

**STATE OF NEVADA
NEVADA STATE BOARD OF FIRE SERVICES**

March 27, 2015

9:00 am

Carson City

Videoconference to: Elko & Las Vegas

MINUTES OF MEETING

Board of Fire Services

Members

Present:

Domingo Cambeiro – Principal, DCC Architects, Las Vegas, Nevada
Timothy DeHaven – Battalion Chief, Carson City Fire Department
David Fogerson – Deputy Chief, East Fork Fire & Paramedic District
Chair Eric Guevin – Fire Marshal, Tahoe Douglas Fire Protection District
JoAnne Hill – Board Member
Peter Mulvihill – Chief, Nevada State Fire Marshal Division
Elaine Pace – Chief of a Volunteer Fire Department, East Fork Fire & Paramedic District
Bob Roper – State Forester, Carson City Fire Department
Thomas Tarulli – Deputy Chief, Carson City Fire Department

Also Present:

Carson City-

Nathan Hastings – Deputy Attorney General, Attorney General's Office
Denesa Johnston – Administrative Assistant, Nevada State Fire Marshal Division
Doug Sartain – President, Certified Fire Protection
Jeff Donahue – Reno Fire Marshal
Todd Stroup – Fire Inspector, Tahoe Douglas Fire Protection District
Brenda Ashworth – Representative, Controlled Burn
Dennis Pinkerton – State Fire Marshal Division
Amy Ray – Fire Marshal, Truckee Meadows Fire Protection District
Susan Riolo – Licensing, State Fire Marshal Division
Mike Dzyak – Investigation, State Fire Marshal Division

Las Vegas-

Steven Jersik – A1 National Fire
Ken Young – A1 National Fire
Lynn Nielson – City of Henderson
Ryan Wilkins – Fire Pro
Mike Holseth – American Fire & Electric
Lee Marx – American Fire & Electric
Bill Lovett – AAA Fire Protection
Terry Wilfred – Division Chief, Henderson Fire Department
Monica Day – Training Division, Henderson Fire Department
Gary Suan – Training Chief, Las Vegas Fire & Rescue
Michael Kolpak-DPS Officer II, Nevada State Fire Marshal Division

Elko-

John Boykins –DPS Officer II, Nevada State Fire Marshal Division

- I. Call to Order/Introductions of the Nevada State Board of Fire Services Members in Attendance –**
Fire Marshal Chair Guevin called to order the Public Hearing of the Board of Fire Services. Roll was called for the Board of Fire Services, and a quorum was confirmed.

Non-action Item

Chief Mulvihill introduced Bob Roper, the new State Forester and standing member of this Board, and the attendees introduced themselves to Mr. Roper. Technical problems at the Elko remote location were addressed, the meeting continued following resolution of the problems.

- II. Public Comment** – No action may be taken on matters raised in the context with this agenda item prior to inclusion of that matter itself as an action item on a future agenda. Public comments are limited to three minutes and comments will not be restricted based on viewpoint.

There was no public comment

- III. Approval of July 9, 2014, and October 23, 2014, Minutes**

Discussion/Possible Action

Chair Guevin noted that there is no need for approval of minutes from July 9, 2014, since that was not a board meeting. David Fogerson and Mr. Roper abstained due to absence at said meeting.

Elaine Pace moved to approve the October 23, 2014 meeting minutes. Tom Tarulli seconded the motion. The motion carried.

- IV. Adoption of Amendments to Chapter 477 of the Nevada Administrative Code, LCB File No. R124-13**
Discussion/Possible Action

Chair Guevin introduced Chief Mulvihill to present the action item.

Chief Mulvihill explained that this regulation addresses administrative citations and fines for violations of Chapter 477 of NRS and any regulations of the State Fire Marshal contained in Nevada Administrative Code Chapter 477. Currently, the State Fire Marshal Division has only three administrative courses of action against the contractor or certificate holder: issuance of a letter of caution; suspension; or license revocation. The legislature proposed a middle ground.

The process outlined in Sections 5 through 23 are similar to the process used by both the State Contractors Board and the Department of Motor Vehicles and ensures that both the State Fire Marshal Division and the State Board of Fire Services adheres to a procedure that provides due process to all involved.

Sections 24 through 30 outline the procedures for the issuance of administrative citations and orders for corrective actions. These sections also outline the administrative fines for violations of certain provisions of Chapter 477 of NRS and Chapter 477 of NAC. The disciplinary options of the State Fire Marshal and State Board of Fire Services would be expanded to include the following options: issuance of a warning; issuance of an order to take corrective action; imposition of an administrative fine; suspension or revocation of a license or certificate; or a combination of these items.

The proposed fine schedule contains the amounts as discussed and approved by the Board in the public workshop held on June 3, 2014. Fines collected, if any, would go to the general fund, as State Fire Marshal Division does not want to operate as an agency reliant on fines as a significant revenue source. Chief Mulvihill presented other proposed revisions related to judicial review, hearing procedures and documentation requirements.

Chief Mulvihill read into the record the Small Business Impact Statement that was included in the packet accompanying the 30-day notice for this hearing. He asked that anybody testifying today who qualifies as a small business please state that for the record.

Doug Sartain asked for clarification of whether small business referred to a certification or number of employees. Chief Mulvihill explained that in this instance, a small business is defined as having 150 or fewer employees.

Chair Guevin explained that the main differences involve imposition of fines versus fees, and this change was statutorily directed.

Chief Mulvihill explained procedural requirements and acknowledged two written comments that will be read into the record after verbal testimony.

Mr. Sartain stated he represents Certified Fire Protection, a small business; Countywide Fire Service, a small business; and Allstate Fire, a small business. He asked whether proposed fines would be at the discretion of State Board of Fire Services and State Fire Marshal or both. Chief Mulvihill explained the current hearing process and stated that the addition of fines under this proposal would simply give another available option to the hearing officer and/or through judicial review. Mr. Sartain asked for clarification of how the fines are assessed and provided a hypothetical question. Chief Mulvihill answered that he personally is not in favor of "dog-piling" violations, and each would be considered on a case-by-case basis. He reiterated that the administrative process is only an additional option, but it need not be considered before criminal citation for egregious conduct. Mr. Sartain presented written support for the proposed changes from County Fire Services and from Allstate Fire, as well as verbal support for the proposed changes from Certified Fire Services. Chair Guevin asked if there were any recommended changes. Mr. Sartain replied he had none.

Lee Marx asked whether this discussion should be reflected in the record to avoid potential problems that could arise with the ascension of a new Fire Marshal. Chair Guevin pointed out that the regulations are not the sole purview of the Fire Marshal but also the State Board of Fire Services through the appeals process. Chief Mulvihill agreed that an overly harsh or unreasonable State Fire Marshal would be tempered by the oversight of the State Board of Fire Services, the district court or the Department of Public Safety. Mr. Marx reiterated that he would like more clarification of the process of determining a single versus multiple violations. Chief Mulvihill confirmed with the Board that under the statutory authority, imposition of fine is not mandatory, but the amounts specific with regard to the offense must come from the tables in the proposed regulation. Mr. Marx said he recalled from the July meeting that the amounts reflected the maximum level, with discretion to impose a lower amount. Chief Mulvihill clarified that is not the case, and the record should reflect such. He said that in his experience, excessive fines would simply not be levied. Past cases have focused on corrective orders to make certain contractors are appropriately servicing their customers. The actual fine amounts are set by the Board in regulation.

Dom Cambiero asked about specific language in Section 26, Paragraph 2a, setting a fine amount. Chair Guevin stated there are three tiers of the process: corrective orders; administrative fines; and criminal prosecution. Chief Mulvihill clarified that the criminal process is separate from the administrative process, and the three administrative tiers are: corrective orders; administrative fines; and license suspension and/or revocation. He pointed out that the hearing officer responsible for determining penalties is independent of the State Fire Marshal. Additionally, if the Fire Marshal is involved in the investigation, he is precluded from serving as the hearing officer. Chief Mulvihill stated that the documents do set forth the hearing process, and all administrative hearings are conducted under NRS 233(B), which provides more detail.

Mr. Marx said he is not opposed to the process, but he is opposed to the fine amounts set for a first offense. Mr. Cambiero pointed out that there is a citation and a right of remedy, and fines are imposed if that fails after a specified time. Chief Mulvihill clarified that these fines are not analogous to traffic tickets. Fines can only be levied by an administrative hearing officer and confirmed by the SFM or in a process that is appealed to the Board. Nathan Hastings pointed out that each comment suggesting change to the regulation needs to be addressed by the Board in order to comply with the administrative regulation adoption statute. Chief Mulvihill added that the Board can make adjustments to this process in the future, if necessary.

Dave Fogerson suggested that due to the extensive discussion on the regulations at the June meeting and Chief Mulvihill's explanation at this meeting, no action be taken on these requested changes.

Mr. Cambeiro asked if it was clear that all citations carry an administrative fine, or could there be a citation without an administrative fine. Chief Mulvihill stated that a citation does not automatically trigger a fine but could result in a corrective action plan, a probationary status period. A fine is just one potential result.

Dave Fogerson moved that no action be taken on the requested changes. Elaine Pace seconded the motion. The motion carried.

Lynn Nielson stated that the City of Henderson has reviewed and fully supports the amendments.

Ken Young asked for clarification regarding Page 10, NAC 477.470 of the proposed draft, as he has experienced a lot of noncompliance with this section, specifically with Item 6. Chief Mulvihill responded that these issues are examined on a case-by-case basis, but past experience has been to determine whether the infraction is the result of a systemic problem within a company or an issue with an individual employee. Mr. Young asked for clarification on what is and what is not considered an impairment. Chief Mulvihill responded that an impairment means an issue with a system that is either non-functional or has substantially degraded effectiveness. This is defined in the NFPA standards. Mr. Young asked for clarification on the difference between a technician and a company as it relates to reporting responsibility. Chief Guevin confirmed that it is the company's responsibility to report impairment, but a technician has a responsibility to report an impairment to the company. Mr. Young noted some items that were left out of the current amendments. Chief Mulvihill said that these will be included in the next code update and invited Mr. Young to participate in the process.

Chief Mulvihill read into the record the following written comments: a letter from Countrywide Fire Services dated March 26, 2015; a letter from Allstate Fire Equipment dated March 27, 2015; an email from American Fire Equipment Sales and Service Corporation dated March 16, 2015; and an email from American Fire dated March 16, 2015. Chair Guevin responded to the email from American Equipment Sales and Service Corporation and said that he believes the concerns contained therein have been addressed.

Dave Fogerson moved to accept the written comments but make no change to the proposed regulations. Elaine Pace seconded the motion. The motion carried.

Chief Mulvihill explained that attendees may contact Denesa Johnston in order to obtain a copy of the regulations when finally adopted. An information statement will be prepared and submitted to LCB for filing of the regulation upon approval, which will be posted on the website of the LCB and SFM.

Chair Guevin moved to adopt the amendments to Chapter 477 of the Nevada Administrative Code, LCB File No. R124-13, as revised by LC Staff on October 16, 2014. Domingo Cambeiro seconded the motion. The motion carried.

V. Discussion of the Nevada Department of Motor Vehicles Requirements, Process and Procedures for the "F" Endorsement on Driver's Licenses to Operate Fire Apparatus.

Discussion/Possible Action

Chief Mulvihill stated that this agenda item was requested by Mike Heidemann of the Nevada State Firefighters Association, who was unable to attend the meeting and provided Mr. Heidemann's written updates. He has had positive feedback regarding changes to the "F" endorsement for firefighters from the DMV. An impact statement has been completed, and public hearings will be held after July 1. Mr. Heidemann had heard concerns from local fire chiefs that the credentialing process lacked a standardized or approved training course. Chief Mulvihill noted that the state fire training program does have professional qualification certification standards, as approved by this Board, for an apparatus operator. Mr. Cambeiro asked for clarification. Chair Guevin explained that although individual departments can set their own requirements to drive emergency vehicles, this would clarify the statewide minimum standard set by the DMV through an "F" endorsement. Currently, there is a written and practical test requirement, but rural areas have had difficulty with the practical testing because of differences of interpretation by the

Department of Motor Vehicles. Mr. Heidemann has been working with the Department of Motor Vehicles to resolve the issue. There was an additional concern regarding the "A" and "B" endorsements, having to do with things such as air brakes and weight of vehicles. Mr. Fogerson added that the Department of Motor Vehicles has a very specific process for driver's licenses. Licensing is important for the safety of the firefighters and the community, and he suggested that the solution is not to change the regulations but to find a way for the State Fire Marshal Training Section to work with the Department of Motor Vehicles to provide the certification training. Mr. Cambeiro asked if different classifications exist within the "F" endorsement. Chair Guevin explained the testing by the Department of Motor Vehicles can be set by the agency or by statute. The proposal is set for a hearing after July 1 to discuss the best solutions. Chief Mulvihill suggested that this can be added to the agenda at the June meeting.

Chair Guevin said that this item will be continued to the next meeting.

VI. Public Comment

Chief Mulvihill stated that the next meeting is during the NSFA Conference in Virginia City, on June 26, 2015, at 10:00 a.m., at the Virginia City High School. Attendance and quorum confirmation will be coordinated by Ms. Johnston in late May. Board members from southern Nevada will be provided air travel arrangements.

VII. Adjournment

Discussion/Possible Action

Tom Tarulli moved that the meeting be adjourned. The motion was seconded by Elaine Pace. Motion carried.



111 North First Street, Suite 201

Burbank, CA 91502

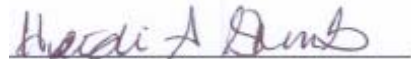
CERTIFICATION

The signature below certifies that the proceedings and evidence transcribed are true and accurate summary minutes created to the best of our ability from the digital media and/or recording provided from the proceedings of the below referenced matter for the Nevada State Fire Marshal Division, Department of Public Safety

NAME OF MEETING: Nevada State Board of Fire Services Meeting

DATE OF MEETING - 03-27-2015

LOCATION - Reno-Sparks Convention Center
4590 South Virginia Street, Room A-12
Reno, NV 89502



Heidi Stumb
Teleperformance Rapidtext
04-15-2015