



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

CONSTRUCTION CODE COMMISSION

Ottawa Building, Upper Level Conference Room #3
611 West Ottawa Street
Lansing, MI 48933

MINUTES

January 29, 2020
10:00 a.m.

MEMBERS PRESENT

Mr. Brad Bartholomew
Mr. Frank Bayer
Mr. Timothy Danielak
Mr. Glenn Davis
Mr. Jonathon Jackson
Mr. Adam Krouse
Mr. Mark Lee
Mr. Kenneth Misiewicz
Mr. Joseph Sucher
Mr. David Tomlinson
Mr. Scott Weaver

MEMBERS ABSENT

Mr. Michael Boss
Mr. Ronald Campbell
Mr. William Duffield
Mr. Daryl Gallant
Mr. Jeffrey Spencer
Mr. Matt Zurbrick

DEPARTMENT PERSONNEL ATTENDING

Mr. Keith Lambert, Director, Administration, BCC
Mr. Kevin Kalakay, Chief, Mechanical Division, BCC
Mr. Andy Neuman, Chief, Plumbing Division, BCC
Mr. Jon Paradine, Chief, Building and Permits Division, BCC
Ms. Dianne Barmes, Manager, Licensing and Compliance Division, BCC
Ms. Dawn Smith, Departmental Analyst, Licensing and Compliance Division, BCC
Ms. Hillary Millen, Departmental Analyst, Administrative Services Division, BCC
Ms. Tracie Pack, Departmental Analyst, Administrative Services Division, BCC
Mr. Derek Sova, Departmental Analyst, Office of Policy and Legislative Affairs, LARA
Ms. Sara Leiby, Secretary, Administrative Services Division, BCC
Mr. Jason Hawkins, Assistant Attorney General, Office of the Attorney General

1. CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chairperson Misiewicz called the meeting to order at 10:00 a.m. A quorum was present at that time.

2. APPROVAL OF AGENDA

A **MOTION** was made by Vice Chairperson Misiewicz and **SECONDED** by

Commissioner Sucher to approve the agenda with amendment to add Item 9.A.iii. The Commission's ability to limit the application of a part of the code per 1972 PA 230, MCL 125.1508a (8). **MOTION CARRIED.**

3. NOMINATION AND ELECTION OF OFFICERS

A. Vice Chairperson

A **MOTION** was made by Commissioner Weaver and **SECONDED** by Commissioner Danielak to nominate Commissioner Misiewicz as Vice Chairperson. **MOTION CARRIED.**

4. APPROVAL OF MINUTES – OCTOBER 9, 2019

A. Open Session

A **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Sucher to approve the open session minutes of the October 9, 2019 meeting. **MOTION CARRIED.**

B. Closed Session

A **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Weaver to approve the closed session minutes of the October 9, 2019 meeting. **MOTION CARRIED.**

5. APPLICATIONS TO ADMINISTER AND ENFORCE

A. Village of Emmett - Building, Electrical, Mechanical, and Plumbing

The Commission reviewed the Village of Emmett's Application to Administer and Enforce. The Village did not have representation present for the review.

Following discussion, a **MOTION** was made by Commissioner Davis and **SECONDED** by Commissioner Weaver to deny the Village of Emmett's Application to Administer and Enforce since the Village did not list a building official, inspector, and the Construction Board of Appeals and did not provide confirmation of a 249 account. **MOTION CARRIED.**

B. St. Ignace Township - Building

Ms. Sheri Oja, Clerk, presented St. Ignace Township's Application to Administer and Enforce to the Commission.

Following discussion, a **MOTION** was made by Commissioner Bartholomew and **SECONDED** by Commissioner Tomlinson to approve St. Ignace Township's Application to Administer and Enforce with the condition that the applicant provides documentation of the makeup of the Construction Board of Appeals with

credentials and documents access to the relevant codes and standards. This approval is effective 30 days after receipt and confirmation of the stipulated conditions. **MOTION CARRIED.**

If the stipulated conditions are not met before the next scheduled meeting, the matter will be placed on the agenda under Unfinished Business per the Commission.

6. APPLICANTS APPEALING DENIAL

A. Michael Schwartz - Mechanical Inspector

Mr. Michael Schwartz appeared before the Commission to appeal denial of his Application for Registration of Mechanical Inspector.

Mr. Schwartz provided testimony regarding his work experience for review to the requirements of R 408.30043.

Following discussion, a **MOTION** was made by Commissioner Weaver and **SECONDED** by Commissioner Danielak to deny Mr. Schwartz's appeal based on the need for examination for required category. **MOTION CARRIED.**

B. Brandon Gabriel - Building Inspector

Mr. Brandon Gabriel appeared before the Commission to appeal denial of his Application for Registration of Building Inspector.

Mr. Gabriel provided testimony regarding his work experience for review to the requirements of R 408.30037.

Following discussion, a **MOTION** was made by Commissioner Weaver and **SECONDED** by Commissioner Bayer to deny Mr. Gabriel's appeal due to a lack of experience. **MOTION CARRIED.**

7. CONSTRUCTION CODE APPEAL

A. K2 Retail Fenton Development, LLC vs. City of Fenton

K2 Retail Fenton Development, LLC's Application for Construction Code Appeal of the City of Fenton's Construction Board of Appeals' August 29, 2019 denial of the fire alarm appeal for the Silver Parkway Redevelopment, located at 18055 Silver Parkway in the City of Fenton, was presented to the Construction Code Commission.

Mr. Christopher Patterson, Fahey Schultz Burzych Rhodes, Mr. Mike Reilly, City of Fenton Building & Zoning Administrator, and Mr. Robert Cairnduff, City of

Fenton Fire Chief, provided testimony for the review. The appellant did not have representation present for the review.

Following discussion, a **MOTION** was made by Commissioner Weaver and **SECONDED** by Commissioner Bayer to affirm the City of Fenton's Construction Board of Appeals' decision for the fire alarm appeal for the Silver Parkway Redevelopment for the reason stated in the City's decision. **MOTION CARRIED.**

8. PETITION APPLICATIONS FOR CERTIFICATE OF ACCEPTABILITY

- A. IPS Corporation, Trap-Tite (Trap Seal), Trap Seal Model Numbers 69420-2", 69430-3", 69435-3.5", and 69440-4", and Mainline Model Numbers 98920-98923

Mr. Scott Delcro, IPS Corporation Representative, and Mr. Gordon Zeine, IPS Corporation Product Engineer, presented IPS Corporation's Petition Application for Certificate of Acceptability for Trap-Tite (Trap Seal), Trap Seal Model Numbers 69420-2", 69430-3", 69435-3.5", and 69440-4" and Mainline Model Numbers 98920-98923 to the Commission.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Weaver to approve the Petition Application for Certificate of Acceptability for Trap-Tite (Trap Seal) as submitted. **MOTION CARRIED.**

- B. IPS Corporation, Tough Pans Water Heater Pans, Dry Lift and Pro Series

Mr. Scott Delcro, IPS Corporation Representative, and Mr. Gordon Zeine, IPS Corporation Product Engineer, presented IPS Corporation's Petition Application for Certificate of Acceptability for Tough Pans Water Heater Pans, Dry Lift and Pro Series, to the Commission.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Lee to approve the Petition Application for Certificate of Acceptability for Tough Pans Water Heater Pans as submitted. **MOTION CARRIED.**

- C. Best Bath Systems, Inc., Hydromassage Bathtub, Model Numbers LTOW5030 and LTOWJ5030

Best Bath Systems, Inc's Petition Applications for Certificate of Acceptability for the Hydromassage Bathtubs, Model Numbers LTOW5030, LTOWJ5030, and XTW6035, were reviewed by the Commission. The applicant did not have representation present for the review.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Bayer to approve the Petition Applications for

Certificate of Acceptability for the Hydromassage Bathtubs as submitted. **MOTION CARRIED.**

D. Best Bath Systems, Inc., Hydromassage Bathtub, Model Number XTW6035

This matter was decided under item 8.C. Best Bath Systems, Inc., Hydromassage Bathtub, Model Numbers LTOW5030 and LTOWJ5030.

E. Flow-Liner Systems, Ltd., Neofit+Plus Potable Pipe Liner

Mr. Jeff Tanner presented Flow-Liner Systems, Ltd.'s Petition Application for Certificate of Acceptability for the Neofit+Plus Potable Pipe Liner to the Commission.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Sucher to approve the Petition Application for Certificate of Acceptability for the Neofit+Plus Potable Pipe Liner for service lines that do not meet Michigan's definition of "lead service line" as defined in Administrative Rule R 325.10105(r) with the condition that the product shall be installed by a licensed plumber in the State of Michigan. **MOTION CARRIED.**

F. OmegaFlex, Inc., MediTrac Corrugated Medical Tubing (CMT), Model Numbers MT-0500-CMT, MT-0750-CMT, and MT-1000-CMT

Mr. Dave Edler, MediTrac Business Unit Manager, presented OmegaFlex, Inc.'s Petition Application for Certificate of Acceptability for MediTrac Corrugated Medical Tubing (CMT), Models MT- 0500-CMT, MT-0750-CMT, and MT-1000-CMT, to the Commission.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Davis to approve the Petition Application for Certificate of Acceptability for MediTrac CMT as submitted. **MOTION CARRIED.**

G. Source 1 Environmental, LLC, PipePatch Point Repair

Mr. Tony Dipzinski, Product Development Manager, presented Source 1 Environmental, LLC's Petition Application for Certificate of Acceptability for PipePatch Point Repair to the Commission.

Following discussion, a **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Sucher to approve the Petition Application for Certificate of Acceptability for PipePatch Point Repair as submitted. **MOTION CARRIED.**

A **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Davis to recess the meeting at 11:51 a.m. **MOTION CARRIED.**

The meeting reconvened at 12:04 p.m.

9. UNFINISHED BUSINESS

A. Legal Questions Posed to Counsel

i. Performance Evaluations

Assistant Attorney General (AAG) Hawkins advised the Commission that it cannot direct the Department to perform a performance evaluation. The Department may request permission from the Commission to proceed with an evaluation under limited circumstances established in the Act.

ii. Employment of Building Official for Applications to Administer and Enforce

AAG Hawkins verified the Attorney General Opinion No. 7285, issued July 9, 2015, is still valid. A building official must be an employee of a governmental subdivision for which the building official is administering and enforcing the State Construction Code. Criteria to determine employment is available in the opinion.

iii. The Commission's ability to limit the application of a part of the code per 1972 PA 230, MCL 125.1508a (8).

AAG Hawkins explained per 1972 PA 230, MCL 125.1508a (8) the Commission may limit the application of a part of the code as specified in the Act.

B. Construction Code Commission By-Laws

AAG Hawkins advised there is statutory authority for the Commission to have bylaws to govern the Commission's conduct when meeting and considering matters.

C. Subcommittee Report

Vice Chairperson Misiewicz presented the Subcommittee Report to the Commission regarding the unresolved matters from the July 17, 2019 meeting minutes. Following discussion, the Commission took the following actions:

A **MOTION** was made by Commissioner Bartholomew and **SECONDED** by Commissioner Lee to accept the subcommittee's recommendation to request the Department to record items that can be appealed. **MOTION CARRIED.**

A **MOTION** was made by Vice Chairperson Misiewicz and **SECONDED** by Commissioner Danielak to create a subcommittee of three Commissioners to work in collaboration with the Bureau and counsel in order to understand the

Bureau's process of evaluation and approval/rejection specific to applicant registration, education, and training programs. **MOTION CARRIED.** Commissioners Bartholomew, Weaver, and Bayer will serve on the new subcommittee.

No further action was taken regarding the other matters on the Subcommittee's Report.

10. NEW BUSINESS

The Commission inquired on moving the meeting location due to recent security changes in the Ottawa Building. Director Lambert verified the Department has a new security protocol to increase and maintain the safety and security of the workplace that the Bureau is following.

11. BUREAU QUARTERLY REPORT

Director Lambert reported on the following:

He will discuss recording appeals as requested by the Commission with the Department.

Code limitations can be addressed outside of the code promulgation process. If the Commission makes a limitation, the Bureau will promulgate the limitation into the code as soon as possible.

Statute does not currently allow for exemption for Amish construction.

The Bureau is partaking in a Lean Process Improvement (LPI) to make the Accela system more functional.

The second Trades Connection newsletter will be sent in March.

The Bureau has issued its 2020 Annual Report.

12. PUBLIC COMMENT

Mr. Corey Roblee, Vice President of Government Relations for the International Code Council, introduced himself and provided his contact information to the Commission for assistance.

13. NEXT MEETING DATE - APRIL 15, 2020

The Commission is scheduled to meet next at 10:00 a.m. at 611 West Ottawa Street, Lansing, MI 48933 in Upper Level Conference Room #3 on April 15, 2020.

14. ADJOURNMENT

A **MOTION** was made by Commissioner Danielak and **SECONDED** by Commissioner Weaver to adjourn the meeting at 1:51 p.m. **MOTION CARRIED.**