

MINUTES
SC Board of Pyrotechnic Safety
August 9, 2017, Board Meeting
Kingstree Building, Room 105
110 Centerview Drive, Columbia, SC

Meeting Called to Order

Chairman Rodney Wyndham called the meeting to order at 10:04 a.m. Other members attending the meeting included: Ann Graham, Vice Chairman; Kelly Campsen; Josh Spencer; and Ricky Howell.

Staff members attending the meeting included: Molly Price, Administrator; Meredith Buttler, Program Assistant; Gigi Lewis, Office of General Counsel; Holly Beeson, Office of Communications and Governmental Affairs, Shawn Stickle, Chief Deputy Fire Marshal, Office of Fire and Life Safety; and Nathan Ellis, Assistant State Fire Marshal, Office of Fire and Life Safety.

Others attending the meeting included: Josh Stovall, James Swick, Jason Casey, Clark Famuliner, Paul D. Abbott, Jr., Bruce Pyles, Keith Ramsey, Lacey Steel, Steve Elliott, and Cortney Glover of Creel Court Reporting.

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.

Approval of Excused Absences

All members were present.

Approval of Meeting Minutes

Minutes for the August 8, 2017 Task Force meeting will be presented at the next Board Meeting for approval.

MOTION: To approve the minutes of the April 12, 2017 Board Meeting.
Spencer/Howell/approved.

MOTION: To approve the minutes of the July 31, 2017 Task Force meeting.
Spencer/Graham/approved.

Introduction of Board Members and Others

Board members and Board staff introduced themselves.

Chairman's Remarks

Mr. Wyndham welcomed everyone to the meeting, and hopes for a lot of public input at today's meeting and requests that comments during the public comments portion of the meeting please be limited to three minutes. He noted that the Board currently has two vacancies after the resignation of Mr. Gary Ward. Mr. Wyndham thanked Mr. Ward for his service and will be recognizing with a special plaque. The current open positions are for a Pyrotechnics Wholesaler and Law Enforcement. He recognized Assistant State Fire Marshal, Nathan Ellis and Chief Deputy Fire Marshal, Shawn Sickle and thanked them for attending the meeting today.

Staff Reports

Administrator's Remarks

Ms. Price reported that a total of 663 total Temporary Retail Fireworks permit were issued for the July 4th season. Of those, only 23 applications came in after the cutoff date of June 16, 2017, and were subject to the \$200 special processing fee. The total revenue for the July 4th season was \$70,900.

Ms. Price reported that in all, the July 4th season was a success. Applications were for the most part turned in on time, which allowed staff and inspectors more time to dedicate to assisting first time stand owners. Molly thanked the 15 Deputy State Fire Marshals for their work as inspectors on behalf of the board and also thanked the board staff for working hard to get the applications processed. Molly would like to see the applications go online as that would help both the permit holders and board staff. She is currently working with LLR's IT department to make this happen for future seasons.

Since April 13, 2017, the Board has issued 4 Order's to Cease and Desist for unlicensed practice. The C&D's are posted to the Board website. Molly thanked the industry professionals for being vigilant and reporting unlicensed fireworks activities.

One concern that was identified during the season was that some of the fireworks purchased by the unlicensed individuals were from licensed Wholesalers. Molly would like to try and develop a process to help Wholesales be able to identify the validity of the person buying from them. Until a process can be determined, she encouraged Wholesalers to call the Board if they are unsure as it is the Wholesalers responsibility to sell only to licensed retail facilities. If any member of the public or industry has ideas of how best to help with this process, please contact board staff.

Prior to the July 4th season, notices were sent out to all Temporary Retail permit holders from the 2016 season. On Friday, the Annual Retail permit renewals will be sent out notifying year round facilities that their permits will expire on August 31, 2017. Annual permit holders that operate seasonally will have an application cutoff deadline of December 15, 2017. After the December cutoff date, the \$200 special processing fee will apply. Temporary Retail notifications for the New Year's season will be sent out in October with the December 15, 2017, cutoff date.

Ms. Price also informed that the Board currently has two vacant seats, one for a Wholesaler and the other for Law Enforcement. If interested, please contact the Governor's Office.

The next Board Meeting will be Tuesday, November 1, 2017, in room 204. The 2018 meeting dates are February 14, 2018 in room 105; May 23, 2018, in room 204; August 29, 2018, in room 204; and December 5, 2018, in room 204.

Legislative Update

Holly Beeson provided an update regarding House Bill 3953, which was filed in January 2017. She informed the Board that the legislative session ended in May, but the Bill survived and will have the opportunity to be taken up by a sub-committee during the 2018 legislative session. In December a designated contact person from the Board will need to be assigned to be the Board's legislative liaison.

Unfinished Business

Task Force Report

On April 12, 2017, a Board appointed task force comprised of Joshua Spencer (Board Member), Gerald 'Jerry' Wingard (Public Member), Josh Stovall (Public Member), Molly Price (Board Administrator), Tyler Kritz (Program Assistant), Gigi Lewis (Advice Counsel), and Nathan Ellis (Assistant State Fire Marshal), met to review the inspection checklist for Display Fireworks Magazine Inspection and Fireworks Wholesale/Storage Inspections. The task force met twice on July 31, 2017 and August 8, 2017, and recommended the submitted Fireworks Wholesale/Storage Inspection Checklist and Display Fireworks Magazine Checklist to the Board for approval.

The revised checklists now closely adhere to NFPA standards. Not all items on the checklists will be applicable to all sites, but the Task Force felt that a more comprehensive checklist will help with reinspections and cover any variable between the different types of facilities.

Ms. Price requested the Board discuss the recommended checklist item 7.4.6.3 on the Fireworks Wholesale/Storage Inspection Checklist regarding safe distance and signage requirements regarding the testing of fireworks. Mr. Stovall recommended the Board adopt the retail requirement of 300 feet from the facility for consistency, but sighted that some cases, 300 feet may be excessive. Ms. Lacey Steel with Wild Dragon Fireworks stated that NFPA code states the safe testing distance is 70ft per shell inch. Mr. Wyndham asked the Fire Marshal's if a Wholesalers site plan is already required to identify a testing site. Chief Ellis confirmed that it is and that currently the inspectors have to use their best judgement in determining if the testing site is adequately removed from any hazards or buildings.

After further discussion, Ms. Price made the recommendation to not add 7.4.6.3 wording to the wholesaler inspection checklist, since the site plan question should adequately cover safe distance requirements. The Board can reevaluate the checklist item at a later date if needed. Ms. Lewis reminded the Board and public that these checklists are fluid documents that are being reviewed by the Board to ensure fairness and safety to the industry.

Ms. Price noted to the public that there are items on the checklist that are for new facilities only. Existing facilities will not be held accountable to these items during re-inspections.

MOTION: To accept the recommended checklist by the Task Force and allow for the Board Administrator to make administrative changes as discussed in the meeting.
Spencer/Graham/approved.

Mr. Spencer commended Chief Ellis for his hard work on the checklist and dedication to sticking to NFPA regulations.

New Business

Clarification of SC Code 40-50-80(D): Confiscation of Illegal Fireworks

Ms. Price stated that the issue of confiscation of illegal fireworks came up a few times during the July 4th season. The board was asked to discuss and interpret what “illegal” means in the code section. She would like for the Board to determine if illegal applies to unlicensed individuals selling legal fireworks or if it is meant to cover the confiscation of illegally made fireworks.

Ms. Lewis pointed out that neither the Boards Rules nor Regulations defined “illegal fireworks.”

Mr. Abbott of the Fireworks Association of South Carolina stated that the association and industry was in support of the removal of illegally made fireworks, but raised a concern that local authorities also possessed the right to declare merchandise illegal and confiscate it. They would like to see that ability designated only to trained professionals such as the Fire Marshal’s office.

Mr. Campsen stated that as soon as an individual engages in the act of unlicensed practice by trying to sell fireworks that are made either legally or illegally, then those fireworks become illegal and should be confiscated. Mr. Wyndham disagreed and recommended that the Board take into account that confiscation of fireworks from unlicensed practitioners may be construed as an infringement on an individual’s property rights.

Mr. Wyndham asked Chief Ellis to bring a written proposal for the alternative compliance to the next Board meeting.

BREAK – Mr. Wyndham called for a 5 minute break following the conclusion of the Code discussion.

Regulatory Review Pursuant to Executive Order 2017-19

Advisory Council, Georgia Lewis, informed the board that per Executive Order 2017-19 from the Governor, that all Boards are to review their Regulations and submit a report of the boards intent to repeal, amend or add to the regulations. After thorough review by the Board, the following report has been submitted to the Governor’s Office:

Proposed New Regulations: none

Regulations the Board Intends to Repeal or Withdraw: none

Regulations the Board Intends to Amend:

71-7405.1

71-7405.2

71-7405.3

71-7405.5

71-7405.6

71-7405.7

71-7405.8

Regulations that Appropriately Protect the Public's Interest as Currently Written:

71-7405.4

Executive Session

The Board chose not to enter into Executive Session.

Public Comments

1. Mr. Paul Abbott requested a copy of the citation form once it is finalized. Mr. Price will sent to it to him. Mr. Abbott then inquired about the insurance discussion that was to occur that this meeting but was informed by the Board that it had been tabled for a later date due to the Regulations Review. Mr. Abbott requested that the Board post the meeting agenda preferable a week prior to the meeting. Ms. Lewis informed him that FOIA standard require the meeting agenda be posted 24 hours in advance of the meeting and that while an agenda could be posted a week prior to the meeting there are things that often change at the last minute. Ms. Price assured Mr. Abbott that the staff will make attempts to get the agenda posted sooner.
2. Mr. Abbott inquired in the progress of Board appointees as there has been a Wholesaler who has applied for the position, but not received word back. Mr. Abbott then stated that they are proposing legislation that will expand the current Board to include three additional seats, all of whom are representatives of the industry. As it is as present, the industry is underrepresented on the Board.
3. Mr. Elliot stated that in addition to the expanded Board size, their intent with the legislation was to have inspectors associated with the Board and to remove the Fire Marshal's Office from having a presence on the Board.

Adjournment

There being no further business:

MOTION: To adjourn. Spencer/Howell/approved.

The meeting adjourned at 12:27 p.m.