

Plumbing Board
Minutes from Annual Meeting
July 16, 2013 at 9:30 a.m.

Members

Mike McGowan
John Parizek
Pete Moulton
John Flagg
Joe Beckel
Gale Mount
Jim Kittelson
Chad Filek
Grant Edwards
Phillip Sterner
Larry Justin
Ron Thompson

Members Absent

Jim Lungstrom

DLI Staff & Visitors

A/C Looman
Lyndy Lutz
Carey Wagner
Pat Munkel-Olson
Cathy Tran
Jim Peterson
Luke Westman
Gary Thaden
Jim Gander
Brian Soderholm
Matt Marciniak
Tim Power
Noel Lutsey
Jon Olson
Chris Salazar
Pat Stack
Gary Ford
Karla Peterson
John Bennerotte

I. Call to Order

The meeting was called to order by Chair Parizek at 9:35 a.m. Introductions and housekeeping announcements were made. Attendance was taken, a quorum was met.

II. Approval of Meeting agenda

Parizek made note under Special Business, B) Request for Interpretation - add #3 to include ASSE model 1070 and 1016A. **A motion was made by Mount to approve the agenda with said changes, seconded by Flagg. The vote was unanimous, motion passed.**

III. Approval of Previous Meeting Minutes

Kittelson made a motion to approve the April 16, 2013 meeting minutes as presented, seconded by McGowan. Two abstentions from Filek and Edwards, the majority vote ruled. The motion passed.

IV. Regular Business

Approval of Expense Reports –Parizek approved the expenses as presented.

V. Committee Reports

Chairman Parizek asked to deviate from approved agenda, without objection, to accommodate Assistant Commissioner Looman. On behalf of Commissioner Peterson, A/C Jessica Looman thanked members and gave an overview of the department: *(items i. through v.)*

- i. **Update on fiscal year 2013** – recently ended on June 30 with approximate statistics to date as follows: 3,700 licensed journeyman plumbers, 3,300 licensed master plumbers, 1,700 licensed contractors, 622 plumbing bond contractors, and 50 licensed water conditioning contractors.
- ii. **Licensing program** – By the end of fiscal 2013 approximately 72 percent of licenses for plumbers were renewed online within 3 days. DLI is at 85 percent of our benchmark 3-day renewal. The department’s new efficiency model includes three DLI staff that will assist with online licensing documents.
- iii. **Plumbing plan review** – DLI is currently processing 2,200 plan reviews annually for all types of commercial plumbing installations. The current program provides a 2 week turnaround for plan review and during slower periods plans can be reviewed in as little as 3-4 days. There is no longer an accelerated plan review – all plan reviews are the same price with a maximum 15-day benchmark. A/C Looman asked for feedback on the new program to be directed to Cathy Tran.
- iv. **Workforce Diversity in Vertical Construction** – DLI is partnering with the Department of Human Rights to increase diversity in the workforce with career exposure/career readiness ideas for licensed crafts. Currently there are approximately 6,800 registered apprentices with 16 percent self-identifying as minority and 7 percent as female. The current goals on state funded projects (Ramsey and Hennepin Counties) are 32 percent. A handout titled “Implement Workforce Diversity Goals in State Funded Vertical Construction Projects” was reviewed.
- v. **Plumbing Enforcement Program** – Currently there are 100 open plumbing cases, with 15 orders issued in the last year. DLI is in final stage of e-TRAKIT development for issuing and tracking plumbing permits online. A/C Looman stated this process will be available by the end of the year.
- vi. **ASSE Mid-year meeting**
Parizek discussed the Executive Committee board’s agenda regarding ASSE school approval issues. ASSE Mid-year meeting were making a decision on upgrading to the ASSE certification for back-flow testing and rebuilding with requirements of: 16-hour course for the ASSE Tester Certification upgrade and an 8-hour course to upgrade to their Repair, our Rebuilder, Certification. The 16 hour Tester upgrade ASSE course includes additional requirements such as additional backflow devices be tested, which includes not only the RP-valves but also the pressure vacuum breakers, double-check valves, and spill-resistant vacuum breakers. Proposed changes to the ASSE Standards 5110 and 5130 language changes the experience required in order to take courses and new language was added for irrigation.
- vii. **Water Reuse Interagency Workgroup**
Parizek stated that Cathy Tran, DLI, represented the department along with MPCA, DNR, Department of Health (DOH), and Department of Agriculture (DOA). This Workgroup takes a serious look at water reuse and possible issues, such as jurisdiction and how this crosses over to all of the different agencies, such as: DOH concerned with water quality standards, DLI concerned with systems and how they are being installed, and PCA dealing with waste water treatment. The Workgroup is making progress developing recommendations that may eventually result in rules that will apply across the agencies.

A. Executive Committee

Committee met prior to the Board meeting, discussing concerns which should be brought to the Board and the proposed Board agenda.

B. Product and Code Review Committee

Justin stated they have not met; nothing to report.

C. Construction Codes Advisory Council

Kittelson stated they have not met; nothing to report.

D. National Code Review Committee

In Lungstroms' absence, the meeting is still scheduled today dealing with Chapter 6, 16, and 17.

E. DLI Reports

Tran stated plumbing permit fee re-structure was passed in the 2013 Legislation that enabled balancing small and large projects. This permit fee went into effect on July 1, 2013. Effective January 1, 2014, the option for accelerated plan review is eliminated, creating standardized service.

VI. Special Business

A. Rulemaking

i. Chapter 4716 – Continuing Education for Backflow Prevention Assembly Tester/Rebuilder

a. **Expedited Rulemaking Update:** Parizek stated that this item has been previously addressed and asked for confirmation from the board to move forward. Munkel-Olson provided a status update that the continuing education requirement for RPZ Testers and Installers could be satisfied by current ASSE requirements to obtain certification. The purpose is to preserve rulemaking authority regarding continuing education in the long term should requirements change. We have written a notice of intent to adopt this expedited rule which can be published on July 29, 2013 with a comment period. A hearing would not be required. Munkel-Olson stated that the board, by motion, has designated Chair Parizek to collaborate on moving rule forward and asked for a reminder to be placed in the minutes for affirmation, noting that there are no additional requirements and that final approval is needed. **Parizek makes a proposal: "The Plumbing Board authorizes and directs the Chairman to take all steps necessary to adopt the RPZ Continuing Education Rule pursuant to Minnesota Statutes, section 14.389." A motion is made by Mount, seconded by Beckel. The vote was unanimous and the motion carried.**

B. Request for Interpretations

i. **File #PB0077 – (Christopher Salazar, Penguin Toilets) 4715.0200, O**

Salazar discussed Penguin Toilet's protection device installed on their toilets, a secondary drain line. This new technology created an IGC, a special testing requirement, and is in compliance with IGC 252-08 and CSA B45-02(R08). Penguin Toilets have a FULL listing with IAPMO and complies with the most current code in accordance with ASME A112.19.1-2008/CSA B 45.1-2008 and bears the cUPC® certification mark. It is accepted in Canada, 49 states, and around the world. Penguin Toilet video is available online at: <http://www.youtube.com/watch?v=PTH3Wpqi990> Additional information can be found at: <http://www.penguintoilets.com/> Concerns were discussed at length regarding issues that could conflict with current Rule 4715.0200, item O. Parizek poses the following question to the board: "Does the Penguin Toilet conflict with 0200, item O?" A 10-minute break is announced for inspection of the Penguin Toilet cut-away.

- ii. **File #PB0077 – (Christopher Salazar, Penguin Toilets) 4715.1220, Subp. 3, Overflows** Salazar stated the Rule 4715.1220 looks to be written for a sink or a tub explaining that there isn't a stopper in a toilet; Penguin Toilets have their own independent trap; and, Penguin Toilets comply with Rule 4715.1220. Mount discussed how our current codes do not address this particular fixture with Christopher adding that our State code was written before this product was designed 5 years ago. Concerns were discussed at length regarding issues that could conflict with current Rule 4715.1220 with Salazar referring to IAPMO Research and Testing, Inc. certification, which was distributed to board members.

The meeting broke at 10:45 a.m. resuming at 11:01 a.m.

Request for Interpretation PB0077 and PB0078 continued

(File #PB0077 – (Christopher Salazar, Penguin Toilets) 4715.0200, O) Parizek proposed the following motion to the board: "Is the secondary drain system of the Penguin Toilet made of durable, smooth, non-absorbent and corrosion-resistant material and is free from concealed fouling surfaces?" **Justin make a motion that the secondary drain system did comply with 4715.0200, part O, seconded by Mount. The vote was unanimous and the motion carried.**

File #PB0077 – (Christopher Salazar, Penguin Toilets) 4715.1220, Subp. 3, Overflows. Parizek read Rule 4715.1220, Subp. 3, and posed the following motion to the board: "In the secondary drain system, can standing water in the fixture rise in the overflow when the stopper is closed?" **A motion stating "No, standing water will not rise in the overflow when the stopper is closed" was made by Justin, seconded by Edwards. The vote was unanimous and the motion carried.**

Parizek posed the following question to the board: "Does the water remain in the overflow when the fixture is empty?" Justin made a friendly amendment to the motion and reads 4715.0200, first paragraph, and a discussion regarding standing water and current code ensued. Parizek re-posed the following motion to the board: "In the secondary drain system, can any water remain in the overflow when the fixture is empty?" The answer to the motion was "No, water will not remain in the overflow when the fixture is empty." **A motion was proposed by Justin, seconded by Moulton. The majority vote ruled and the motion carried (7 carry, 4 opposed).**

Parizek posed the following question to the board: "Does the secondary drain system discharge into the drainage system on the inlet or fixture side of the trap?" The answer to the motion was: "Yes, the discharge of the overflow does drain into the inlet or fixture side of the trap." **A motion was made by Justin, seconded by Moulton. The majority vote ruled and the motion carried (7 carry, 4 opposed).**

The Board stated that Penguin Toilets DO meet the requirements of the current plumbing code. Munkel-Olson reviewed the publication process.

B. *Request for Interpretations continued*

ii. **File #PB0078 – (Daniel Ruelle, Shannon’s Inc.) 4715.2110**

Backflow device issue: Ruelle was not present but Jim Peterson reviewed concerns regarding combi-oven installations and posed questions to the board, such as: “Is the combi-oven considered a high hazard device and is it considered food equipment or a boiler?” Lengthy discussion regarding concerns to rule 4715.2110, item N, ensued. **A motion is made by McGowan that the board “believe a combi-oven is considered a low hazard application”, seconded by Mount. The majority vote ruled and the motion carried (one abstention).**

A separate motion is made by Edwards: “Is the combi-oven subject to back pressure?” “Yes, the combi-oven IS subject to back pressure”, seconded by Filek. The vote was unanimous and the motion carried.

Parizek clarifies the question: “Is a double-check valve with intermediate atmospheric vent adequate protection for a combi-oven?” Dual check and double-check documentation was read for clarification. A motion is made by Mount that yes, a double check valve with intermediate atmospheric vent is adequate protection for a combi-oven, seconded by Flagg. The vote was unanimous and the motion carried.

iii. **ASSE Model 1070 and 1016A**

Request for Interpretation from Delta: City of St. Cloud was involved when an ASSE 1070 tempering valve was used as opposed to an ASSE 1016 device and this reaction/timing issue had been resolved with a letter needing to be sent to City of St. Cloud.

C. **Officer Elections**

The meeting was turned over to Cathy Tran for the election of officers. An inquiry was made to the board on term limits/mandatory limits. Parizek stated that an individual can serve three appointments to the board before they have to step down, there are no requirements for serving as officers on the board, and new appointments may be possible in May or June of 2014. Tran conducted the elections as follows:

i. **Board Chairman**

McGowan nominated Parizek. No other nominations were made. The vote was unanimous, nomination passed. Parizek was re-elected as Chair.

ii. **Vice Chairman**

Mount nominated Justin. Justin refuses. McGowan is nominated. McGowan refuses and the nomination is withdrawn. Sterner nominated Edwards. The vote was unanimous, nomination passed. Edwards was elected as Vice-Chair.

iii. **Secretary**

Edwards nominated McGowan. The vote was unanimous, nomination passed. McGowan was re-elected as Secretary.

The meeting was handed over to Chair Parizek and he discussed committee updates. The National Committee meets on a monthly basis, please let him know if you are interested in an appointment.

- iv. **Recommendation for Representative and Alternate to Construction Codes Advisory Council - Parizek made a motion to nominate Kittelson as the recommended Representative and Beckel as Alternate to the Construction Codes Advisory Council, seconded by Justin. The vote was unanimous and the nominations passed.**

D. Committee Appointments

No committee appointments.

E. Policy Reviews

Munkel-Olson discussed her role as the Data Practice Compliance Official with Data Practice Requests going through her to address any protected data issues. She is in the process of reviewing all board policies and hopes to have a package to present to the board in October, requesting this be added to the next agenda.

VII. Complaints

There was only one official complaint that Charlie Durenberger is addressing regarding an authorized plumbing contractor without a license installing Penguin toilets.

VIII. Open Forum

- i. **Gary Ford, Metro Testing:** Asked for interpretation on required length of time for a journeyman to hold a license before taking their masters exam? Current licensing rule states “(1) a current Minnesota journeyman plumber license and five years of practical plumbing experience” as requirements. Current licensing rule requirements are available on the DLI website at: http://www.doli.state.mn.us/CCLD/PDF/pe_code.pdf
The board stated it would contact licensing for clarification/interpretation.
- ii. **Tim Power, Minnesota Nursery & Landscaping Association:** Concerned with the ASSE 5110 Certification and would like a verbal update from the board in regards to his three questions:
(1) “Individuals with 5 or more years in landscape irrigation will qualify as working in a related industry field for purposes of ASSE 5510 certification.” Parizek stated that this new language is expected to pass and become part of the ASSE 5510 revised standards.
(2) Is a mechanism being provided for currently certified DLI backflow prevention testers to be eligible for certification without the examination process? Parizek stated there is NO certification without an examination. The ASSE is requiring a 16 hour minimum course on backflow devices and assemblies, with performance tests on the RPZ Double-check Valve Assembly, Pressure Vacuum Breaker and Spill Resistant Vacuum Breaker. The ASSE is also requiring a minimum 8 hour course for re-certification.
(3) Will there be enough Minnesota schools available for certification & re-certification of ASSE courses? Parizek provided an update on approved schools in Minnesota and hoped to have issue resolved soon.

iii. Noel Lutzey – Anoka Tech College

He is concerned with the lengthy ASSE process. He distributed a letter from the University of Wisconsin, whereby the university has been working to become an ASSE approved school for more than a year. To date, this approval has not been granted. His concern/question: Are there going to be enough testers available? Parizek said it is the intent of ASSE that approval of certified schools will be addressed and stated he will be making calls to verify progress. (See attached University of Wisconsin letter)

IX. Board of Discussion

Nothing brought forth.

X. Announcements

Next Regularly Scheduled Meetings

- i. October 15, 2013 @ 9:30 – Minnesota Room, DLI
- ii. January 21, 2014 @ 9:30 – Minnesota Room, DLI

XI. Adjournment

A motion was made by Sterner, seconded by Mount to adjourn. The vote was unanimous and the meeting was adjourned at 12:42 p.m.

Respectfully submitted,

Mike McGowan

Mike McGowan

Secretary



July 15, 2013

Minnesota Plumbing Board
c/o Department of Labor and Industry
443 Lafayette Road North
Saint Paul, MN 55155-4344

RE: Request for delay in implementation of ASSE approved training requirements for Backflow Testers and Rebuilders in Section 4716

I am writing to comment on problems the University of Wisconsin - Madison has experienced in seeking American Society of Sanitary Engineers ASSE approval for our 40-hour backflow tester training course and to request relief from the burden imposed by ASSE's excessive delay in responding to course approval applications.

The University of Wisconsin – Madison Department of Engineering Professional Development (UW-Madison EPD) is a well-respected provider of backflow tester training, offering backflow training since 1976. While our training audience is primarily in Wisconsin, we have been an approved training provider in Minnesota and have provided backflow tester training to more than 80 Minnesota residents since 2001. In 2012 UW-Madison EPD entered into a partnership with Anoka Technical College to offer Backflow Tester Training in Anoka, Minnesota.

In order to continue to provide backflow tester training to Minnesota residents under the new Section 4716 requirements, UW-Madison EPD submitted a course approval application to ASSE on January 10, 2013 and received an email confirmation of receipt of the applications on January 17, 2013. The confirmation from Marianne Waickman of ASSE stated, "I will send it to the School/Instructor Committee by the end of next week." On January 17th UW-Madison EPD requested and received permission from Marianne Waickman to include in our advertisement for the May 13-17, 2013 class in Anoka the statement "ASSE accreditation has been applied for". On January 22, 2013, UW-Madison EPD sent, and ASSE acknowledged receipt of, instructor approval applications for the three proposed course instructors.

From mid-January to mid-March UW-Madison EPD received no communication from ASSE. When I inquired in March, I was told that ASSE had held the UW-Madison EPD application for two months because they knew we were running a training course for our instructors and proctors on March 15th (a course for which we contracted with IAPMO to deliver instruction) and the IAPMO instructor was going to conduct the ASSE "site visit" of UW-Madison EPD's lab at that time.

On April 17th I inquired by email about the status of our application and received a reply on April 21st from Marianne Waickman of ASSE stating, "We are at a very busy point right now with many classes finishing up for the school year. Our priority is to service the schools that have current classes, then we will process applications for schools, instructors and proctors. We will process the applications as soon as we can." Because ASSE could not provide any timeline on consideration of our application we rescheduled the May 13-17, 2013 course in Anoka to August 12-16, 2013.

From late April through June ASSE did not respond to UW-Madison EPD email inquiries and voicemail messages asking about the status of our application. In early July, Marianne Waickman answered my call

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and told me that the ASSE committee would begin considering applications in July. However, she did not provide any specific dates or any information on how long the review and approval process might take. Because of this, UW-Madison EPD and Anoka Technical College again face the prospect of postponing and rescheduling the August 12-16, 2013 course in Anoka.

ASSE acknowledged months ago that UW-Madison EPD had submitted a complete approval application, but ASSE has, for reasons that are unclear to us, continually delayed the review of our application. The ASSE office has been unresponsive to our inquiries, has told us that they are focused on existing approved schools and that they place a low priority on considering new applications. ASSE's delays have made it impossible to offer needed Backflow Tester Training to Minnesota residents.

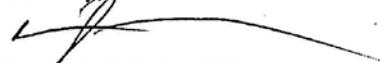
When the Plumbing Board adopted rules that made ASSE the sole accreditor of Backflow Tester Training in Minnesota, I believe that you did so with the expectation that ASSE had the professional capability to fairly evaluate training courses and the capacity to make these evaluations in a timely manner. The experiences of UW-Madison EPD clearly indicate that ASSE does not currently have this capacity.

As of the date of this letter, to my understanding, no training provider in Minnesota has received approval from ASSE for a Backflow Tester Training course. Based on my review of currently advertised ASSE approved courses, it appears that a Minnesota resident would have to travel to California, Arizona, Colorado, Ohio, Pennsylvania or New Jersey to get the approved training necessary to become an ASSE certified tester or rebuilder. I do not believe this was the intent of the Plumbing Board when it enacted the requirement for ASSE approved training.

Given lengthy delays by ASSE it is impossible for an adequate number of Minnesota training providers to gain approval for backflow tester training, backflow rebuilder training, backflow tester re-certification training and backflow rebuilder training far enough in advance of January 1, 2015 to provide the training needed for all current and prospective testers and rebuilders in Minnesota.

In order to provide an opportunity for ASSE to clear its backlog of course approval requests, in order to allow Minnesota residents the opportunity to receive approved training in Minnesota and in order to allow Minnesota Backflow Testers and Backflow Rebuilders to continue their livelihood, I am requesting that the Plumbing Board take emergency action to delay the requirement for ASSE approved training contained in Section 4716.0096 and 4716.0096 to a new implementation date of January 1, 2016.

Sincerely



Benjamin J. Jordan, P.E.
Program Director