

**MINUTES**  
**SC Board of Pyrotechnic Safety**  
**April 25, 2016, Board Meeting**  
**Kingstree Building, Room 204**  
**110 Centerview Drive, Columbia, SC**

**Meeting Called to Order**

Chairman Rodney Wyndham called the regular scheduled meeting of the South Carolina Board of Pyrotechnic Safety to order at 10:05 a.m.

Other members participating in the meeting included: Kelly Campsen, Michael Solomon, Josh Spencer, and David Tafaoa.

Staff members participating in the meeting included: Molly Price, Administrator; Tyler Kritz, Program Assistant; Georgia Lewis, Office of General Counsel; Darra Coleman, Office of General Counsel; Bert Polk, State Fire Marshal; and Ray Hoshall, Program Manager, Office of Fire and Life Safety.

**Public Notice**

Mr. Wyndham announced that public notice of this meeting was properly posted at the SC Board of Pyrotechnic Safety office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

**Pledge of Allegiance**

All present recited the Pledge of Allegiance.

Mr. Wyndham welcomed everyone to the meeting.

**Approval of Excused Absences**

The Board approved of Vice Chairman Ann Graham's absence.

**Approval of the April 25, 2016 Agenda**

**MOTION**

Mr. Solomon made a motion to approve the agenda. Mr. Campsen seconded the motion which carried unanimously.

**Approval of the January 7, 2016 Meeting Minutes**

**MOTION**

Mr. Tafaoa made a motion the board approve the minutes of the January 7, 2016 meeting. Mr. Spencer seconded the motion which carried unanimously.

**Introduction of Board Members and Guests**

Mr. Wyndham introduced Molly Price as the new Administrator and thanked Ray Hoshall for his service.

### **Chairman's Remarks**

Mr. Wyndham remarked that the meeting may be longer than usual, and he will attempt to make sure everyone is heard. He stated the purpose of the board is public safety, and that the ultimate goal of the Board and State Fire Marshal is to work towards compliance.

### **Administrator's Remarks**

Molly Price introduced herself, and noted a change of location from Fire and Life Safety to LLR. She introduced Tyler Kritz as the Board's new program assistant and noted that Ray Hoshall will continue to be the FM liaison. She noted that the permitting process should remain the same for this 90 day permit season; however, future applicants will be able to submit applications electronically, and will also have the option for online credit card payments. Ms. Price hopes to provide more information for the Board at future meetings, including licensure statistics and financial information.

### **New Business**

Mr. Wyndham asked Ms. Lewis to explain her role as advice counsel. Ms. Lewis stated that she advises the Board and its staff on legal matters and she is unable to provide legal advice to the public.

#### **a. Executive Session**

##### **MOTION**

Mr. Spencer made a motion the board enter into executive session for legal advice. Mr. Tafaoa seconded the motion, which carried unanimously.

##### **MOTION**

Mr. Tafaoa amended the motion to include the Board Administrator in executive session. Mr. Spencer seconded the motion, which carried unanimously

##### **MOTION**

Mr. Tafaoa made a motion to return to public session. Mr. Solomon seconded the motion, which carried unanimously.

Chairman Rodney Wyndham noted for the record that no votes or actions were taken while in executive session.

#### **b. Pyrotechnic Inspections**

##### **i. Review for approval of the Pyrotechnic Inspection Violation Guidelines for Pyrotechnic Inspectors**

##### **MOTION**

Mr. Solomon made a motion the Board accept the Pyrotechnic Inspection Violation Guidelines for Pyrotechnic Inspectors. Mr. Tafaoa seconded the motion, which carried unanimously.

##### **ii. Review and approval of Pyrotechnic Inspection Order form**

**MOTION**

Mr. Spencer made a motion the Board accept the Pyrotechnic Inspection Order form. Mr. Campsen seconded the motion, which carried unanimously.

**c. Board Review of Petitions for Appearance**

- i. Abbott Fruit Markets/Red Star Fireworks (6 locations)

Mr. Spencer and Mr. Campsen recused themselves and provided letters of recusal to Ms. Price.

**MOTION**

Mr. Tafaoa made a motion the Board grant an appearance to Abbott fireworks. Mr. Solomon seconded the motion, which carried unanimously.

- ii. Dickerson's, Newport Fireworks and Lake Wylie Fireworks
- iii. C&A Pyro dba Circus Fireworks

**MOTION**

Mr. Solomon made a motion to hear Dickerson's, Newport Fireworks, Lake Wylie Fireworks; and C&A Pyro dba Circus fireworks. Mr. Tafaoa seconded the motion, which carried unanimously.

**Appearances approved by the Board**

These disputes were recorded by a certified court reporter in the event a verbatim transcript is necessary.

Chairman Rodney Wyndham noted for the record that these are not appeal hearings, but are disputes brought before the board.

**a. Flashes Fireworks**

Steve Elliott noted for the record that he would be representing Gordon Summey. Mr. Elliott made his petition regarding sprinkler requirements per the violation of the International Fire Code.

**MOTION**

Mr. Tafaoa made a motion the Board enter into executive session for legal advice regarding alarms. Mr. Solomon seconded the motion, which carried unanimously.

**MOTION**

Mr. Tafaoa made a motion to return to public session. Mr. Campsen seconded the motion, which carried unanimously.

Chairman Rodney Wyndham noted for the record that no votes or actions were taken while in executive session.

Mr. Elliott continued by stating that the most recent inspection reclassified Mr. Summey's building as H3 despite several prior inspections classifying the building mercantile. He also petitioned that the forms

given by inspectors should not be an “order,” which he stated that only the Board can issue statutorily. He stated that there is no due process with the current methodology.

Mr. Wyndham and Mr. Elliott discussed the violation, dispute hearing, and citation process.

**MOTION**

Mr. Spencer made a motion to issue a letter to Flashes Fireworks stating the three things. First, that the Board takes the position that it does not have jurisdiction to change an occupancy, including an occupancy form a mercantile to an H-3 occupancy. Second, that the Board has no jurisdiction to issue violations, or citations for violations of the International Fire Code. Lastly, that with regard to sprinkler systems and NFPA 1124, that the Board does not require an existing facility to have a sprinkler system when the existing building is less than 7,500 square feet. Mr. Tafaoa seconded the motion, which carried unanimously.

**MOTION**

Mr. Solomon made a motion to enter into executive session for legal advice. Mr. Tafaoa seconded the motion, which carried unanimously.

**MOTION**

Mr. Solomon made a motion to return to public session. Mr. Spencer seconded the motion, which carried unanimously.

**MOTION**

Mr. Tafaoa made a motion that the fire alarm installation issue is beyond the scope of the dispute process. It can be best reached through the appeals process, should they elect not to comply with the recommended remediation. Mr. Spencer seconded the motion, which carried unanimously.

**b. G.L. Smith**

Mr. Elliott, representing Ms. Kelley for G.L. Smith, made a petition requesting clarification for square footage, including how square footage is measured given multiple buildings connected by a section of roof.

**MOTION**

Mr. Campsen made a motion to go into executive session for legal advice. Mr. Solomon seconded the motion, which carried unanimously.

**MOTION**

Mr. Spencer made a motion to come out of executive session. Mr. Solomon seconded the motion, which carried unanimously.

**MOTION**

Mr. Spencer made a motion that both of the remaining alleged violations of NFPA 1124 7.3.6 relating to the square footage issue, and the door related to NFPA 1124 7.3.14.2 are in need of further factual development that could be better developed through the appeals process, in the event that a citation is issued. Mr. Tafaoa seconded the motion, which carried unanimously.

**c-f. Fireworks over America**

Mr. Solomon recused himself from the Fireworks over America hearing and signed a recusal form.

Mr. Elliott, who represented Jared Wingard for Fireworks over America, requested a letter of notice stating Fireworks over America has met the Board's requirements per the last inspection cycle. He mentioned the "existing structure" clause of NFPA 2006. He also said that inspection should reflect Board of Pyrotechnic Safety as opposed to the Office of State Fire Marshal. Also comments that the length of time for inspections is too short to check that all fireworks are 1.4g as opposed to 1.3g or some otherwise more dangerous explosive.

Mr. Wyndham stated that the next inspection cycle will reflect changes that have been made.

**g. Golfball Outlet and Fireworks Mega Store**

A letter was received by Golfball Outlet and Fireworks Mega Store requesting another date to attend a meeting with the Board.

**MOTION**

Mr. Spencer made a motion to grant Golfball Outlet and Fireworks Mega Store a delayed appearance. Mr. Tafaoa seconded the motion, which carried unanimously

**h. Sparky's Pecan Outlet Store**

Attorney Shannon Phillips, who represented Sparky's Pecan Outlet Store, made her petition referencing 1.4 NFPA 2006 General as opposed to specifically the chapter 7 section on pre-existing structures. She stated that Sparky's should not be considered H3, but general mercantile.

Mr. Wyndham said that NFPA 2006 has requirements for storage buildings with 250lbs or more of material. He also stated-the Board should develop a policy for retroactivity, with reference to sprinklers and alarms in existing structures.

Ms. Phillips agreed with Mr. Elliott's previous sentiment that an "order" should come from the Board as opposed to a Deputy Fire Marshal. She also stated that the existing structures clause "grandfathered" the structures that existed previously, and are now in violation because of the 2009 adoption of NFPA 1124.

Mr. Wyndham stated that the board will have to develop a policy for alarms and PA systems per NFPA 7.4.5.3. Also that the law was passed in its current form, and the industry would have to have laws changed to impact that section of Board policy.

Ms. Lewis stated that the term "grandfathered" does not appear in NFPA 1124 chapter 7, and requested clarification of the meaning of the phrase.

**MOTION**

Mr. Spencer made a motion to enter into executive session for legal advice. Mr. Tafaoa seconded the motion, which carried unanimously.

**MOTION**

Mr. Spencer made a motion to return to public session. Mr. Solomon seconded the motion, which carried unanimously.

**MOTION**

Mr. Spencer made a motion, given the issues presented here, that these are factual, that there are better suited to the appeals process and that if a citation is issued after the issues are not corrected, it would be better addressed at that time in the dispute process. Mr. Solomon seconded the motion, which carried. Mr. Wyndham abstained from the vote.

Alex Small, general manager of Sparky's, commented that the section of store used for fireworks storage is less than 7500 square feet. Mr. Wyndham responded that the specifics will have to be brought up in the citation appeals process.

**South of the Border Complex**

Boone Aiken, Attorney for South of the Border Complex. Also present was Timmy Townsend, general manager, of the South of the Border Complex.

**i. Pedro's Pantry West**

Mr. Aiken stated that they were asked to erect a fire wall between the store and car wash. Mr. Wyndham commented that this was a fire code violation, and out of the Board's jurisdiction.

**MOTION**

Mr. Spencer made a motion to issue a letter to Pedro's Pantry West, indicating that the Board will not seek to enforce any International Fire Code violations. Mr. Solomon seconded the motion, which carried unanimously.

Mr. Aiken also noted that Pedro's Pantry West was not H3 prior to the most recent inspection, along with noting that 165 square feet of the total 2880 square foot building is used for fireworks, and that an additional exit is being required. Mr. Wyndham said that he will need to go to the citation appeals hearing for this item.

**MOTION**

Mr. Spencer made a motion to defer the Pedro's Pantry West to the citation appeals process. Mr. Tafaoa seconded the motion, which carried unanimously.

**j. Pedro's Pantry East**

Mr. Aiken said that of the 11840 total square feet only 725 square feet are used for fireworks and mentioned the re-classification of the structure from General Mercantile to H3.

**MOTION**

Mr. Spencer made a motion to issue a letter to Pedro's Pantry East indicating that this board takes the position that with regard to this notice of violation, the board does not have jurisdiction over International Fire Code violations. Mr. Tafaoa seconded the motion, which carried unanimously.

### **MOTION**

Mr. Spencer made a motion that with respect to that issue, it's better suited to the appeals process after citation is issued, if one is issued. Mr. Solomon seconded the motion which carried unanimously.

#### **k. Fort Pedro's**

Mr. Aiken noted that the panic hardware on an exit door was previously approved. Ms. Price noted that this door requirement is referenced in the International Fire Code, but not NFPA.

### **MOTION**

Mr. Spencer made a motion that the Board send a letter to Fort Pedro's indicating that this board, with respect to this issue, does not claim jurisdiction to enforce International Fire Code violations. Mr. Solomon seconded the motion, which carried unanimously.

### **MOTION**

Mr. Spencer made a motion that the reported violation of 7.3.14.4.2 be allowed to go through the normal appeals process after the citation is issued, if it is not corrected. Mr. Solomon seconded the motion, which carried unanimously.

Mr. Wyndham stated that the meeting today intended to be a quick blush to review arguments, and that the citation appeals process would be more in depth. He requested a motion to disregard any IFC violations for Fort Pedro.

### **MOTION**

Mr. Spencer made a motion with respect to Fort Pedro's, the Board will issue a letter indicating that they do not have jurisdiction to enforce International Fire Code violations. Mr. Solomon seconded the motion, which carried unanimously.

### **Public Comments**

John Figert with Wild Dragon Fireworks commented that they began building a 7,500 square foot warehouse to store consumer fireworks. Local building code officials said they would definitely be classified H3, and would need to include a sprinkler system. He noted that NFPA regulations require sprinkler systems for consumer fireworks storage buildings over 12,000 square feet. He said adding a sprinkler system to this warehouse would cost \$300,000 and lead to less safe conditions than what could be attained by moving 1.4g fireworks from storage containers to a warehouse facility with no sprinkler system due to less condensation and better ventilation. He asked "Does building code automatically trump NFPA 1124?"

Mr. Wyndham stated that the Board will not attempt to supersede other agencies.

Alex Small commented that Sparky's requests a letter dismissing IFC violations written during Board inspections.

Jerry Wingard commented that the Board does have jurisdiction over display fireworks via its wholesale license.

Tom Elliott commented that the fire marshal is trying to put the pyrotechnics industry out of business through lobbying.

Tommy Small commented that many people have been working in good faith, inspectors came in and made changes seemingly from nowhere. He stated that there are hundreds of thousands of dollars to spend on keeping a business open. Complained of bad faith work done by inspectors, especially the one that failed to measure distances for Ms. Kelley's door and did not specify where to place the new door.

**MOTION**

Mr. Solomon made a motion to end the meeting. Mr. Spencer seconded the motion, which carried unanimously.

The meeting adjourned at 5:02 p.m.