

Minutes
South Carolina Board of Pyrotechnic Safety
Regular Meeting December 4, 2007
Fire Marshal's Office Conference Room

Members Attending: Walker Kirby, Chairman; John Armstrong; Larry Godfrey; Brian Mixon; George Martin, Jr.

Staff Attending: Jerry Wingard, Investigator; John Reich, Deputy Directory/State Fire Marshal; Sharon Dantzler, LLR Legal; Ronnie Yonce, Administrative Assistant

Visitors Attending: Carmen Floyd, City of Columbia Fire Marshal; Jeff Allen, Irmo Fire Dept Fire Marshal; Tom Elliott, SC Fireworks Association

- Chairman Kirby called the meeting to order at approximately 10:20AM. Public Notice of the meeting was properly posted in the SC Board of Pyrotechnic Office, Division of Fire & Life Safety, State Fire Marshal's Office, 141 Monticello Trail, Columbia, SC and was provided to all requesting persons, organizations and news media in compliance with Section 30-4-80 of the SC Freedom of Information Act.
- Approval of Minutes – Larry Godfrey made a motion to approve the minutes of the May 23, 2007 meeting as submitted. The motion was seconded by John Armstrong. Motion unanimously carried.
- Management Report by Jerry Wingard
Jerry informed the Board that the Board is now a member of the American Pyrotechnic Association (APA) under the Fire Safety Category.

Jerry has been participating in NFPA testing in Texas with NFPA 1124. He gave a summary of the training.

Jerry advised the Board that as of this date we have 27 wholesale distributors, 5 jobbers and 5 display storage. Also, there have been 336 display permits issued, 150 pyrotechnician's license issued, and records indicate that there are 237 active retailers (Jerry feels like there are a lot more than this because of faulty data).

Jerry stated that he had some assistance from Sharon on a response to an attorney from Charleston. Charleston County had an ordinance that prohibited fireworks stands from being the only business on a parcel of land – it had to be connected to some other type business. The company asked for a legal ruling and the ruling was in favor of the fireworks company.

- John Reich thanked the Board for their support on consolidation and bringing Jerry from LLR to here. It has been a successful transition. John also advised the Board that Jerry had taken the Fire Marshal training and is now a certified South Carolina State Fire Marshal. Jerry has also been cross trained to assist with the Blasting

investigations. John stated that he was trying to train some of the people on the fire marshal staff to do what Jerry does to assist when needed. Jerry is also doing the magazine inspections.

- Investigator's Report by Jerry Wingard –
In June, 2007, Jerry assisted Spartanburg County Sheriff's Office, Bomb Squad and SLED in a raid on Steven Esclardo's home. He was charged with making and selling fireworks in his home. Mr. Esclardo was arrested, his house was searched and all of the fireworks materials and fireworks were confiscated by Spartanburg County's Bomb Squad. Jerry said that it was his understanding that Mr. Esclardo has since been tried and found guilty.

Jerry said this investigation led to other findings. An Alan Fourier went with Mr. Esposito to Tennessee to purchase fireworks. He had a fireworks location in Greer. Jerry said that along with Spartanburg County's Bomb Squad, they went to Mr. Fourier's location (his home) where they found approximately 50 cases of display fireworks – they were 1.4S, not 1.4G (fireworks), plus there was some mislabeling on the shipping boxes. Jerry said that he advised ATF and turned it over to the Department of Transportation because it crossed state lines. All of the information has been gathered on Mr. Fourier and turned over to legal. This, Jerry said, led to another location in Fort Mill (Great American Fireworks) that was also selling some of these "junk" fireworks. It is an ongoing investigation.

Jerry stated that we had received a couple of complaints regarding fireworks. One was out of Summerville, SC (a Mrs. Bryant). Also several other complaints came in where neighbors are shooting fireworks and the other neighbor thinks they are excessive. Jerry actually went out on one in Dorchester County. No one was charged. The litter was picked up and no charges were filed.

Jerry stated that there had been several situations this year regarding high school football games wanting to do public displays. Jerry said that he understood that there was a rule with the high school league prohibiting fireworks at these sporting events and that there are also regulations that prevent fireworks from being shot within so many feet of a school. This does not mean that they cannot get a proximate audience permit. It means that the fire service would have to approve it, the fire marshal's office would have to approve it and the shooters would have to be licensed. Jerry stated that in two situations they moved off school grounds to private property and shot the fireworks when they found that they could not do them legally on school grounds.

Jerry stated that they also had an incident regarding the 4th of July's display at Carowinds. Problem is that Carowinds is half in South Carolina and half in North Carolina. In the past the problem was that people came in by the thousands and filled up the public parking lots for the fireworks display. Jerry explained they came in tailgating with tents, grills, fireworks, etc creating total chaos. They have had people with broken limbs, disorderly conduct, fires – total chaos. Several of

the hotels opted out on a no fireworks zone and then you had stations that could not have flame within some many feet of their facilities. Jerry met with the sheriff and county attorney to help them work out distances, no fireworks zones etc. in an effort to work out the problem. The object was to have the fireworks display in an orderly manner. Had problem with one property owner that did not want to cooperate and it took a little government intervention to solve the problem.

Tom Elliott stated that he attended the council meeting regarding the above and that all went much smoother and safer this past 4th. Brian Mixon mentioned that York County is one of the hardest counties to obtain a fireworks permit.

Jerry met and had training with the Deputy State Fire Marshals regarding explosives, introducing them to regulatory people from ATF in South Carolina and out of the regional office in Charlotte (Jerry tries to coordinate his display magazine inspections with ATF).

Jerry and John talked about the recent (11/30/07) incident in Manning, SC where there was 1 fatality. Bill Galloway and Jerry went to Manning to investigate. Apparently the fireworks stand was being used as a business office/storage for Christmas tree sales. There were several boxes of fireworks stacked in the corner of the trailer and the person selling the Christmas trees was using a propane heater. The thought at this point is that the propane heater malfunctioned in some way, causing a fire. The person that passed away had 3rd degree burns over 90% of his body. The City of Manning has asked SLED to investigate.

Legislation – Discussion was had regarding using NFPA 1124 in our regulations when regulating fireworks. Jerry distributed copies (to those who wanted it) of a study that was done covering incidents in the past worldwide regarding regulation of fireworks. The Standards Council put out for public comment that they were contemplating the following actions: (1) NFPA 1124 would not cover the retail sales of consumer fireworks (2) delete Chapter 7 of 1124 (chapter 7 is the “meat and potatoes” as far as consumer fireworks. Jerry would like to do a letter from the Board to the Standards Council about how this will affect states selling fireworks. Jerry and Sharon will work on this letter. Sharon suggested the Board to allow us to draft a letter in their name going on record supporting the concept of national consensus standards in this area because of the integral nature of interstate commerce and this industry. Also go on record as saying that it has been our experience that the consensus building model of NFPA has worked well and we would like for them to continue to use their consensus building model. Motion made by Brian Mixon to go forward with this. Motion was seconded by Larry Godfrey. Motion carried unanimously.

Jerry went over some changes proposed changes in the state Statutes:

- 40-56-10: number of board members changed from 6 to 7
- Definitions are pretty much general
- 40-56-35: must be 21 to purchase license and also at line 43, delete the words

“of fireworks”

- 40-56-70: cleaned up a little the responsibility of the board to promulgate procedures relevant to regulations of the sale of pyrotechnics
- 40-56-80: gives us the authority to go in places to inspect any building where there fireworks are stored or sold
- 40-56-15 down to 40-56-180 is pretty consistent and standard with other boards
- 40-56-220: Age to sell fireworks remains at 18, raising the age to 16 to purchase them
- 40-56-250: General liability – terminology of “premises” - Jerry and Sharon will work on this

Jeff Allen (Midlands Fire Marshals) spoke about a couple of issues that he had, but stated the new regulations will address one of them – that the local fire departments have the ability to go in and inspect building where fireworks are stored. The other issue is that in municipalities the annual retail license inspection is through the fire department, but in the counties it is handled through the sheriff’s department, who Jeff says could care less about fireworks. He would like the wording to read “Fire Chief and/or designee is responsible for determining the origin and cause of every fire in his jurisdiction”. Sharon understood, after some discussion, in 40-56-35 that she understood that Jeff’s group wanted a little more specificity regarding authorized agent of the board who could do the inspections.

(return to statute changes)

- Question was brought up about the grandfathering clause of existing clause that allows them to continue operating as they have been. Sharon stated that there was no grandfather clause here (insurance area). The grandfathering issue that was of concern was whether or not you would have to upgrade an existing building. Sharon states that she feels the answer is in NFPA 1124, which has one set of rules for existing buildings and one set of rules for new buildings and they are very different, with the imminent danger provision.

Jerry now moves on to the regulations.

- Under Codes/Standards – this addresses NFPA 1124, 2006 edition
- Permitting – talks about special processing fees. This is there to cover those requests for last minute request for permits, license, etc.
- License – put in a seasonal license (example - month of the 4th or Christmas). Wording was changed from seasonal to temporary.
- General Provisions for Sale – left in such things as tie downs, 15 days for dispute

Sharon Dantzler stated that she is ready to move on the regulations and statutes. Any changes members of the Board would like made or any errors, please advise her so she can clean them up.

Motion made by Brian Mixon to move forward with the statutes and regulations. Mr. Godfrey seconded. Motion unanimously carried.

Sharon stated that when we were at the next step, she would call on the Board to take a final draft to their local legislators and ask for all the help they can give us.

No further business. Motion to adjourn made by Larry Godfrey. Motion carried unanimously.

Meeting adjourned at 12:25 PM.