

MINUTES
South Carolina Board of Pyrotechnic Safety
Board Meeting
10:00 a.m., July 14, 2015
South Carolina Fire Academy (Denny Auditorium)
141 Monticello Trail
Columbia, South Carolina

MEETING CALLED TO ORDER

In the absence of a seated Chairman or Vice Chairman, Ray Hoshall, Board Administrator, called the meeting to order at 10:00 a.m.

STATEMENT OF PUBLIC NOTICE

Mr. Hoshall stated that public notice of this meeting was properly posted at the S. C. Board of Pyrotechnic Safety Office, 141 Monticello Trail 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.

INTRODUCTION OF BOARD MEMBERS

S.C. Board of Pyrotechnic Safety members present:

- Mr. Kelly Campsen (General Public member)
- Mr. Josh Spencer (General Public member)
- Chief Ann Graham (Fire Service member)
- Mr. Rodney Wyndham (Retail Sales member)
- Mr. Mike Solomon (Wholesale Sale member)
- Major David Tafaoa (Law Enforcement member)

(It was noted that one General Public member position is vacant.)

LLR Staff members participating in this meeting:

- Chief Robert O. Polk, S.C. State Fire Marshal
- Chief Ray Hoshall, Board Administrator
- Chief David Blackwell, Chief Engineer, OSFM
- Mrs. Susan Scoggin, Board Administrative Assistant
- Mr. Hardwick Stuart, Office of Advice Counsel

Guests present for this meeting:

- Mr. Tom Elliott, Fireworks Association of SC
- Mr. Charles Walker, American Promotional Events/TNT Fireworks
- Mr. Paul Abbott, Fireworks Association of SC and Red Star Fireworks
- Mr. Tom Sudik, Shelton Fireworks
- Mr. Gordon Summey, Flashes Fireworks
- Mrs. Stacy Tyson, Wild Dragon Fireworks
- Mr. Jeremy Tyson, Pyrotecnico
- Mr. Keith Ramsey, Herbie's Fireworks
- Mr. Bruce Pyles, Winco Fireworks
- Mr. Taylor Dixon, TNT Fireworks
- Mr. Jerry Wingard, American Fireworks Standards Laboratory
- Mr. Chris Laundra, TNT Fireworks
- Mr. Jonathan Buchert, Herbie's Fireworks

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

Mr. Hoshall opened the floor for nominations for Board Chairman to serve for a period of one year. Mr. Wyndham was nominated by Mr. Solomon. The nomination was seconded by Major Tafaoa. A voice vote was taken and Mr. Wyndham was elected unanimously.

Mr. Hoshall opened the floor for nominations for Board Vice Chairman to serve for a period of one year. Chief Graham was nominated by Mr. Tafaoa. The nomination was seconded by Mr. Wyndham. A voice vote was taken and Chief Graham was elected unanimously.

Mr. Hoshall congratulated the newly elected Board officers and turned the meeting over to Chairman Wyndham.

APPROVAL OF AGENDA

Motion: To approve the agenda as written. Chief Graham/Major Tafaoa/Approved.

APPROVAL OF APRIL 3, 2013 MEETING MINUTES

Motion: To approve the minutes from the April 3, 2013 meeting. Mr. Spencer/Mr. Campsen/Approved.

MANAGEMENT REPORT

In addressing the OSFM Policies and Procedures on Inspection of Fireworks Facilities, Chief Robert Polk, S.C. State Fire Marshal, stated that the overarching umbrella of the OSFM mission, contrary to popular belief, is that the OSFM does not exist to put anyone out of business. In fact, the opposite is true. The goal is to ensure that people can maintain their business, have business continuity, and have a business that is sustainable. The question is why then is the OSFM viewed as the enforcement arm of the pyrotechnic community? Chief Polk stated that in his mind, it is a pretty simple analogy. To make sure that business can continue, OSFM must be diligent to do their best to prevent a tragedy or a catastrophic event. Statistically, 85% of all small and medium size businesses never recover, never reopen, after a catastrophic fire related event. The OSFM's role is to help you and to help ensure that you operate in a safe manner so you can continue doing what it is that you want to do. For example, our March 16, 2015 letter explained how we are moving forward in the inspection process. As we all know there are two concurrent documents involved: the 2006 NFPA Standard 1124 and the 2012 International Fire Code. There are variations between the two documents, and that is where the State Fire Marshal gets involved and issues policies on how the OSFM will move forward and implement the provisions of those documents. That was the intent of the March 16th letter. This policy was the most visible and most miscommunicated document coming out of our office in quite awhile. The letter speaks significantly to various types of exit arrangements. Chief Polk continued that OSFM was asked early on where did this policy come from, for example the number 3 for the maximum number of occupants inside of a stand? This comes directly from the IFC, which the State Fire Marshal is obligated by State Statute to enforce these provisions. In analyzing the Code, there may be some conflict with how we handled it in the past and how it speaks to NFPA 1124. We must construct a methodology moving forward that provides the pyrotechnic industry in South Carolina with the best of both worlds. In other words, take the components of the IFC and the components of NFPA 1124 and mold them into a position paper on how we would apply them. The letter developed a formula relating to the size of the stands, the number of occupants in the stand, and what we would be willing to accept as exits. Chief Polk reminded everyone that we can all read the prescriptive code, it is clear. However the problem occurs when we try to blanket the landscape and make everything fall into the same little box.

We have widespread compliance with the requirements of both documents (the International Fire Code and NFPA Standard 1124). We are fortunate in our state that there are those in the pyrotechnic industry that are doing the right thing, or are willing to do the right thing when informed of the requirements, and we see a lot of voluntary compliance. The OSFM also reached out into the future, knowing that some of these items could not be accomplished in the next 30 days, so we reached out until November 1, 2016 (almost 18 months from now), trying to allow everybody time to be able to comply. Having just come through the July selling season, no one was put out of business; no one was denied the opportunity to do business. Some folks received some inspection reports that noted some non-compliance, but they were still issued permits and allowed to operate. OSFM is going to continue to work with people. We believe strongly that education is a better tool than outright enforcement. When given the information, the potential consequences of a bad outcome, and why the codes and standards say what they say, we're getting wide spread compliance. Chief Polk did admit that OSFM looks at things differently than the rest of the world because, unfortunately, we have been on the wrong end of some negative consequences, not only in the pyrotechnic field, but in every field that we are involved in protecting.

Mr. Hoshall continued the Management Report, speaking on the Status of Fireworks Licensing and Permitting. He referred members to the appropriate tab in their member manuals for the 2013, 2014, and 2015 year-to-date statistics. In summary, in the summer of 2013 (July 4th selling season), OSFM issued 647 permits. In the fall of 2013 (New Years and August Annual Renewals) there were 802 permits issued, for a total of 1,448 permits in all. In 2014 that total increased to 1,503 permits. From January 1, 2015 through July 11, 2015 a total of 693 permits were issued. The member manual also contained a summary of sales chart showing graphically showing the increases for every year, plus a breakdown of sales by county. With regard to Board Member changes, Mr. Hoshall provided the following updates. There have been four (4) new Board Members appointed by Governor Haley. Mr. Mike Solomon was appointed as the Wholesale member to replace Mrs. Angela Renfrow who passed away since the last Board meeting. Mr. Josh Spencer was appointed as a General Public member to replace Mr. Charles Lipscomb who resigned from the Board, Mr. Kelly Campsen was appointed as a General Public member to replace Mr. Martin (who has been gone from the Board for many years), and Chief Ann Graham was appointed as the Fire Service member to replace Mr. Larry Godfrey who retired from his fire service employment rendering him disqualified from filling that position. There is one Public member vacancy awaiting a new appointment by Governor Haley, to replace Mr. John Armstrong who resigned from the Board.

Chief Blackwell concluded the Management Report, addressing the Status of the Fire Marshal Rules & Regulations and the 2015 ICC Code Adoption by the S.C. Building Codes Council. The new State Fire Marshal Rules and Regulations were published in the *State Register* on June 26, 2015 and are now in effect. These regulations can be found on the OSFM web site and in the S.C. Code of Regulations on the State Legislatures web site. There were no substantial changes made to the Fireworks and Pyrotechnics subarticle (Subarticle 6), only minor editorial changes. The S.C. Building Codes Council is in the process for adopting the 2015 ICC family of Codes and the National Electrical Code. The earliest possible date that the Building Codes Council could adopt the 2015 ICC Codes is July 1, 2016. It should be noted that 2006 NFPA Standard 1124 is still the referenced standard in the 2015 IFC.

NEW BUSINESS

Chairman Wyndham called for new business as included in the agenda. The item on the agenda was an email received by the Board Administrator from Mr. Solomon representing Fireworks Over America. The email addressed several questions regarding the March 16, 2015 letter issued by OSFM. Mr.

Solomon commented that Chief Polk addressed many of the concerns during the Management Report. Chairman Wyndham read the email for the benefit of those members of the public in attendance. Chief Polk responded to the questions relating to when the decision was voted on by the Board, by stating that it was not a Board issue, but a matter of inspection procedures and the figures relating to occupant load came straight from the Code. Chairman Wyndham referred Board members to their manual for copies of all of the pertinent code references. The Chairman also clarified one of the questions relating to security personnel working outside the stand that they did not count as one of the three personnel working inside of the stand.

PUBLIC COMMENTS

Chairman Wyndham opened the meeting for comments from the public. He advised all Board members that they may engage in conversation with speakers, but that no Board action could be taken on any of the public comments. Mr. Stuart, LRR Advice Counsel to the Board concurred with that statement, and advised that under new statutory guidance, changes can only be made to the agenda to allow for action, with a 2/3 vote, and the change must be of an emergency nature.

Mr. Tom Elliott, representing the Fireworks Association of South Carolina, stated that he was glad to be present, and had been involved with this Board since its creation.

Mr. Charles Walker, Director of Compliance for American Promotional Event/TNT Fireworks, asked what is being done to modify the IFC so that it is not in conflict with NFPA Standard 1124. Chief Polk responded that these are two separate documents from two separate and independent entities. NFPA promulgates a Standard and the ICC promulgates a Code. ICC Codes do reference various Standards such as NFPA. The last recognized standard for NFPA 1124 is the 2006 edition. NFPA is not in the process of promulgating a new edition of NFPA Standard 1124. Chief Polk continued that the process for modifying the IFC would be to submit proposed changes for the IFC to the ICC for discussion and action at the next ICC Code Hearings. Mr. Walker then asked about possible statewide modifications to the IFC at the South Carolina level. Chief Polk discussed the statewide code modification process and Chief Engineer Blackwell added that April 1, 2015 was the cutoff date for proposed statewide modification submission for the 2015 IFC. Mr. Walker then stated that the pyrotechnic industry has concerns that NFPA has taken a “head in the sand” approach to regulating the industry. The industry just wants to know what the rules are. The American Pyrotechnics Association (APA) is attempting to develop a Retail Fireworks Sales Standard. He acknowledged that NFPA will not be issuing a newer edition of NFPA 1124 anytime soon. The pyrotechnics industry is concerned about the retail sales of fireworks being lumped in to a code of generalized industry. Chief Polk stated that the purpose of the March 16th letter was to homogenize the exits issue. Chairman Wyndham added that he was thankful for the letter because it gave clarity to the issue. He indicated that there will be a small percentage of the industry that is never going to be in compliance, and that is bad for the industry and for those that are in compliance. For Chairman Wyndham, the biggest issue for him personally, is that it is not an “us” versus “them” issue, it is an “all” issue. A catastrophic event is bad for the state and it is bad for the industry. He doesn’t want anyone to be endangered. To him, it is working collectively with the Board and the OSFM to determine what we want the pyrotechnic industry to look like in 10 years. Chairman Wyndham wants the retailers to be safer in 10 years than they are today. It is a work in progress. Mr. Elliott reminded members of the Board of the challenges faced by the Chairman Wyndham in years past with the Zoning Officials in North Augusta. He persevered, and eventually won his argument to open his store in North Augusta.

Mr. Paul Abbott, representing the Fireworks Association of South Carolina, asked the Board to consider having two fixed Board meetings each year, either before or after each selling season. Chairman Wyndham asked which would be better, either before or after. Mr. Abbott responded that neither one is better than the other.

Major Dave Tafaoa asked to make a Board member comment. Major Tafaoa thanked the Board members for their efforts. He announced that due to his workload on two national boards, he is in the process of resigning, and is waiting on his replacement's appointment. He stated that he will continue to serve on the Board of Pyrotechnic Safety until such time as his replacement has been appointed and can serve. Chairman Wyndham thanked Major Tafaoa for his service and for his experience.

Mr. Hoshall discussed several housekeeping items. Travel reimbursement is authorized by the Practice Act and forms are contained in each Board member manual. Members were asked to return the form indicating whether they were claiming reimbursement or not. All attendees were reminded that if they had not signed in when they arrived, please sign the sheet in the lobby on departure. Members and guests were then invited to visit the Fire Academy Cafeteria for lunch at 11:30 if they were still on Campus. The lunch is \$7.00 and the menu was provided.

Chief Polk then thanked the Board members and the industry for their cooperation and willingness to reach out for information. He stated that if the industry has questions about what the State Fire Marshal is doing these days, he encouraged them to call the State Fire Marshal, not the guy standing on the street corner, because he may not give you the best available information. We are here to help. Chairman Wyndham concurred in that support by being on the same page in trying to make it better.

ADJORNMENT

Motion: To adjourn the meeting of the S.C. Board of Pyrotechnic Safety. Major Tafaoa/Mr. Spencer/Approved.

Whereupon, at approximately 11:02 a.m., the meeting of the S.C. Board of Pyrotechnic Safety was adjourned.