

MINUTES
SC Board of Pyrotechnic Safety
April 12, 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 10:01 a.m. Other members attending the meeting included: Ann Graham, Vice Chairman; Kelly Campsen; Josh Spencer; Ricky Howell, and Gary Ward.

Staff members attending the meeting included: Molly Price, Administrator; Meredith Buttler, Program Assistant; Gigi Lewis, Office of General Counsel; Darra Coleman, Office of General Counsel, Holly Beeson, Office of Communications and Governmental Affairs, Daniel Gourley, Office of Disciplinary Counsel, 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: Keith Ramsey, Clark Famulina, Chris Laundra, Chad Ashley, Jerry Wingard, Tom Elliott, John Casey, Dan Poart, Josh Stoval, Alex Abbott, Steve Elliott, Bruce Pyles, Johnny Rivers, Josh Ellis, Paul D. Abbott, Jr., and Barbara Howell (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

MOTION: To approve the minutes of the September 13, 2016 meeting.
Graham/Ward/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 welcomed Ricky Howell, who was appointed to replace John B.

Armstrong. He thanked Assistant State Fire Marshal, Nathan Ellis and the rest of the Fire Marshal's office for working hard to smooth out the inspection process. He also thanked Molly Price and her staff for the increase in responsiveness to licensee inquiries.

Staff Reports

Administrator's Remarks

Ms. Price shared with the board licensure and revenue information since August 2016: 358 Temporary Retail licenses were issued for the New Year's Season generating \$35,800 in revenue; 378 Annual Retail licenses were issued generating \$75,600; 3 Jobber licenses generating \$1,500, 32 Wholesaler licenses generating \$40,000; and 34 Display Fireworks Magazine Permits generating \$1,700. Most of the Magazine Permits were part of the 5 included in the Wholesalers licenses. The Board is still work with the agency to provide more accurate financial reporting in light of the Board's transition from the Fire Marshal's management to the Office of Board Services.

Within the next week, notice will be sent out to all Temporary Retail Fireworks permit holders for the upcoming July Fourth season. This year the notice will feature an application cut-off date of June 16, 2017. The cut-off date has been implemented to help manage inspections. In accordance with Regulation 71-7405.3 (B), a \$200 special processing fee will be applied to all applications received after June 16, 2017.

Board staff is still working with IT to get the application process online. LLR's current system is designed to license individuals; however; the Pyrotechnics' board licenses businesses. As such, LLR is have to rebuild the system to accommodate the applications.

Starting in 2017, the Board will enforce the \$75 per hour re-inspection fee. Board staff has been working closely with the Fire Marshal's Office to streamline the application and inspection process. At present, Board staff reviews and processes the submitted applications, then Administrator Molly Price puts them in the system and kicks them out for inspection to the corresponding board inspectors. This system allows board staff to give accurate updates to licensees as to their application and inspection status. Mrs. Price thanked the 11 board inspectors for their efforts during a very busy New Year's season.

Ms. Price and staff will be contacting large companies in the fireworks industry to encourage them to submit Annual Retail Fireworks applications prior to August 31st. By applying prior to December, it will help board inspectors conduct inspections on the temporary permits for New Year's season quicker.

The Pyrotechnic Board newsletter is in the works and expected to be released on the Board's website around the second week of May. Ms. Price encouraged the Board members and general public to let staff know if there is any information they would like to see in the newsletter.

Ms. Price also informed that the Board currently has a vacant seat for a Wholesaler. If interested, please contact the Governor's Office.

Legislative Update

Holly Beeson provided an update regarding House Bill 3953, which was filed in January 2017. She informed the Board that the Bill has been referred to the House, but has not been assigned to a sub-committee. The Bill will probably not be heard this year, but will continue to be active through the 2018 session.

Office of Advice Counsel Board Presentation

Darra Coleman thanked the Board for having her and handed out materials for her presentation on behalf of the Office of Advice Counsel. The Presentation included various topics including: the LLR complaint process, the investigative process, the disciplinary process, the Board's purpose, the duties of the Board, and the role of advice counsel,

Ms. Coleman concluded her presentation with take home resource materials for the Board members.

In light of Ms. Coleman's presentation, Ms. Lewis reminded the Board to be mindful when they are approached by members of the general public and to direct questions relating to the Board to the Board staff.

BREAK – Mr. Wyndham called for a 5 minute break following the conclusion of the Staff Reports.

Unfinished Business

Task Force Report

On February 21, 2017, a Board appointed task force comprised of Kelley Campsen (Board Member), Michael Hughes (Public Member), Molly Price (Board Administrator), Gigi Lewis (Advice Counsel), and Nathan Ellis (Assistant State Fire Marshal), met to discuss the proposed citation form, administrative penalties, and the administrative process. The task force made the following recommendation to the Board:

- The Board approve the proposed Citation Form
- The Board approve the following administrative process for issuing citations and penalties:

After initial licensure inspection, Administrator Molly Price and an appointed board member will review Inspection Orders submitted from the board inspectors. They will determine which facilities should be rechecked at the conclusion of the 30 day correction period and send requests for re inspection back to the inspectors. Facilities of major concern will be those with repeat violations and numerous violations determined to be hazardous to public safety. At that point, facilities deemed to have conditions hazardous to the public safety or violations of the South Carolina Board of Pyrotechnic Safety statutes or regulations will be issued citations in accordance with SECTION 40-56-250.

- The Board approve a first offense administrative penalty of \$500 per violation. (SECTION 40-56-250(C))
- The Board needs to address the "30 day" violations correction period as it pertains to fireworks stands. Since the stands are typically not in place 30 days after the initial

inspection, should certain stands not be permitted to open if they are not meeting a certain standard of public safety?

Use of the new citation form and process would begin with the 2017 Fourth of July season. Per Board statute, the Board can fine up to \$2500 per violation; however, the task force has recommended \$500 per violation. Mr. Campsen and Ms. Price stated that the citation process is intended to target the roughly 5% of permit holders who have repeat violations and numerous violations. Ms. Lewis stated that the citation form contains standard citation language used by many boards, and outlines the process for which a permit holder/ licensee can appeal the citation and bring their case before the Board. If a permit holder/licensee fails to appeal the citation within 15 days, they are responsible for payment. If an appeal is filed, a hearing before the Board will take place and Mr. Gourley of the Office of Disciplinary Counsel will be present at the hearing to represent the State. Ms. Price stated that the Board is aware that some violations may take more than 30 days to correct and that staff is more than willing to work with licensees in certain instances.

The task force also made the recommendation that stands not meeting a certain standard of public safety not be permitted to open, since most stands will not be available for re inspection at the conclusion of the "30 day" violation correction period.

MOTION: To accept the recommendations of the task force to include the Board approving the proposed citation form, the Board approve the administration process for administering citations and penalties set out by the task force, and that the Board approve the \$500 per violation penalty pursuant to SC Code 40-56-250(C).
Spencer/Graham/approved.

Ms. Price requested an additional motion be made to approve a Board member to work with Board staff on the citation review process. Mr. Campsen volunteered for the position.

MOTION: To approve Mr. Campsen as the Board member assigned to assist in review of citations as outlined in task force recommendations. Spencer/Howell/approved.

Wholesaler Distributors and Jobbers Inspection Process and Checklist Task Force

Ms. Price requested a task force be created to make recommendations to the board regarding the inspection checklists for Wholesale Distributors, Jobbers and Display Fireworks Magazine permits. A checklist was approved by the Board during the last meeting and has been applied to all new wholesaler inspections. However, before inspections of existing wholesalers resume in August 2018, it would be helpful to review this checklist thoroughly as the Board did with the retail checklists.

Mr. Wyndham called for volunteers for the task force. Volunteers include: Nathan Ellis, Assistant State Fire Marshal; Molly Price, Board Administrator; Georgia Lewis, Advice Counsel; Gerald 'Jerry' Wingard, American Fireworks Standards Laboratory; Joshua Stovall, Jakes Fireworks; and Josh Spencer, Board member.

MOTION: To approve a task force committee comprised of Chief Ellis, Mr. Price, Mr. Wingard, Mr. Stovall and Mr. Spencer for the revision of inspection checklists for

Wholesalers, Jobbers and Display Magazine permits.
Graham/Campsen/approved.

Clarification of NFPA 1124 7.4.5.3

Mr. Wyndham and Ms. Price brought before the Board the need to clarify and edit NFPA 1124 7.4.5.3 regarding square footage requirements. During the previous Board meeting, the Board approved the use of a bull horn as the public address system for existing buildings over 3,000 square feet. Already in the code is the requirement that all buildings over 7,500 square feet contain a sprinkler system and audible alarm system. Mr. Ellis requested clarification to include that the use of the bull horn as the public address system only apply to existing facilities between 3,000 and 7,499 square feet.

MOTION: That the Public Notification System requirements relating to the acceptability of the bull horn as it was approved by the Board in September of 2016, be clarified to indicate that the requirement only apply to existing buildings between 3,000 and 7,499 square feet and buildings above 7,500 square feet that it would not be sufficient.. Spencer/Ward/approved.

New Business

Potential Alternative to NFPA 1124 7.3.14.4.2 and 7.3.14.4.3.

Mr. Ellis shared that many CFRS facilities with storefront doors have sliding glass doors with no panic hardware. The Code requires all egress doors be side-hinged swinging doors with panic hardware complying with NFPA 1124. Mr. Ellis proposes that the alternate compliance for 7.3.14.4 include businesses be allowed to have doors not meeting the side-hinged with the panic hardware requirement as long as the business contains a minimum of two code compliant egress doors within 75 feet. The alternate compliance would only be applicable to existing facilities. All new facilities would have to full comply with code.

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

Executive Session

The Board chose not to enter into Executive Session.

Election of Officers

Ms. Price notified the Board that it was time for Board Officer elections for the Chairman and Vice-Chairman positions. Ms. Price opened the floor for nominations for Board Chair. Mr. Spencer nominated Mr. Wyndham to serve as Board Chair, Mr. Wyndham accepted. No other nomination were made.

MOTION: To approve Mr. Wyndham as Board Chair. Spencer/Camp/approved.

Mr. Wyndham accepted the position and thanked the Board. Mr. Wyndham then notified the Board that the current Vice-Chairman is Ms. Ann Graham. Mr. Spencer nominated Ms. Graham as Vice-Chairman, Ms. Graham accepted the nomination. No other nominations were made.

MOTION: To approve Ms. Graham as Board Vice-Chair. Spencer/Ward/approved.

Public Comments

1. Steve Elliott asked the Board for clarification regarding the Board being listed as an additional insurer on the insurance policy. The Board clarified that the Board is to be listed as the certificate holder and must be notified if the insurance is cancelled. If the insurance is cancelled, permit is voided. Mr. Wyndham informed the public that during the next Board meeting, the Board will be reviewing and discussing the insurance requirements.
2. Mr. Elliott also encouraged the Board to be fair regarding the Recusal process as he feels every Board member could find reason for recusal. He urged Board members to ask themselves if they could be fair and impartial if they know the accused.
3. Tom Elliott addressed the Board regarding his feeling of the Board valuing public safety over the fireworks industry. He stressed the desire for the Board support of the current Bill regarding changes to Fire Marshal's involvement with the Board. He urged the Board that they needed to take back control and save fireworks. Mr. Wyndham stated it was the goal of the Board to allow all stakeholders to have input in order for the Fireworks industry in South Carolina to move forward.
4. Paul Abbott brought before the Board that despite having no violations during his last inspection, his store is still labeled as high-hazard on the inspection report and asked if this would be changing. Ms. Price stated that the "high-hazard" wording has been removed from the inspection report and will now just say "BPS" in that designated area.
5. Mr. Abbott brought up the idea of the Board moving to having Wholesalers be inspected every two year in order to help alleviate the demand on the inspectors. The Board has the ability to make suggestions for legislative changes and Mr. Wyndham suggested sending something in writing to the Board in order to get that processes started.
6. Johnny Rivers asked for specificity on the June 16, 2017, deadline. Ms. Price stated that the June 16, 2017, deadline only applied to temporary permit holders applying for the Fourth of July Season and not annual permit holders.

Adjournment

There being no further business:

MOTION: To adjourn. Spencer/Ward/approved.

The meeting adjourned at 12:50 p.m.