

# FINAL

## State of Oregon

### OREGON STATE BOILER BOARD

#### Regular Meeting Minutes

March 4, 2003

- MEMBERS PRESENT:** Dale McLouth, Chairman  
John Endicott, Vice Chairman  
Dennis Coplin  
Robert Cowling  
William Fernelius  
Steve Nelson  
Thomas Perritt  
John Pyle  
Fred Widman
- MEMBERS ABSENT:** Nelson White  
Russell Williams *(excused)*
- STAFF PRESENT:** Mark Long, Administrator of Building Codes Division  
Andrea Simmons, Interim Manager of Policy  
and Technical Services  
Ray Andrus, Chief Boiler Inspector & Board Secretary  
Jim Hanson, Senior Policy Analyst  
Gary Basin, Assistant Manager of Statewide Services  
Clay Rhodes, Assistant Chief Boiler Inspector  
Roseanne Nelson, Interim Manager of Regulatory Services  
Allen Aschim, Chief Compliance Officer  
Louann Rahmig, Rules Coordinator/Recorder  
Richard Baumann, Policy Analyst  
Debi Barnes-Woods, Division Boards Coordinator
- GUESTS PRESENT:** Jerry Lanz, Lanz Boiler  
Roger Bergman, Georgia Pacific  
Rodger Vignery, TCM Corporation  
Mark Stenberg, Local 290  
Ed Pitzrick, Chubb  
Pete Schriener, Kinetic System  
John LeDouk, N.W. Thermal  
Ron Huss  
David Griffin, OHSU  
Bruce Lewis, N.W. Natural  
Ken Cropper, Local 140 SEIU  
Tina Jacky, Local 140 SEIU  
Ray Thomas, Local 140 SEIU  
Ray Fosnot, Local 140 SEIU  
Mason Young, Local 140 SEIU  
David Walls, FST Construction  
Gary Penkava, HSB-CT  
Tom Steven, TSBR Inc.

Steve Collins, CH Murphy

## **I. BOARD BUSINESS**

### **I.A. Call to Order**

Chairman Dale McLouth called the Oregon Board of Boiler Rules to order at 9:30 a.m. The meeting was held at the Building Codes Division, 1535 Edgewater NW, Salem, Oregon.

### **I.B. Roll Call**

Nelson White was absent, (not excused). Russell Williams was absent, (excused).

### **I.C. Approval of Agenda and Order of Business**

Chairman Dale McLouth made changes to the order of business to accommodate meetings during legislation. Agenda Item VI., was directly before public comment.

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

### **I.D. Approval of the Regular Board Meeting Minutes of December 3, 2002**

Corrections to the December 3 meeting minutes were as follows:  
Page 3 first paragraph; delete Mr. Lenz, insert Mr. Lanz. Delete illuminate, insert eliminate. Same paragraph insert written to clarify that the same written test was given to Class 4 and Class 5 licenses.

Chairman McLouth **RULED**, regular meeting minutes approved as amended.

### **I.E. Date of the Next Regularly Scheduled Meeting**

June 3, 2003

Bill Fernelius, attending his first board meeting, -telephone connection at prior meetings- gave a brief introduction of himself. He has been in the trade industry for 33 years. His career consists of installing, servicing and repairing boilers. Mr. Fernelius represents the owner/operator of pressure vessels and currently works for Oregon Mechanical Inc. in Bend.

Mark Long, Administrator of the Building Code Division, gave a brief update on his employment with the division. While working at the Department of Administrative Services on the Regulatory Streamlining Project, other agencies are lacking in industry and stakeholders involvement. Administrator Long expressed his sincere thanks and gratitude to this board as well as all other boards for their work and input while serving terms.

The Sanctions Review Advisory Committee and their duties were discussed. The purpose of the committee is to drive consistency and maintain a standard for certified inspectors and Building Officials. The committee is responsible for the enforcement actions against those individuals with authorization from the Administrator of BCD. A complaint or concern is issued and the committee recommends an appropriate level of action to the Administrator. The committees' intent is to focus on consistency within the code. The division is working with the Federal Government to bring a pilot project to Oregon that would interconnect the building departments activities between the 27 jurisdictions in the Portland Metropolitan area. The results from the pilot project would be that the contractor, owner, or user installer could apply, pay, and receive approval for over the counter permits electronically through a single porthole.

Copies of "BCD Revenue Sources" for 2003-05 was distributed, *Exhibit "A"*. The division's revenue sources are through licenses, permits, and surcharges. The projected overall 2003-05 budget is thirty-two million dollars of revenue on a biannual basis. The division's budget can be summarized as thirty-two million dollars in revenue, twenty-six million in expenditures, 4.2 million for department overhead, and two million for an ending fund balance.

The division presented the budget before the legislator with an expected response date in April. Eleven fees in three categories were requested to be ratified. Nine and one-half positions are attached to the fees, six electrical, three structural, and one-half position in plumbing. If the fees are not ratified, the division will be forced into a cost cutting process. If HB 5059 passes, a gap in services would not occur.

Administrator Long briefly discussed specific legislative bills and how they would be effecting the division and the board. SB 710 would have the division setup a regional form of administrating the statewide code. Assistant Chief's would be assigned to specific areas throughout Oregon to help carryout code consistency. SB 712 and SB 715 are related bills. The bills would provide criteria for projects that are essential to economic liability in the state and the building codes division would be the inspection and plan review service provider.

Chairman McLouth questioned HB 2525. That bill would move the mechanical code and regulations to the Board of Boiler Rules. Administrator Long said that Manager Simmons would discuss that specific bill in detail under the legislative update.

Chairman McLouth expressed his appreciation to Administrator Long on the work that he is committed to at the division. Administrator Long thanked Chairman McLouth and gave credit to his committed staff at the division.

Bill Fernelius was concerned with the lack of compliance in specific areas. He said that life and safety issues are a factor when not enough compliance staff is assigned to address complaints. The division works within the limitations of the budget structure, which was completed a year in advance.

*(VI. heard out of order)*

## **VI. UNFINISHED BUSINESS**

### **Board approval of the proposed rules for the boiler and pressure vessel licensing system. – Administrator Long**

Boiler Program Changes to the Board of Boiler Rules, March 4, *Exhibit "B"* were distributed. February 14, 2003, rules were adopted implementing HB 2899 –from the 2001 legislative session- requiring individuals with a Class 2 through 5 boiler licenses obtain continuing education in order to renew. The code related education is approved by the board and administered through the division.

In addition to the continuing education requirements, Administrator Long discussed the proposed licensing rules to establish a program to regulate process and refrigeration piping. Line (14) of the proposed rules, it was suggested to delete "between July 1, 2003, and", and insert "by". This would allow those who have already taken a course, have those hours applied accordingly.

**MOTION by Chairman Dale McLouth** to adopt the proposed rules for the boiler and pressure vessel licensing system with the amendments as follows: "(14) Individuals holding a Class 5 Pressure Piping Mechanic certification who wish to maintain the Class 5 certification shall by June 30, 2004:".

**MOTION CARRIED UNANIMOUSLY**

## **II. PUBLIC COMMENT**

Rodger Vignery, TLM Corporation, publicly thanked Chairman McLouth, and Dennis Coplin in behalf of their participation in the continuing education classes Mr. Vignery instructed.

Ken Cropper, Political Organizer for SEIU, School Employees Local 140 in Portland, read a prepared statement entered in the minutes as part of the permanent record.

*Our Union represents 318 long-serving Civil Service Custodians who lost their jobs in a July 8, 2002, vote by the Portland Public School Board to eliminate their jobs and award the custodial contract to the Portland Habilitation Center.*

*I am writing to express the concern of the community to the contract awarded by the District to the Portland Habilitation Center through June of 2003, which includes provisions for the operation of boilers in over 100 school buildings and properties in the Portland Public School District. Prior to the award of this contract, PHC had no experience or training in the operation and maintenance of school boilers. No attempts were made by PHC management to secure such knowledge until October 11, 2002, when a select group of PHC supervisors and workers were enrolled in a series of one day, 8-hour "Boiler Awareness" classes coordinated by Chemeketa Community College. These classes ended in December of 2002, and the continuation of "Boiler Training" was left in the hands of PHC Supervisors. It is my understanding that these "Boiler Awareness" classes resumed in mid January of 2003. Clearly, however, this minimal training is inadequate to provide for the safe and efficient operation of boilers in our schools.*

*Each displaced Civil Service custodian had extensive training and experience before they were put in charge of the operation of school boilers. All head and assistant custodians and many helpers received an exhaustive and thorough one-week course in heating and ventilation systems and were mentored by others with many years of boiler operation experience. **THE LOSS OF THIS TRAINED AND EXPERIENCED WORKFORCE HAS PUT THE PORTLAND PUBLIC SCHOOLS IN DANGER.***

*Here are some examples of our concerns:*

- (1) Since school resumed in September, scores of complaints have been reported to the Portland Association of Teachers of schools without heat, classrooms and offices with inconsistent heating and ventilation, and boiler smokestacks belching smoke due to improper and inadequate operation and maintenance practices.*
- (2) On November 9, 2002, Beaumont Middle School suffered an oil spill reportedly caused by the improper changing of a boiler oil filter.*
- (3) On November 25, 2002, Fernwood Middle School experienced a major oil spill due to the improper changing of a boiler oil filter. It was broadly reported in the press that at least 31 students were sickened and sent home due to oil fumes in the building.*
- (4) On December 12, 2002, the boiler at Beaumont Middle School melted down due to failure of a low-water cut-off switch. It is our position that a properly trained and experienced custodian would have checked the water sight glass and avoided such a costly and potentially deadly boiler problem. The cost to repair Beaumont's boiler will put additional stress on an already strained school budget.*
- (5) Further, I have concerns about the experience and dedication of the new personnel who were recruited to operate our school boilers. PHC hired over 400 new employees in August and September in a rush to replace the 318 Civil Service Custodians who were terminated by the District. I question whether proper screening was conducted to find applicants with the background and training in boiler operations and maintenance required by the job.*

- (6) *On December 5, 2002, the 22 year old "Head Custodian" at Benson High School was fired, reportedly after he was arrested for buying drugs from a Benson student off campus. On December 6, the electrical power at Benson was sabotaged causing the students and teachers to lose a full day of school when they were sent home due to safety concerns. After investigation, the recently fired "Head Custodian" was once again arrested on December 9 and charged with a variety of crimes resulting from the loss of school power on December 6. One need only speculate what could have happened if this disgruntled former PHC employee had chosen to sabotage the school's boiler. The results might have been catastrophic.*
- (7) *On January 8, 2003, there was yet another oil spill, this time at Bridger Middle School. Reportedly, the cause was once again the improper changing of a boiler oil filter.*
- (8) *On January, 15, 2003, Whitaker-Lakesid M.S. suffered an oil spill.*
- (9) *On February 17, 2003, 10 fire trucks and two helicopters responded to the report of a fire at Jefferson H.S. The reported fire turned out to be belching smoke from the boiler after a bad Monday morning start-up. According to teachers, the school was cold all day.*

*I ask that your office conduct a thorough investigation of the challenges which the PPS/PHC Custodial Service Contract (July of 2002 through July of 2003) pose for the safe and efficient operation of Portland Public School boilers. Please share your findings at the next meeting of the State Boiler Board and forward them to the members of the Portland Public School Board.*

*Ken Cropper*

Tina Jacky, school custodian with over 13-years experience, testified that she was about to be promoted to an assistant's position when she was terminated. She said that in an assistant's position, even with 13-years experience, the additional responsibilities of the physical plant without a mentor would have made her uncomfortable. Ms. Jacky stressed the fact that an 8-hour class does not cover what is necessary to know about boilers and boiler operations.

Ray Thomas was with the school district for 18-years. He testified to the fact that each boiler is different in the school district, which is not taught in the 8-hours class. He explained for his certificate, it took attending a 40-hour class and passing a final exam. Several documentation's were submitted as, *Exhibit "C"*, for the permanent record. (All documents were photocopied at break and distributed to the board members.)

Dennis Coplin said that when instructing specifically on controls, individuals would need at least 10 to 15-years experience before they could grasp the information. The training that is currently available at the school district is not being retained by the individuals that have been put in the position of being responsible for the boilers. He suggested appointing a committee to research the possibility of a required certification for boilers for public assembly.

Chairman McLouth said that he would like to here all testimony prior to the boards' comments.

Ray Fosnot, Local 140 SEIU, is a former custodian with Portland Public Schools for 25 ½ years. His duties consisted of cleaning boiler filters, burner tips, punching tubes, and cleaning the fireboxes. The Portland School District boilers are not being cleaned properly, and the tubes are not being punched regularly. Mr. Fosnot's current position is working in the classrooms, although he witnessed several mismanaged boilers addressed in Mr. Cropper's testimony.

Mason Young described his duties with the Portland School District. As a custodian, he would make sure that all fireboxes and britches, etc. were cleaned for inspections over the summer months, 100 plus buildings with three boilers in the building.

***(Break)***

Chairman McLouth intended to appoint a task force to investigate issues brought forward, although –as a board- decided to wait until the June Board of Boiler Rules Meeting to first hear a full report from the Chief Boiler Inspector on this issue with boilers in the Portland School District.

Vice-Chairman John Endicott asked if the safety concerns were taken to Portland School Board. A cost saving of 4.5 million dollars by contracting with a company that pays \$7.20 an hour and \$9.50 an hour to journeymen janitors was more important. The company has proven to be lacking in training and experienced employees.

Ed Pitzrick, Chubb Insurance said that he is the inspector for Portland Public School District. Mr. Pitzrick visits every school in the district at least once a year since the account was written in 1998. At that time the boilers were –in his option- the best maintained low-pressure heating boilers in the State of Oregon.

Mr. Pitzrick reported that the boilers safety issues in Portland Public School District are not greater than other school districts in the state. There are no statutory requirements of qualification for a boiler operator in the State of Oregon. The training is completely unregulated. Several meetings with the district have occurred with adequate response time. Chubb communicates directly with the district and not with the company with the districts' contract.

Mr. Pitzrick made recommendations to the school district that he was willing to share with the board and the Chief Boiler Inspector, and with those recommendations, the district made changes, which he would include.

Rodger Vignery, TCM Corporation reports that most accidents occurring with boilers are from operator's error. With the lack of training and qualified personal, it is most likely that a catastrophic accident will occur.

Ray Andrus, Chief Boiler Inspector was made aware of the issue on November 9, 2002, when Beaumont Middle School suffered an oil spill reportedly caused by improper changing of a boiler oil filter. Chief Andrus sent a state inspector to investigate. Since that incident, the Chief received letters from concerned parents of students from other schools and ex-employees. A report is being written using the recommendations from Chubb insurance, results from the state inspector, all documented information received on the issue, and a report on a discussion with Don Carpenter/Chubb Insurance, Portland Public School District and PACC. That will be brought forward at the June 3, 2003, board meeting.

The responsibility of instruction for the boiler training in Portland School District is Chemeketa Community College. An 8-hour course with instructors using a workbook, video, and hands on instruction is provided.

*(Agenda Item III.C.1. was heard out of order)*

Andrea Simmons, Interim Manager of Policy and Technical Services, briefed the board on legislative bills the division is tracking. She distributed copies of "Administrator's Compendium Report", *Exhibit "D"*. The division is currently tracking 47 bills. Manager Simmons said that this report is located on the division's web page. (<http://www.oregonbcd.org/whatsnew/legis.html>)

HB 2447 would require certain licensed trades professionals to wear visible identification when providing services. Amendments to this bill are expected.

HB 2524 would allow private individuals to ask trades professionals to see their license that would allow them to perform the work.

HB 2525 would transfer the mechanical code to the Board of Boiler Rules, which would include the responsibility of adopting the mechanical code. Manager Simmons indicated that if the bill were to have a hearing, the division would notify the board of this information and work with the stakeholders on concerns that may develop.

HB 2564 would allow the contractor/owner to have the division create a single license for the purpose of certain types of businesses to apply on one application form, pay one fee, and have one renewal date.

HB 2708 proposes to move the building codes division to a different entity.

SB 198 is the bill the division has proposed. It would give the compliance section another tool to revoke or suspend those licensed individuals or businesses that do not have a CCB registration.

SB 710 creates assistant regional chiefs in areas located throughout the state to establish consistency and uniformity with application to code, and to assist with compliance issues.

SB 711 would require the Department of Consumer and Business Services to prioritize provisions of state building code to assure fire & life safety issues are addressed.

SB 712 and SB 715 would allow the division to perform plan reviews and inspections on certain projects that maybe industry related –funded by the state or federal government- to help create consistency within the state.

### **III. REPORTS**

Roseanne Nelson, Interim Manager of Regulatory Services gave an overview of the year-end compliance issues. She said that for 2002, there were 1,148 cases that are approximately doubled the amount of cases processed two years ago. From the 1,148 cases, 85 cases were tied to the Board of Boiler Rules. January and February of this year, 153 cases were received and 18 cases were boiler violations.

#### **A. Compliance Cases – Roseanne Nelson and Allen Aschim**

- 1. Repeat Violator, Dependable Refrigeration, Inc.,** was in violation of making an installation without a permit and violating a previous order. The division recommended approval of a consent order.

**MOTION by Steve Nelson** to adopt division recommendation for approval of a consent order.

**MOTION CARRIED UNANIMOUSLY**

- 2. Repeat Violator, Middleton Heating & Sheet Metal, Inc.,** was found in violation of making an installation without a license or permit. The respondent paid the full amount of the civil penalty with the first violation. The division recommended approval of a consent order.

**MOTION by Dennis Coplin** to adopt division recommendation for approval of a consent order.

**MOTION CARRIED UNANIMOUSLY**

#### **B. Summary of compliance actions previously taken by the division for cases III.b.1 through 15. (No board action required)**

John Pyle asked why are the majority of the compliance cases in the years 2001 and 2002. Manager Nelson said that the discovery of the violation may take several years to get to the division.

Chairman McLouth said that since Jim Hanson and Roseanne Nelson made changes to the compliance section, Chairman McLouth no longer feels frustrated with compliance cases.

**C. Staff Report**

**2. Report on owners installing their own equipment – Ray Andrus**

Chief Andrus reported at a previous meeting, he explained that no statutory authority exists to allow an owner to install his own boiler/pressure vessel without a permit or personal license. An action plan was put in place and is currently being routed through an internal review process with the division. That report will be available at the next scheduled board meeting.

**3. Report on Approved State Specials – Ray Andrus**

Chief Andrus said that rule requires him to notify the board when state specials are issued. On two different occasions, state specials were issued to six fiberglass reinforced ASME constructed vessels at LSI that were put in at the time of installation in 1996.

**4. Boiler program update – Ray Andrus**

Chief Andrus briefed the board on the overdue boilers. At the end of the year, all the heating boiler inspections are due, which causes the overdue numbers to be much higher in January. CD ROM's have been sent to the insurance companies on the specific vessels that the division is showing overdue. The paperless report has saved time to focus on overdues.

**IV. COMMUNICATIONS**

**List of approved continuing education providers.**

An updated list of approved continuing education classes were distributed among the audience, *Exhibit "E"*.

There are several individuals lacking the required course. The approved list is published on the division's web-site for convenience. The annual boilers association meeting has been approved for 4-hours of continuing education, which will be posted on the web-site.

Chief Andrus took the opportunity to announce that an exam development packet for the Class 4 and the Class 5 license will be sent to the test validation committee members once completed.

Chairman McLouth said that the board would like the division to work with the chairman to appoint a task force to review continuing education courses.

Chairman McLouth spoke on the status of the state's economy. He felt that since the Governor took an immediate five-percent cut in pay –with board approval- the Board of Boiler Rules Members should act as well. All board members agreed not to claim mileage or per diem amounts to the state for their service on the board.

**V. APPEALS** - None

*(Break)*

**VII. NEW BUSINESS** - None

**IX. ADJOURNMENT**

Chairman Dale McLouth adjourned the meeting at 12:35 p.m.

Debi Barnes-Woods  
Division Boards Coordinator/Recorder

*Exhibits:*

- A. Copies of "BCD Revenue Sources", *Agenda Item I.E.*
- B. Boiler Program Changes to the Board of Boiler Rules, *Agenda Item VI.*
- C. Several documents from former Portland School Custodians, *Agenda Item II.*
- D. "Administrator's Compendium Report", *Agenda Item III.C.1.*
- E. Update list of approved continuing education classes, *Agenda Item IV.*