

MINUTES
South Carolina Board of Pyrotechnic Safety
Board Meeting
10:00 a.m., April 3, 2013
Office of the State Fire Marshal
141 Monticello Trail
Columbia, South Carolina

MEETING CALLED TO ORDER

John Armstrong, Chairman, called the meeting to order at 10:02 a.m.

STATEMENT OF PUBLIC NOTICE

Mr. Armstrong announced that all required announcements have been properly stationed in accordance with South Carolina law.

INTRODUCTION OF BOARD MEMBERS AND GUESTS

S.C. Board of Pyrotechnic Safety members present: John B. Armstrong, Larry H. Godfrey, David A. Tafaoa, Rodney L. Wyndham

S. C. Board of Pyrotechnic Safety members absent: Angela Renfrow, Charles Lipscomb, One Seat Vacant. Chairman Armstrong reported that he had received an email indicated that Angela Renfrow was hospitalized in Durham (NC) with cancer and she would be there for some time.

LLR Staff members participating in this meeting: Ray Hoshall, Interim Board Administrator, Shane Ray, State Fire Marshal, and Barbara Foster, Board Administrative Assistant. Sheridan Spoon, Advice Counsel, advised the Board.

Guests present for this meeting included Ed Roper, Office of State Fire Marshal, Mike Daniel, representing Shelton Fireworks, Tom Sudik, Shelton Fireworks, Amanda Wuenscher, Shelton Fireworks, Chris Laundra, TNT Fireworks, Mike Solomon, Fireworks Over America, and Dan Shirley, City of Greenville Fire Department.

APPROVAL OF SEPTEMBER 28, 2012 MEETING MINUTES

Motion: To approve the minutes from the September 28 meeting. Godfrey/Tafaoa/Approved.

APPROVAL OF AGENDA

Motion: To accept the agenda as written. Tafaoa/Wyndham/Approved.

MANAGEMENT REPORT

Shane Ray, S.C. State Fire Marshal thanked the Board members and guests for attending the meeting. He advised that the reason for the meeting was on behalf of the Governor and the Regulatory Review Task Force that was created by her Executive Order. The Executive Order directed agencies to review statutes and regulations with regard to the impact on business. The Order identifies certain items to address to simplify and be more market friendly in a regulatory system. Inasmuch as this Board had created a review committee prior to the Order, Chief Ray thanked the Board for being proactive in its approach. He indicated that the Office of State Fire Marshal is very focused on outcomes and looks for ways to find a balance between the regulator system and life safety. The Office of State Fire Marshal will work with the Board to make sure that the outcome is positive and productive. The Fire Marshal must report our findings to the LLR Director by April 15, 2013.

NEW BUSINESS

Chairman Armstrong called for any new business, specifically concerning the Regulation Committee Recommendations. Mr. Godfrey advised that the committee met about two weeks earlier to review the Governor's Executive Order. He reiterated and expanded on Chief Ray's comment that the committee was really ahead of the Order having met seven or eight months ago reviewing the laws and regulations. He recommended that the Board accept the codes and standards as currently modified. Mr. Wyndham added that there had been three or four years of work put in to getting the current regulations approved. He indicated from the retail side, people now understand what's expected of them (to the credit of the State Fire marshal's Office), the expectations and the codes are now clearer, so people know what to expect, and that retailers have any major issues. The principle concern that he has is the turnover in the State Fire Marshal's Office due to the Fire Marshal being appointed by the Governor. However, he knows that there is nothing that the Board can do about that. Mr. Tafao concurred that the committee discussed many items, but identified nothing that needed to be changed. Mr. Wyndham brought up one item of concern that was discussed concerning the use of exploding targets. Mr. Tafao, a Major in the S.C. Law Enforcement Division, mentioned the concern over exploding targets. He indicated that SLED has responded to quite a few of these with the Bomb Squad. The primary concern is that patrons are purchasing these devices and mixing five or six packages together instead of just one as it is designed, and are putting them into PVC pipes and making pipe bombs. He advised that when these devices are not used following the manufacturer's suggested procedures, it becomes illegal. The problem is being looked at from a legislative standpoint. Mr. Wyndham stated that he did not feel that the issue really has nothing to do with the Pyrotechnic Safety Board. Mr. Godfrey discussed that he likes the idea of the State Fire Marshal's Office handling the inspection of the retail facilities, in lieu of retailers having to work with 60 or 70 individual fire departments. Mr. Wyndham concurred and added that the use of permit stickers was also working well. Not only can local fire and police organizations readily see if a facility is permitted, other retailers can also see, which allows for a lot of self-regulation.

Mr. Spoon thanked the members for holding the meeting, acknowledging that it is hard enough with everyone's schedule to attend a regular meeting, much less than a called meeting. He reiterated the purpose of the Executive Order was to determine if there is anything in the Practice Act, the regulations, and policies that could be changed to reduce the regulatory burden. He emphasized that he would not be performing any type of editorial function on the Board's recommendations. From April 15, 2013 to May 15, 2013, LLR's senior management team will be reviewing the board's submission. Mr. Spoon explained the remainder of the functions of the Order with regard to the various reviews, such as the board's review, the administrators review, and then a review of the public responses. A letter was sent from LLR to the public on March 4, 2013 notifying the public of any scheduled public meetings.

PUBLIC COMMENTS

Chairman Armstrong opened the meeting to comments by the public. Mr. Chris Lundra (TNT Fireworks) spoke to concur with Mr. Wyndham on the streamlining of the permitting process. He mentioned that operators still must deal with their local municipalities, but statewide the new process has been good. He indicated that the new process has forced many of the "fly-by-night" people away so that serious people are trying to follow the rules. Mr. Shirley (City of Greenville) expressed a concern for certain consumer fireworks that are being used indoors, specifically referencing bottle-type sparklers being used in assemblies and night clubs, often known as ice fountains. These fountains are used by party planners for corporations and weddings. They are often used as table decorations on tables. They can be purchased as consumer fireworks. Mr. Lundra responded by saying that there has been a little interest in the sale of sparklers for weddings, but it has been for outdoor use in lieu of rice and confetti. Both

Mr. Laundra (TNT Fireworks) and Mr. Solomon (Fireworks Over America) indicated that their companies do not sell these products. Mr. Laundra is not aware of any wholesalers that handle the product, but that it might be available from mail order or Internet sources. Mr. Shirley questions that even if purchased online, it would still be a retail sale, but would be hard to regulate. Mr. Laundra stated that he thought that the product would be considered a novelty item. As such, it would be a deregulated product. Mr. Hoshall agreed that it should be looked into. Mr. Solomon also added that the product might fall into close proximity permitting. Mr. Hoshall noted that the question that must be answered is whether or not the product is a pyrotechnic device. If it is, there is room in the Practice Act to address it.

Mr. Solomon commented that he is comfortable with the fact that nothing is being changed and that NFPA 1124 will remain as the Board has adopted. Mr. Wyndham reminded the group that there was a “hiccup” on the 250 pound requirement, but that was straightened out. He further indicated that the goal is for people to be in business, but to also be in business in a safe manner. We want a good balance. As Mr. Hoshall has previously stated it is not the goal of the codes to hurt the retailers, but to provide a safe environment to conduct business in a safe manner.

Mr. Godfrey asked the Board about the definition of “illegal” fireworks. If a person is selling fireworks without a permit is that considered illegal fireworks? Mr. Spoon advised that the basic question has to do more with unlicensed practice than illegal fireworks. Sale of fireworks is a regulated activity that requires a permit. If you don’t have a permit, the fireworks themselves may be legal to sell in the state; however, it requires a permit to do so. This is where the person can be issued a Cease and Desist order for unlicensed practice. Mr. Godfrey followed on with a question that could a local fire official cite the seller for illegal fireworks because they are not licensed through the state? Mr. Hoshall replied that this would be a function of the Board, through the State Fire Marshal’s Office. Surely a local could cite a seller, but it may be less problematic if they just contacted the State Fire Marshal’s Office. It could then be handles as a Board action for violation of the Practice Act. Mr. Spoon reiterated that it is mostly a question of unlicensed practice.

Mr. Wyndham attempted to make a motion that the Board accept the regulations as they are, however was interrupted by a question from Mr. Daniel. Mr. Daniel requested a copy of the changes in the regulations and the Administrator had a copy provided to him. The motion was then repeated.

Motion: To continue the regulations as they are. Wyndham/Tafaoa/Approved.

Mr. Hoshall reminded all in attendance that they needed to sign the attendance roster for the record. Also, each Board member had a package before them containing the new 2013 Board Member Reference Manual and an acknowledgement of receipt form to be executed. Lastly, the Travel Reimbursement form was also provided to each member.

ADJOURNMENT

Motion: To adjourn the meeting of the Board of Pyrotechnic Safety. Godfrey/Tafaoa/Approved.

Whereupon, at approximately 10:55 a.m. the meeting of the Board of Pyrotechnic Safety was concluded.