

Meeting Minutes: Plumbing Board

Date: October 17, 2023
Time: 9:30 a.m.
Minutes by: Lyndy Logan
Location: Minnesota Room, DLI, 443 Lafayette Rd. No., St. Paul, MN 55155

Members

1. Karl Abrahamson (Secretary)
2. Sam Arnold
3. Richard Becker (Chair)
4. Kent Erickson (Vice Chair)
5. Mike Dryke
6. Jonathan Lemke
7. Bruce Pylkas
8. Scott Stewart – WebEx
9. Rick Wahlen
10. Mike Westemeier (DLI CO’s Designee)
David Weum (MDH CO’s Designee) – WebEx
11. Shane Willis – WebEx

Members Absent

Mike Herman (Vice Chair)
Justin Parizek

DLI Staff & Visitors

Brittany Wysokinski (Board. Counsel, DLI)
Brad Jensen (DLI)
Lyndy Logan (DLI)
Hannah Mardaus (DLI) – WebEx
Sean O’Neil (DLI)

DLI Staff & Visitors continued

Thomas Eisert (DLI) – WebEx
Todd Green (DLI) – WebEx
Josiah Moore (DLI) – WebEx
Steve Nuebel (DLI) – WebEx
John Roehl (DLI)
Lisa Tysk (DLI)
Mike Arends (Adv Drainage System) – WebEx
Jake Brunoehler (Adv Drainage System) – WebEx
Kyle Dimler (City of Hutchinson) – WebEx
Nick Erickson (Housing First)
Felipe Illescas (MNLA)
Rick Jacobs (Plumbers Local 34)
Mike Johnson (J-Berd Mechanical)
Amanda Meyer (City of Cottage Grove)
Pete Moreau (Adv Drainage System) – WebEx
Tom Pahkala (Plumbers Local 15)
Jim Peterson (MN PHCC)
David Radziej (MN PHCC)
Brian Schultz (Schultz Engineering) – WebEx
Scott Thompson (My Plumbing Training)
Phil Wood (The Jamar Company)

1. **Call to Order, Chair**

- A. The meeting was called to order by Chair Becker at 9:33 AM. Roll call was taken by the Secretary and a quorum was declared with 10 of 13 voting members present in person or via WebEx. Rick Wahlen joined the meeting at 9:41 a.m., resulting in 11 of 13 voting members.
- B. Announcements – Introductions (members and attendees) – Chair Becker
 - Everyone present in person and remotely are able to hear all discussions.
 - All votes will be taken by roll call if any member is attending remotely.
 - All handouts discussed and WebEx instructions are posted on the Board’s website.
 - WebEx instructions/procedures can be found on the board’s website at:
<https://www.dli.mn.gov/about-department/boards-and-councils/plumbing-board>

2. **Approval of meeting agenda**

A motion was made by Westemeier, seconded by Erickson, to approve the agenda as presented. The roll call vote was unanimous with 10 votes in favor [Wahlen not present]; the motion carried.

3. **Approval of previous meeting minutes**

A motion was made by Wahlen, seconded by Lemke, to approve the Sept. 12, 2023, special meeting minutes with a revision to the signature line, last page – should read Karl Abrahamson, Secretary (not Erickson). The roll call vote was unanimous with 11 votes in favor [Wahlen present]; the motion carried.

4. **Regular Business**

Expense reports were approved.

5. **Special Business**

A. 2024 UPC update – Chair Becker

- Chair Becker said the 2024 UPC ad hoc Rulemaking Committee was formed with the following members – Karl Abrahamson (Secretary), Richard Becker, Justin Parizek, and Mike Westemeier.
- Committee hasn't met yet, but public meetings will be scheduled in the near future.
- All of the Board members should have received a copy of the 2024 UPC.

B. Backflow prevention discussion – Chair Becker

- Chair Becker introduced Felipe Illescas, a member of both the Minnesota Council of Latino Affairs and the Minnesota Nursery and Landscape Association. Both organizations expressed the desire to discuss statutes related to backflow prevention with the Plumbing Board.
- Felipe Illescas, Minnesota Nursery and Landscape Association, said the MN Council of Latino Affairs and MN Nursery and Landscape Association reached out to Chair Becker about restarting a backflow discussion in order to present information and re-engage members regarding having eligible certified testers do the repair, whether it's in limited capacity or not. We want this discussion to open offline and then come back to this public forum to present the findings of those discussions. They've spoken with other ethnic councils, and they are in support of this plan. They want to see if the board would be open to this also.
- Chair Becker said the Board doesn't have any authority over this; he believes who is able to rebuild backflow preventers is in statute. What the board does have the option of doing would either be to support or oppose legislation like this. This is the extent of what the board could do.
- Abrahamson said the plumbing license required for rebuilding is simply due to protecting potable water. The only reason they developed the tester only certificate was for towns with a population of less than 5,000 because there weren't licenses available at the time. The intention of the license was to have a plumber not only servicing backflow prevention but also testing them.
- Abrahamson said that he would be opposed to legislation that would remove the licensing requirement for rebuilding and servicing a backflow prevention device.
- Chair Becker agreed with Abrahamson's position. His stance hasn't changed since the last time this issue was discussed by the Board. Becker also stated that

protecting the health of the public is the number one role of a licensed plumber and that backflow prevention devices are more complicated than one might assume.

- Chair Becker asked Wysokinski if the Board needs to do anything other than discuss and Wysokinski said there is no legal requirement to do anything other than listen.
 - After further discussion, Chair Becker said he is willing to discuss and believes most of the board members would be willing to help facilitate and be part of discussions outside of the Board's purview. Most everybody here has been involved in the plumbing industry at some point in time and can certainly help share our experiences on how we got involved and avenues that may be pursued for folks that would be interested in that.
- C. Enforcement & Licensing update – Sean O'Neil – provided handouts – see **Attachment A** and summarized plumbing enforcement actions found [here](#). O'Neil said in 2015, the department approached the legislature in regard to reducing license fees, which impacted nearly all of the trades regulated by CCLD. Instead of making those permanent back in 2015, there was a time limit placed on those fee reductions. This was pushed off in previous years; however, effective Oct. 1, 2023, those fee reductions now have sunset. So, they're going to revert back to the fee structure and the levels that were set back in 2015. O'Neil said in late December, license renewal reminders for plumbing contractors will be pushed out of iMS, the department's new licensing software. Instructions will be provided to users on how to complete a renewal in iMS.
- D. Department updates – Mike Westemeier
Westemeier said although a new plan reviewer was hired, an existing employee took a job elsewhere; therefore, they are still advertising for this position. They are at 9 weeks for completion of a plumbing plan review. There are 200 plans currently in their cue.
- E. Request for Interpretation – Kyle Dimler – see **Attachment B**
- Chair Becker said that this RFI is related to PB0159 – he said it would be appropriate to move this request to a special meeting since it was only just received by the Board on Oct. 16, 2023.
 - Abrahamson said the MPCA requested a meeting with the Ad hoc Storm Surcharge Committee – would it be more appropriate to have the Ad hoc Committee meet instead of scheduling a special Board meeting? There is a solution here, it is just a matter of getting the correct language.
 - Chair Becker said he agreed that an Ad hoc Committee meeting should be scheduled but they would also need to schedule a special Board meeting to discuss.

A motion was made by Pylkas, seconded by Erickson, to reconvene the Ad hoc Storm Surcharge Committee meeting to discuss Dimler's RFI. The roll call vote was unanimous with 11 votes in favor; the motion carried.

A motion was made by Pylkas, seconded by Arnold, to review the RFI submitted by Kyle Dimler at a special full board meeting. The roll call vote was unanimous with 11 votes in favor; the motion carried.

6. Committee Reports

- A. Ad hoc Storm Drainage Surcharge Committee update – Committee Chair Pylkas
- Pylkas said the Committee met on Sept. 28, 2023, and responded to the letter sent by the MPCA. Becker was given authority to respond to the submitter.
 - Becker said the Committee agreed that they need more technical information to proceed with a recommendation to the full board.
- B. Construction Codes Advisory Council (CCAC) – the last CCAC meeting was held on June 1, 2023. The presentation can be found at <https://www.dli.mn.gov/sites/default/files/pdf/ccac-060123-presentation.pdf>

7. Complaints and Correspondence

MPCA letter to Chair Becker dated Sept. 28, 2023 – see **Attachment C**.

A motion was made by Wahlen, seconded by Pylkas, to authorize Chair Becker to reach out for more information and present this information to Kyle Dimler and/or any other interested parties. The roll call vote was unanimous with 11 votes in favor; the motion carried.

8. Open Forum

Felipe Illescas, Minnesota Nursery & Landscape Association, addressed the Board during item 5B above.

9. Board Discussion

No discussion

10. Announcements

- Regularly scheduled meetings occur on the 3rd Tuesday of each quarter at 9:30 a.m., in-person at DLI with WebEx/Phone options. The next regular meeting will be held on Jan. 16, 2024.
- A special Ad hoc Committee meeting was scheduled for 9:30 a.m., Oct. 31, 2023.
- A special Plumbing Board meeting was scheduled for 9:30 a.m., Nov. 6, 2023.

11. Adjournment

A motion was made by Arnold, seconded by Lemke, to adjourn the meeting at 11:03 a.m. The roll call vote was unanimous with 11 votes in favor of the motion; the motion passed.

Respectfully submitted,

Karl Abrahamson

Karl Abrahamson
Secretary

Green meeting practices

The State of Minnesota is committed to minimizing in-person environmental impacts by following green meeting practices. DLI is minimizing the environmental impact of its events by following green meeting practices. DLI encourages you to use electronic copies of handouts or to print them on 100% post-consumer processed chlorine-free paper, double-sided.

Unlicensed contractor fined \$25,000

- An unlicensed contractor based in Isanti, Minn., was found to have engaged in residential remodeling work. The contractor was ordered to cease and desist from the unlicensed activities and fined \$25,000.
- A Missouri contractor was found to have engaged in unlicensed electrical work. The contractor was ordered to cease and desist from unlicensed activity and fined \$10,000, of which \$7,000 was stayed contingent on future compliance.
- An unlicensed Becker, Minn., contractor was found to have engaged in plumbing work without having the appropriate license. The contractor was ordered to cease and desist from the unlicensed activity and fined \$3,500, which was stayed contingent on full future compliance.
- A licensed Edina, Minn., residential building and electrical contractor was found to have engaged in several violations of the contractor licensing law. DLI revoked both business licenses and ordered the contractor to cease and desist from holding itself out as a residential building contractor and from performing or offering to perform electrical work in the state. The stay of a previously imposed \$5,000 monetary penalty assessed to the contractor was lifted, and an additional \$75,000 fine was assessed, \$50,000 of which was stayed contingent on future compliance.
- A licensed Stillwater, Minn., residential building contractor was found to have breached contracts with multiple homeowners by failing to complete projects after receiving payments. DLI revoked the contractor's license and assessed a \$20,000 fine, which was stayed contingent on future compliance and full cooperation with homeowners seeking to apply for potential reimbursement to the Contractor Recovery Fund.



More information

View summaries of enforcement actions at dli.mn.gov/workers/homeowners/file-complaint-and-view-enforcement-actions. Contact us at 651-284-5069 or dli.contractor@state.mn.us.

Plumbing Board Request for Interpretation

Attachment B

PRINT IN INK or TYPE

NAME OF SUBMITTER Kyle Dimler	Rule(s) to be interpreted (e.g., 4714.0330) 4714.0310.5
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The Minnesota Plumbing Code (MN Rules, Chapter 4714) is available at www.dli.mn.gov/CCLD/PlumbingCode.asp
Has a request for interpretation been submitted to Department of Labor and Industry (DLI) staff, either as a verbal request or a written request? Yes No
If "No," contact DLI staff at 651-284-5898. The DLI is responsible for administration and interpretation of the Minnesota Plumbing Code, and all requests must be processed and provided a DLI interpretation before being referred to the Plumbing Board. This form is intended to be used to request an interpretation from the Plumbing Board only as a resolution of dispute with DLI interpretation.

CODE/RULE to be interpreted: 4714.0310.5	NAME OF DLI employee gave interpretation: David J. Lanik	DATE interpretation originally requested: 10/9/23
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Provide a copy of the DLI interpretation with this request (a copy must be provided as reference).

Is there a local dispute with an Inspector of other official? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, state the name or type of official
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State the circumstances of the initial dispute:

The City of Hutchinson and TKDA received a plan review comment referencing MN Plumbing Board Final Interpretation PB0159 pertaining to "surcharge" of storm sewer drainage piping referencing a "high water" level noted on the stormwater pond which the storm sewer piping drains to.

Explain why you disagree with the interpretation given to you by DLI staff:

The implied requirement is at best, very difficult and at worst, technically impossible to implement because of site grading, MPCA design requirements, and existing invert elevations of municipal stormwater infrastructure.

What is your interpretation of the language:

The drainage piping shall not be installed in a manner that obstructs or retards flow of drainage.

List any other information you would like the Board to consider:

As the Plumbing Board has acknowledged a drainage inlet set at the engineering reference point of a 100 year event is infeasible, would a storm sewer drainage pipe at the inlet of a stormwater retention pond be deemed to be not "surcharged" providing the invert of the storm sewer drainage inlet is designed to be above the MPCA required pond level of 1800 cubic feet per acre of drainage area plus the volume of 1.0 inch of runoff from the net increase in impervious surfaces created by the project?

Information regarding submitting this form:

- Submit any supporting documentation to be considered electronically to DLI.CCLDBOARDS@state.mn.us. Once your Request For Interpretation form has been received, it will be assigned a file number. Please reference this file number on any correspondence and supplemental submissions.

Information for presentation to the Board.

- You will be notified with the date of the Board Meeting in which your Request For Interpretation will be heard.
- Limit presentations to 5 minutes or less.
- Be prepared to answer questions regarding the Code, the circumstances that led to the dispute and please bring copies of any documentation.

What you can do if you disagree with the Board's determination:

- You may appeal the Board's determination pursuant to Minn. Stat. Chapter 14.

RFI File No. PB0160	Date Received by DLI 10/16/2023	Dated Received by Board 10/17/2023	Date of Board Meeting 10/17/2023
Title of RFI RFI PB0160	By:		

This material can be made available in different forms, such as large print, Braille or on a tape. To request, call 1-800-342-5354 (DIAL-DLI) Voice or TDD (651) 297-4198.

Submitted by:

NAME Kyle Dimler		FIRM NAME City of Hutchinson, MN	
ADDRESS 111 Hassan St. SE		CITY Hutchinson, MN	STATE ZIP CODE 55350
PHONE (320) 234-4220	SIGNATURE (original or electronic) Kyle Dimler	DATE 10/16/23	

For assistance or questions on completing this form, please call 651-284-5898 or 651-284-5889.

Mailing address:

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

*** Please remember to attach all necessary explanations and supporting documentation*** Page 2 of 2

COPY



520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300
800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

September 28, 2023

Richard Becker, Chair
Minnesota Plumbing Board
C/O Minnesota Department of Labor and Industry
443 Lafayette Road N.
St. Paul, MN 55155

RE: Final Interpretation Regarding Discharge of Storm Sewers

Dear Mr. Becker,

The Minnesota Pollution Control Agency (MPCA) is sending this letter regarding the Final Interpretation issued by the Minnesota Plumbing Board (Board) in response to Inquiry PB0159 on February 10, 2023, regarding surcharge of storm sewer systems. The Board's current interpretation is having widespread negative consequences on the MPCA and many communities and businesses we work with, and we are writing to ask that the Board work collaboratively with us to address the concerns that have been raised to us and to you directly.

MPCA understands that the Final Interpretation was issued in response to a general question, "Are storm sewers outside of the building footprint allowed to be surcharged?" The term 'surcharged' was not defined in either the Request for Interpretation or the Final Interpretation Comments made during public meetings. The lack of a definition means people do not understand the scope of prohibitions created by the Final Interpretation.

Another substantive issue is that the analysis of Plumbing Code written in the Final Determination references an applicable section of the code but includes no written specifics regarding how a 'surcharge' would obstruct or retard flow, resulting in conflict with this section of the code. This limits the ability of our permittees to develop alternative engineering approaches to either comply with the Final Interpretation or to request project-specific alternatives as allowed by the Plumbing Code. A detailed explanation of the engineering principles supporting the Final Interpretation needs to be included to properly inform proposers on whether their designs are adequate to address the intent of the Plumbing Code.

The Final Interpretation has had a dramatic and unsustainable impact on the MPCA. First, it appears to conflict with design guidance that is incorporated into the Minnesota Stormwater Manual and has been typical practice in stormwater management systems for many years. Thousands of stormwater ponds throughout the state have been designed in accordance with this guidance. Since the issuance of the Final Determination, we have been asked to undertake case-by-case review of many projects that are

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proposing to implement typical designs consistent with our guidance and issue letters commenting on the technical adequacy of these designs.

Additionally, the MPCA issues thousands of water quality permits each year that govern the discharge of stormwater from construction activities that have been impacted by the Final Interpretation. Many of these sites are required to install best management practices on additional impervious area, leading to installation of storm sewers coupled with retention or infiltration. Construction plans need to appropriately meet the requirements of MPCA permits in concert with all other applicable requirements, including the Plumbing Code. Due to the issues with the Final Interpretation described above, a substantial contingent of our permittees has requested extraordinary administrative review of engineering plans to move forward with designs that are consistent with our guidance and have been in use for years.

We are aware that the Board has hosted Ad Hoc Committee meetings to discuss this issue. At the Board meeting last week, it seems like this issue may not meet the threshold for good cause rulemaking. One of the members suggested the Board may want to consider stormwater systems differently, which MPCA would fully support. To ensure that our permittees can continue implementing appropriate management practices for water quality and are able to reasonably do so in accordance with the Plumbing Board, we are requesting the opportunity to meet to resolve these concerns.

Respectfully,



Dana Vanderbosch
Assistant Commissioner of Water Policy, and Agriculture

cc:

Kate Perushek, Minnesota Department of Labor and Industry, Deputy Commissioner
Todd Green, Minnesota Department of Labor and Industry, Director of Construction Codes and Licensing
Nicole Blasing, Minnesota Pollution Control Agency, Municipal Division Director
Ryan Anderson, Minnesota Pollution Control Agency, Stormwater Section Manager