

MINUTES
SC Board of Pyrotechnic Safety
September 13, 2016, Board Meeting
Kingstree Building, Room 204
110 Centerview Drive, Columbia, SC

Meeting Called to Order

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

Staff members attending the meeting included: Molly Price, Administrator; Tyler Kritz, Program Assistant; Sherri Moorer, Program Assistant; Meredith Buttler, Program Assistant; Gigi Lewis, Office of General Counsel; Ray Hoshall, Chief of Licensing and Permitting, Office of Fire and Life Safety; and Nathan Ellis, Assistant State Fire Marshal, Office of Fire and Life Safety.

Others attending the meeting included: Jerry Wingard, Conner Bracey, Keith Ramsey, Chuck Ashley, Josh Lawson, John Casey, Paul Abbott, Jr., Alex Abbott, Shannon Phillips, Steven Elliott, John Figert, Chris Laundra, Bruce Pyles, Tom Elliot, and Barbara Ham (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 Agenda

MOTION: To approve the agenda for the September 13, 2016, meeting.
Spencer/Campsen/approved.

Approval of Meeting Minutes

MOTION: To approve the minutes of the April 25, 2016, meeting.
Spencer/Campsen/approved.

Chairman's Remarks

Mr. Wyndham welcomed everyone to the meeting, and hopes for a lot of public input at today's meeting. He welcomed Gary Ward, who was appointed to replace David Tafaoa.

Administrator's Remarks

Mrs. Price introduced Sherri Moorer, Meredith Buttler, and Tyler Kritz, who serve as program assistants for their work group. The Board had a good year, with 682 temporary licenses issued for the Fourth of July season. All applicants that met the initial application requirements were approved for a permit. Mrs. Price thanked the Fire Marshal's Office for their work with performing approximately 750 inspections in a 10 day period for the Fourth of July season. So far there have been 206 annual retail permits issued for 2017. The Board has received 23 applications for Wholesalers, and is waiting on 10 more. Staff is still working to get an online application permitting process online by the next Fourth of July season. This will increase security and streamline the permitting process.

Mrs. Lewis encouraged public members to contact staff with questions. She cannot give legal advice to the public, but staff is capable of answering licensing and inspection questions. Contact information is available on the Board website, or they can ask for it after the meeting.

Executive Session

MOTION: To enter executive session, with staff remaining, for legal advice for the new Board member. Spencer/Graham/approved.

MOTION: To return to public session. Spencer/Graham/approved.

Mr. Wyndham stated that no votes were taken during executive session.

New Business

- 1. Discussion of Citation Form, Administrative Penalties, and the Disciplinary Process.** Mrs. Price said the current forms state that a citation will be issued for violations not corrected within 30 days of the inspection. Staff have drafted a form for these citations, which will also address administrative penalties. Mr. Wyndham said a full appeal is more like a trial, and can come from two issues: arguing to fix the violation, or testifying that the violation was corrected, and requesting a fine reduction. The statute calls for uncorrected violations to be issued a citation, and a form with an administrative penalty triggers full due process rights for alleged violations. The checklist needs to be refined before specifying citations, which will be an ongoing process at each meeting. Mrs. Lewis said the Board can set up parameters with staff for first offences, second offences, etc. Mrs. Price requested a task force to review the form and propose a process for citations. Chief Ellis warned against low fines, because people may elect to pay the fine and not correct the violation.

MOTION: To form a task force consisting of one Board member, one public member, a staff member, legal counsel, and the fire marshal representative to recommend the citation form and any administrative penalties to the Board at the next meeting. Spencer/Campsen/approved.

The task force consists of: Kelley Campsen (Board member), Michael Hughes (public member), Molly Price (staff member), Gigi Lewis (legal counsel), and Nathan Ellis (Deputy State Fire Marshal).

2. **Pyrotechnic Inspections – Approval of Timeframe and Method for Applicants to Notify Board Staff of Removal or Correction of Violations.** Mrs. Price would like to add language to the end of the inspection order notifying the public of where to submit information on corrected violations. This is not addressed on the current form, and it will allow staff to document updates as part of the inspection report.

MOTION: For staff to modify the inspection order to add language on corrected violations and time frames. Spencer/Campsen/approved.

3. **Pyrotechnic Inspections – Review and Approval of Wholesale/Jobber Inspection and Fireworks Magazine Checklist.** Mrs. Price said that previously, wholesalers/jobbers and magazines were inspected upon initial licensure, but the statute calls for annual inspections. The checklists for these inspections haven't changed from previous years. Mr. Wyndham said these checklists would currently apply to new wholesalers/jobbers, but would not be applicable to existing wholesalers/jobbers until August 2017.

MOTION: To approve the checklist for the wholesale/jobber inspections and fireworks magazines. Graham/Spencer/approved.

4. **Review and Interpretation of NFPA 1124 – (7.3.6) Automatic Sprinkler Systems.** Mrs. Price said that many existing facilities do not have sprinkler systems, and this is being noted on the inspection reports. Chief Ellis said the requirement for a sprinkler system depends on the total size of the building, and not the occupied area. He and Mr. Wyndham discussed the square footage and poundage for identification of CFRS versus a store, and noted that occupancy is determined by the local officials. Mrs. Phillips believes the Board interpretation of CFRS sales area should only be the portion used for retail sales of fireworks. Mr. Spencer said there has been a lot of discussion in previous meetings on grandfathering older buildings, and that adopting the definition of NCPA 3.3.3 and applying it to Chapter 7 would clear up existing issues for the Board.

MOTION: To enter executive session, with staff remaining. Spencer/Ward/approved.

MOTION: To return to public session. Spencer/Graham/approved.

Mr. Wyndham stated that no votes were taken during executive session.

Mr. Spencer said the Fire Marshal's previous letters would not enforce the sprinkler system requirements, and that it is fundamentally unfair to require licensees to install systems that were not previously required.

MOTION: That it be the written policy of this Board that any structure built prior to 2006 larger than 7,500 square feet based on 7.3.6.2 is deemed as not needing a sprinkler system with reference to 7.3.4, if a reasonable degree of safety is provided in that the remainder of the code is followed. Spencer/Ward/approved.

5. **Review and Interpretation of NFPA 1124 – (7.3.14.1.1) Exit Doors for New and Existing Buildings (Review of March 16, 2016, letter from the Office of the State Fire Marshal).** Mrs. Price said there have been some issues and feedback related to the issue of exit doors. Chief Ellis said the checklist has a requirement for a third exit door, and they have been told to go strictly by the list. However, two doors will suffice for smaller spaces if they are within a safe exit distance.

MOTION: That the Board accept the Fire Marshal's Letter of March 16, 2016, as our position as it relates to the third door and to modify the checklist accordingly. Spencer/Ward/approved.

MOTION: To modify the checklist consistent in regards to 7.3.6.2. Spencer/Ward/approved.

6. **Review and Interpretation of NFPA 1124 – Square Footage Requirements for Stands Inspections.** Mrs. Price said the adoption of the Fire Marshal's letter of March 16, 2015, covers this issue.

7. **Review and Interpretation of NFPA 1124 – (7.4.5.3) Public Notification.** Chief Ellis said that facilities over 3,000 square feet are required to have a public address system or a manual alarm system, however, a public address system isn't defined. Chief Ellis believes that a battery operated bullhorn would serve as a sufficient notification system in small facilities. Mr. Wyndham said that he would like for all facilities to move to an alarm system with strobe lights.

MOTION: That the Board adopt that bullhorns that are sufficient enough to be heard throughout the facility to be an acceptable means of meeting the public notification system requirements of 7.4.5.3. Spencer/Campsen/approved.

8. **Temporary Fireworks Facilities Under Electric Lines.** Mr. Spencer said it was brought to his attention that a stand was set up under a 44,000 volt system. There is nothing in the NFPA or any code that prohibits this, however, that is an extreme safety problem. He advises the Board and members of the public that this is not a good idea to put facilities under electric lines, and reminds them to observe the electric utility right of way in setting up seasonal stands.

The Board recessed from 1 p.m. – 1:13 p.m.

2015 Inspection Dispute Appearances

1. **Abbott Fruit Markets/Red Star Fireworks (6 locations).** Shannon Phillips represented Abbott Fruit Markets and Red Star Fireworks in the dispute. Violation corrections have been made as a result of these inspections. Mrs. Lewis requested that the client document these changes and submit them to staff for addition to his file. The matter was recorded by a court reporter in order to produce a verbatim transcript, if necessary.
2. **C&A Pyro dba Circus Fireworks.** Shannon Phillips represented Circus Fireworks in the dispute. She asked for clarification on compliance of packaged versus unpackaged fireworks. Violation corrections have been made as a result of these inspections. Mrs. Lewis requested that the client document these changes and submit them to staff for addition to his file. The matter was recorded by a court reporter in order to produce a verbatim transcript, if necessary.
3. **Dickerson's, Newport Fireworks, and Lake Wylie Fireworks.** The Board did not review the dispute because a representative for Dickerson's, Newport Fireworks, and Lake Wylie Fireworks did not appear for the dispute appearance.

Public Comments

1. Jerry Wingard said that four or five fireworks devices are recalled every year, and suggested that the Board post these recalls on their website. Mrs. Price said this is information appropriate for a newsletter, and requested that applicants provide an email address so it can be distributed efficiently.
2. Steve Elliott asked how the Board memorializes the interpretations and decisions made at meetings. Mrs. Phillips suggested that the Board post guidance documents on the website. Mrs. Price said the meeting minutes are posted on the Board website once approved by the Board. Mrs. Lewis said a verbatim transcript is also available for purchase.
3. John Figert stated that the fire inspectors may be "double dipping" by performing inspections based on both NFPA and the International Building Codes, and suggested that these inspections be done separately. Mrs. Lewis said that Chief Polk and Chairman Wyndham met and decided that the inspectors at the Office of State Fire Marshal's Office are the most qualified individuals at the agency's disposal to do inspections for the Board.
4. Paul Abbott asked about the difference between doors and exits. Chief Ellis said the code requires multiple exits, and that two doors swinging complimentary together count as one door.
5. Chris Laundra said novelties are mixed up with fireworks during inspections. He asked for clarification because space is valuable in a stand.

6. Tom Elliott proposed fewer and shorter executive sessions.
7. Conner Bracy asked about entrance doors. He has automatic doors in every store. They used to have thumb latches, but have been changed to a key lock. He wants staff to be able to secure themselves in the store after business hours. Mr. Wyndham requested an agenda item for the next meeting.

Adjournment

There being no further business:

MOTION: To adjourn. Spencer/Graham/approved.

The meeting adjourned at 2:08 p.m.