearing held”.

Chairman Seagraves **RULED** the agenda approved as amended.

I.D. Approval of the August 15, 2003 Minutes

Chairman Seagraves **RULED** the minutes for August 15, 2003, approved as submitted.

I.E. Date of the Next Regularly Scheduled Meeting

December 19, 2003

II. PUBLIC COMMENT

Ron Murray, Local 290, wanted the Plumbing Board to be aware of a legislative task force formed during the 2001 session. The intent of the task force was to investigate some of the inconsistencies in the backflow program. The task force reviewed all rules applicable to backflow devices with the Health Department. Before the 2003 legislative session, the Health Department said that they do not have statutory authority to oversee the backflow program. The understanding is that the Health Department only has authority to collect monies and issue licenses. The department does not have authority to adopt rules regarding backflow or to test for the license. SB 343 was drafted to shift the backflow program to the Oregon State Plumbing Board. Mr. Murray said that the Plumbing Board should regulate backflow devices entirely on the house side of the meter. The Health Department should regulate only from the street side of the meter. His suggestion was to adopt a third-party verification exactly like the medical gas ASSE 6000 Program.

Vice-Chairman Bob Kimes agreed that the backflow device belongs with the Plumbing Board and it would be a revenue source.

Another issue Mr. Murray discussed was that when a permit is issued, one percent goes into a state training fund. He said that over \$50,000.00 dedicated to the plumbing fund is distributed to support other funds. The plumbing program is not receiving their share of the funds. Mr. Murray said that the majority of the funds are dedicated to education for the one -and two-family dwelling inspectors, which the plumbing industry does not support and they are not a direct benefit to the plumbers in the state of Oregon. Individuals throughout industry would like to see the one percent training fund abolished. Mr. Murray said that during the next legislative session, the issue will be addressed and legislation will do away with the one percent training fund.

III. REPORTS

III.A. Compliance Cases – Roseanne Nelson and Allen Aschim

Allen Aschim, Chief Compliance Officer, explained a case that has been in discussion for some time with the Plumbing Board. The respondent, Ron Kealen, performed plumbing work in a manufactured dwelling park. He completed work with a permit, although did not have a license based on information received by the county. The Division has tried to contact Mr. Kealen by telephone and by mail with no response. The Division is not recommending action until further discussion.

1. **Corey Ormandy, Final Order**, was amended earlier by Manager Simmons to read; “Corey Ormandy was granted permission to sit for the exam, based on hearing held”.

Chief Ashim said that Mr. Ormandy applied for reciprocal application and was issued a denial letter from the Division. Mr. Ormandy requested a hearing that was held in July. The issue is whether Mr. Ormandy qualified for an examination to be certified as a plumber, not whether he is entitled to certification under the reciprocity provisions. Mr. Ormandy is a licensed journeyman plumber in the State of Washington. The conclusions of law were that Mr. Ormandy qualifies for examination as a journeyman plumber under ORS Chapter 693 and OAR 918-695-0030.

Manager Simmons, explained the hearings officer’s reasoning in this case. Ms. Simmons said that the outcome was an interpretation of rule. She said that in the past, the Division has been following ORS 693.050(2)(a) and (b). The hearing officer said that (2)(a) or (b) could be used, not both. Copies of the Oregon Revised Statutes *Exhibit “A”*, were distributed. Therefore, the respondent was able to document one part to qualify to sit for the exam.

Ms. Simmons said that the administrative rule could be addressed to continue to enforce the current Board policy.

(Judy Bauman arrived at 9:15 a.m.)

Brett Cook thought that was why the State of Oregon and the State of Washington no longer has a reciprocal agreement. Terry Swisher, Chief Plumbing Inspector agreed, although in this case, Mr. Ormandy is not claiming reciprocity, he was requesting to exam based on experience verification with his license. Mr. Cook asked that if the reciprocal agreement is not in place, how can the Board, or the Division verify his qualifications by using his Washington license. How can it be verified that the respondent completed all the required training to receive that license and then verify whether the respondent is eligible for an Oregon license? Chief Swisher said that most of the training was verified in Oregon due to Mr. Ormandy almost completed an Oregon apprenticeship program.

During the Division's review, some hours were not accounted for, although through Washington's review, they approved him for a license. Due to Washington not having the same requirements and qualifications as Oregon, Vice-Chairman Bob Kimes questioned whether this would cause a problem with other cases. Chief Swisher said that a rule change in the future would eliminate this rule from being miss interpreted.

Brett Cook asked what are the timeframes for rule changes. Manager Simmons said that it takes a least six months for a rule change. If the Board wanted to move forward, a motion could be made for an advisory group to begin the process. Ms. Simmons said that the Division would work with the Board on how they want to proceed.

MOTION by Brett Cook to adopt hearings officer's decision to allow Corey Ormandy permission to sit for the exam.
MOTION CARRIED UNANIMOUSLY

MOTION by Brett Cook to appoint an advisory group to review rules to address this issue.
MOTION CARRIED UNANIMOUSLY

Appointed members to the advisory group were Brett Cook, Perry Shinn and Vice-Chairman Bob Kimes.

2. **Harter Plumbing Inc., Final Order**, was removed from the agenda to be heard at a later date.
3. **Michael McKee, Repeat Violator**, was previously before the Board January 2001. The notice of civil penalty and consent order was sent to the respondent at the same time. The respondent did not send the consent order back, therefore the Division was able to issue a default order. The Division recommended approval of the assessed penalties.

MOTION by Vice-Chairman Bob Kimes to adopt Division recommendation.
MOTION CARRIED UNANIMOUSLY

III.B. Summary of Cases –Action previously taken by division for cases 1-6.
There were no questions or comments for this agenda item.

III.C.1. BCD Update

Andrea Simmons, Manager of Policy and Technical Services, distributed a one-page document that included 2003 legislation summary affecting Building Codes Division. *Exhibit "B"*. Manager Simmons said that the rulemaking process has begun for HB 2564 that allows contractor/business licenses to be consolidated into one license. That committee will then address the visible licensing issue and restructuring the current process for compliance enforcement.

The Division will be working with the Plumbing Board on SB 711 that limits plan review to complex systems.

Manager Simmons then discussed the Division's re-organizational plans. The intent of the change is to align the Division's activities with fees. She explained that 50 percent of the revenues are received from permit fees and other revenues are received from licensing and surcharge fees. Handouts were distributed to show the different revenue sources, *Exhibit "C"*. The Division intends to focus on statewide consistency throughout all program areas by sections using their own funding sources and all policy decisions be centralized in Policy & Technical Services Section. The Sanctions Review Advisory Committee was discussed and how it operates. Manager Simmons said that it would take 6-months to a year for that committee to be implemented.

Brett Cook referred to the charts that explained the different revenue sources. The structural/mechanical permit revenue shows 2.4 million dollars and the structural/mechanical licensing revenue shows \$40,000.00. He felt that the state should license mechanical contractors and general contractors due to the disparity to that program and should be addressed. Manager Simmons said that all licenses are created statutorily through legislation.

III.C.2. Plumbing Code Interpretation Committee Report – Terry Swisher

Chief Swisher reported two new plumbing code interpretations. The access panel for a whirlpool bathtub pumps can be located in the crawl space. The plumbing code, section 415.1, only requires a removable panel of sufficient dimension to access the pump of a whirlpool bathtub. Section 710.7, does apply to pressure drainage piping within a building.

Current interpretations, using the 2000 Oregon Plumbing Specialty Code, may be viewed at BCD site location:

<http://www.cbs.state.or.us/bcd/programs/plumbing/plumbingrulings.html>

IV. COMMUNICATIONS - None

V. APPEALS - None

VI. UNFINISHED BUSINESS

Approve draft administrative rule for exempt ordinary repairs – A new task force was formed by the Board to redraft the rules. That task force met September 11 and created a revised draft rule that defines exempt ordinary minor plumbing repairs that do not require a plumbing permit.

MOTION by Vice-Chairman Bob Kimes to approve draft rule revisions to exempt ordinary minor repairs for public hearing.

MOTION CARRIED UNANIMOUSLY

VII. NEW BUSINESS

A. Non-Flush Urinal for Oregon Parks and Recreation Facilities – Review of the Interpretive Ruling No. 01-4. This item was tabled at the August meeting for further consideration at the October meeting.

John Paul Williams, an industrial researcher for twenty years, spoke at the request of Ron Murray to discuss the waterless urinal issue. Mr. Williams reviewed the same material provided to Board members. The City of Los Angeles rejected the waterless urinals through hearings based on violations of plumbing codes due to the lack of an adequate water trap and water flush. Therefore, the opinion, as a result of the Los Angeles hearings, were that the waterless urinals failed to protect public health. If the seals were not maintained properly it would create an unsanitary device. Mr. Williams said that a chemical called Chloroxylenol is used in the urinals installed in Oregon parks in order to kill bacteria. Portions of the chemical are discharged with the urine that passes through into the septic tanks to ground water, surface waters, creeks and rivers. An EPA review of the chemical notes that it is highly toxic to freshwater fish. Mr. Williams said that the material distributed to Board members failed to deal with toxic contamination resulting from the use of the chemical.

Jay Beeks, Oregon Parks and Recreation Engineering Manager, asked the Board to allow the continued use of the non-flush urinals so that further testing could be completed. Mr. Beeks said that the parks department believes that the devices have proven to be successful. He said that the same chemical that is used in the waterless urinals is used in hand soap, face cream and shampoo. The parks department is interested in a unit called the “McDry Urinal” that contains the built in p-trap. Currently the parks department has 26 non-flush urinals installed in Oregon state parks. Mr. Beeks said that he would like to install five to 10 of the “McDry Urinals” to compare with the Falcons, Waterfree and the Waterless urinals. Accurate testing results over seasons would be sent to the Board for their review.

Board members expressed their concerns with the wording in the new Interpretive Ruling No. 03-5. Installation of the waterless urinals in other similar public applications with limited private sewage disposal drainfield capacity was unacceptable. They asked if the interpretive ruling could be amended. Chief Swisher said that the ruling could be amended. He suggested that the Board recommend Interpretive Ruling No. 01-4 continue with reviews based on the Board’s discretion.

Chairman Seagraves said that Interpretive Ruling No. 01-4 does not limit the number of installations for the waterless urinals. The Board felt that the interpretive ruling should include requirements that all installations, current test and maintenance reports, are reported to the Board for their review.

Judy Bauman said that the Plumbing Board has been considering this issue thoughtfully, responsibly and with courtesy for two years. All material presented at this meeting and others have been thoroughly reviewed with the results that the waterless urinal installations are unsafe due to the mechanical trap. They do not meet the Plumbing Board's own requirements.

Daniel Gleiberman, Falcon Waterfree Technologies, said that his company has been before the Board not to sell products, but as a resource for the Board. He urged the Board to only rely on the technical scientific information provided to the Board.

Perry Shinn recommended that staff continue with Interpretive Ruling No. 01-4 and bring it back to the December Board meeting with amendments to include requirements that all installations, current test and maintenance reports be reported to the Board for their review.

Brett Cook said that there is no performance standard for the product. Vice-Chairman Bob Kimes asked that the amendments be e-mailed to members before the December meeting for a proper review.

Jerod Broadfoot, representing Plumbing Mechanical Contractors Association, asked for clarification of the recommendation. Will the parks department be allowed to install more waterless urinals? Chief Swisher said that Interpretive Ruling No. 01-4 does not limit the number of installations. Mr. Broadfoot read from the approved Board meeting minutes of August 15.

“MOTION by Ken Carlson to table agenda item VI.A. Non-Flush Urinal for Oregon Parks and Recreation Facilities – Review of one-year trial approval of non-flush urinals Interpretive Ruling No. 01-4 with the understanding that there will be no new installations of the waterless urinals, to review additional information distributed at this meeting until the December 19 Board meeting.

MOTION CARRIED UNANIMOUSLY”

Chief Swisher said that the Board is advisory to the Building Codes Division Administrator for the interpretive ruling.

B. Revised Air Admittance Valve (AAV) Standards – A request has been received to approve the revised ASSE performance Standards 1050 and 1051. These standards are for AAV's use in plumbing drainage systems for venting. The standards were revised in August 2002.

Chief Swisher explained that the standards were revised in August 2002. The Board has reviewed the former standards and denied approval. The Division recommended that the revised standards be referred to the Standards Committee for review.

MOTION by Vice-Chairman Bob Kimes to send the revised standards to the Standards Committee to be reviewed for a recommendation to Board.

MOTION CARRIED UNANIMOUSLY

C. Board review of Plumbing Inspector Training Program from the City of Newberg.

Chief Swisher explained that the Board has not adopted criteria for this type of training program and work experience. OAR 918-695-0400(8)(a)(D) is intended to apply to individuals on a case-by-case basis. The Division has not received an application for a plumbing inspector from Mr. Lindstrom, therefore, the Division recommended disapproval of the proposed training program.

MOTION by Vice-Chairman Bob Kimes to disapprove the proposed training program.

MOTION CARRIED UNANIMOUSLY

Before the meeting was adjourned, Vice-Chairman Bob Kimes spoke briefly about his concerns with late submittals. He said that any items submitted to the Board late without proper review, the Board should motion to hold them over to the next scheduled meeting.

VIII. ANNOUNCEMENTS - None

IX. ADJOURNMENT

Chairman Lewis Seagraves adjourned the meeting at 12:00 noon.

Debi Barnes-Woods
Division Boards Coordinator

Exhibits:

- A. ORS 693.050(2)(a) and (b), ***Agenda Item III.A.1.***
- B. 2003 legislation summary affecting Building Codes Division, ***Agenda Item III.C.1.***
- C. Division's re-organizational plans, ***Agenda Item III.C.1.***

TO OBTAIN COPIES OF EXHIBITS, A PUBLIC RECORD REQUEST MUST BE
COMPLETED BY CLICKING ON THE LINK PROVIDED.

<http://www.cbs.state.or.us/external/bcd/pdf/2568.pdf>