

COLORADO SPRINGS, COLORADO
FIRE BOARD OF APPEALS MEETING MINUTES
PIKES PEAK REGIONAL BUILDING DEPARTMENT
2880 INTERNATIONAL CIRCLE
AUGUST 12, 2016 – 8:30AM to 10:00AM

Present Fire Board Members & Fire Board Secretary:

Vince Colarelli	Dean Doiron, Vice Chairperson
David Helmer	Jeff Loveless, Acting Secretary
John Putnam	Christine Riggs
Roger Wallace, Chairperson	Michael Ward

Absent Fire Board Members:

-0-

Additional Attendees:

Victoria Benell, Penrose-St Francis Hospital	Kraig Denkins, Arapahoe Fire Protection
Chris Landry, Arapahoe Fire Protection	Katha Snow, Recording Secretary
Dee Withee, Colorado Springs Fire Department	

Mr. Wallace called the meeting to order at 8:37am.

ADMINISTRATIVE

Approval Fire Board of Appeals Meeting Minutes

Motion made by Mr. Colarelli to approve the July 8, 2016 Fire Board of Appeals Meeting Minutes. Mr. Putnam seconded the motion.

Motion passed 7-0.

Contractor Licensing

Fire Alarm Contractor A

1. Name of Company:	Fire and Security Technical Service, Inc.
Principal Officer:	Rex A. Goodbeau
Applicant:	Rex A. Goodbeau
RME:	Rex Goodbeau

Deputy Fire Marshal (DFM) Loveless reported that Fire and Security Technical Service, Inc. meets Pikes Peak Regional Building Code requirements for the Fire Alarm Contractor A license. DFM Loveless recommended approval.

Motion made by Mr. Putnam to approve Fire and Security Technical Service, Inc. for the Fire Alarm Contractor A license. Motion seconded by Mr. Doiron,

Motion passed 7-0.

Fire Alarm Contractor B

- | | |
|---------------------|--------------------|
| 1. Name of Company: | School District 49 |
| Principal Officer: | Jack Bay, CEO |
| Applicant: | Douglas Lee Hurley |
| RME: | Doug Hurley |

DFM Loveless reported that School District 49 meets Pikes Peak Regional Building Code requirements for the Fire Suppression Contractor B license. DFM Loveless recommended approval.

Motion made by Mr. Colarelli to approve School District 49 for the Fire Suppression Contractor B license. Motion seconded by Mr. Helmer.

Motion passed 7-0.

License Review

Arapahoe Fire Protection

DFM Loveless stated that Fire Protection Engineer (FPE) Dee Withee will present Colorado Springs Fire Department's (CSFD) perspectives on Arapahoe Fire Protection's (AFP) license review.

FPE Withee explained, due to concerns regarding submittals and inspections, CSFD has tracked AFP's work behaviors for the period of one year. A memorandum (memo), contained within the Fire Board of Appeals (FBA) Agenda, reflects the collected data. FPE Withee opened the floor to questions from the Board and then stated that CSFD has received a very high rate of Work at Risk requests from AFP. "Some of these projects were going very much sideways, requiring a lot of time commitment and effort from plan review and inspection staff to get them back on the track and get the projects finalized on time."

FPE Withee continued with her opening statement by declaring alternative methods were addressed with AFP on several projects, and that some requests for the submittal of revised plans remained outstanding in excess of two months. Additional issues experienced by the Construction Services Section with regards to AFP's drawings were: over spaced heads; missing piping or hangers; pipe sizes not matching calculations; and hydraulic notes in the hydraulic calculations did not match the path as they were laid out.

FPE Withee stated that an additional concern, recently monitored by Construction Services' staff and not mentioned in the memo, is the print quality of submitted plans. The print on AFP's submitted plans is so light that when scanned by Construction Services the lines or print cannot be detected; therefore, producing blank pages. Also stated was that Construction Services staff organized several meetings with AFP staff. These meetings were project/site specific, as well as meetings in general. Because the meetings did not produce improvements in the areas of the aforementioned concerns, CSFD seeks assistance from FBA.

Mr. Wallace asked what the average time is between AFP's submittal of Work at Risk Permits (WARP) and when AFP actually submits plans to CSFD. FPE Withee stated that the timeframe of CSFD receiving AFP's requests for WARPs and when AFP submits plans is generally within a week. However, larger projects may require more time. FPE Withee provided the following scenario that does not pertain to plan submittal: CSFD discovered that AFP was working on The Lodges at Flying Horse without a permit. Once AFP submitted a WARP, it was granted.

Mr. Colarelli sought clarification from FPE Withee regarding the four meetings between Construction Services and AFP, specifically the "meetings in general." Mr. Colarelli asked what CSFD's impressions and expectations were after the meetings, as well as what performance modifications were witnessed by CSFD. FPE Withee stated that the general impression that CSFD had after the meetings was that AFP recognized the concerns and that AFP was trying to resolve them. CSFD's expectations after the meetings were that they would witness change.

Mr. Colarelli asked if any of the expectations defined by CSFD and given to AFP were exceptionally challenging. FPE Withee explained that expectancies were fairly easy and consisted of requiring AFP be more thorough in reviewing plans prior to stamping them for submittal and that office personnel and installers improve on communications specific to scheduling the necessary time for inspections. A common recurrence is that an inspection will be scheduled for two hours, when one hour would be sufficient. FPE Withee stated that the latter expectation is not isolated to AFP, but that many contractors neglect to accurately calculate the amount of time necessary for an inspection.

Mr. Colarelli asked if AFP's negative behaviors continued after CSFD expressed specific concerns during the general meetings. FPE Withee detailed that during the April 6, 2016 meeting, AFP was provided the statistics contained with Table 1 of the memo. Table 1 shows that the amount of time dedicated to AFP, in comparison to like companies, is excessive. FPE Withee stated that after the April 6th meeting the behaviors continued without improvement.

Mr. Putnam questioned if an action plan or a form of documentation that outlined and defined expectations, as well as holds a contractor accountable for fulfilling said expectations was put in place by CSFD. FPE Withee stated that CSFD does not have a formal action plan. Mr. Putnam asked if CSFD's expectations for compliance by AFP was well defined or a verbal understanding. FPE stated that she guessed it was just

verbal, but that she hoped there was clarity, based on the repeated/documented review comments that show consistent problems spanning over multiple projects.

Mr. Putnam expressed that recurring difficulties demonstrated by AFP's lack of compliance, specific to plans and hydraulics, may warrant training. Mr. Putnam asked if trainings specific to AFP's needs are within CSFD's purview. Mr. Putnam followed this question by asking if an agreed approach for resolution was ever defined. FPE Withee explained that the purview of CSFD's reviewing plans is to assure compliance with the adopted regulations. Training concerns may be identified by CSFD; however, it is a contractor's responsibility to perform due diligence specific to licensing requirements. FPE Withee did not address Mr. Putnam's question regarding if an agreed approach for resolution was defined.

Mr. Putnam expressed that without formal documentation, written by CSFD outlining specific expectations and standards are met by a definitive date, compliance by AFP may never be obtained. FPE Withee agreed with Mr. Putnam's statement and stated that she believes AFP may have "taken on so many projects" that they could not properly proof the plans prior to submittal.

Mr. Doiron asked if the concerned behaviors were primarily "shop drawing type issues" or did CSFD discover a lack of compliance during site inspections. FPE Withee stated that primary concerns are with submitted plans; however, there were some identified issues on larger projects (inspections). Mr. Doiron followed up his question by asking, because there were so many issues with plans, is there concern with the system not being constructed as drawn or is the issue with miscellaneous items commonly found on many projects. FPE Withee replied that both circumstances applied.

Mr. Colarelli sought clarification from FPE Withee regarding the answer she provided when asked by Mr. Doiron if AFP's issues are field related or plan review related. Mr. Colarelli summarized that FPE Withee stated that AFP's issues are specific to plan review; however, the provided statistics validate that the time dedicated by CSFD to AFP's site inspections is significantly greater than the comparison companies'. FPE Withee explained that the discrepancy may be related to inspections that were scheduled for two hours, but required one hour to complete. FPE Withee stated that inspections on large projects are very time consuming and that the amount of time dedicated to reviewing a large project's plan-set is significantly less than the amount of time dedicated to inspecting the installation. Mr. Colarelli asked if AFP's inspection hours are greater than the comparable companies' because AFP's projects are bigger than the comparison companies' projects. FPE Withee explained that large jobs were purposely removed from the statistics and all data stated in the memo is from projects similar in size.

Mr. Doiron asked for clarified from FPE Withee, because what was previously stated, suggests that part of the inflated amount of time scheduled for inspections is related to the amount of time a company schedules for an inspection, versus the amount of time actually dedicated to the inspection. FPE Withee confirmed that she did make that statement and explained that data collected was pulled from information provided by inspectors' inspection reports. If the inspectors did not have a follow-up inspection

scheduled at a different location, the inspector may have stayed an extended period of time at the present site in order to complete the inspection.

Mr. Wallace asked for specifics related to FPE Withee's statement that AFP's installed pipe sizes did not match plans' hydraulic calculations. FPE Withee explained there were instances where the installed pipe sizes were smaller than what AFP's plans indicated and that under these circumstances plans were denied.

Mr. Colarelli referenced a letter that was included in the agenda packet that was written July 20, 2016 by CSFD to AFP. Mr. Colarelli summarized the letter's purpose as written documentation stating that the privilege of submitting WARP requests by AFP was suspended. Mr. Colarelli then referenced the memo when stating that prior to April 16ths meeting, WARP requests were submitted by AFP at a much higher rate than comparison companies'. However, the memo also documents that after April 16ths meeting, AFP's WARP requests were no greater than comparison companies'. Mr. Colarelli specified that after April 16th, data indicates a change in behavior was demonstrated by AFP; yet, on July 20th CSFD elected to prohibit AFP from submitting WARP requests. Mr. Colarelli asked why CSFD stopped AFP from submitting WARP requests after statics show an improved change in behavior. FPE Withee deferred Mr. Colarelli's question to DFM Loveless.

Prior to DFM Loveless' response to the deferred question, FPE Withee proclaimed that she wrote the letter at the direction of Fire Marshal (FM) Lacey. FPE Withee further explained that FM Lacey is not an advocate of the Work at Risk program; however, he recognizes that some situations warrant the program's intent. FPE Withee closed her statement by saying she does not know why, with consideration to the chain of events defined by Mr. Colarelli, FM Lacey directed her to write the letter.

DFM Loveless responded to the question deferred to him by stating: Because content pertinent to AFP's license review was not submitted in time, the item had to be pulled from July's FBA agenda. It was then that Division of the Fire Marshal (DFM) staff determined that positive steps/actions, in the form of administrative compliances, were necessary. DFM staff deemed it in their best interest to revoke AFP's privileges to participate in the Work at Risk program.

Mr. Wallace referenced the Denver Hardwood project found on page 2 of FPE Withee's memo. He explained that the memo states sprinkler heads were over spaced at 120 square feet per sprinkler head. Mr. Wallace asked if the building would have required 100 square feet per sprinkler head because of the type of materials stored. FPE Withee stated, due to the amount of combustible liquids to be stored, the building required 100 square feet per sprinkler head.

Mr. Wallace referenced the memo's Lodge at Flying Horse example and asked FPE Withee for specifics related to the types of incorrect heads used on the project. FPE Withee stated she believes the information contained within the memo was in reference to the attic where chlorinated polyvinyl chloride (CPVC) pipe was installed. FPE Withee further explained that exposed CPVC pipe in an open attic area, an area not filled with insulation, requires the use of Quick Response Combustible Interstitial Space Sprinklers (COIN™). AFP initially installed standard sprinkler heads.

Mr. Wallace once again referenced the memo's Lodge at Flying Horse example when he asked FPE Withee for specifics relating to her "incorrect temperature ratings" narrative. FPE Withee stated that she does not believe the specific temperature rating of the head was documented.

Mr. Wallace invited representatives of Arapahoe Fire Protection to approach the podium.

Kraig Denkins, Arapahoe Fire Protection's Vice President, stated that the majority of FPE Withee's account of AFP's business practices last year is accurate. Mr. Denkins supported Mr. Colarelli's observation that statistics confirm AFP's business practices improved in April 2016. Mr. Denkins attributed the noted improvement in AFP's work performance to recognizing a change in management was necessary. Chris Landry joined AFP as a new location manager. Mr. Denkins implemented the following changes: process improvements implemented prior to plan submittals (this includes a two tier review team); a fulltime superintendent was placed in Colorado Springs; and improved communications with field inspectors has occurred.

Mr. Denkins stated that, with the exception of CSFD's jurisdiction, AFP's business practices throughout the State of Colorado are exemplary. Mr. Denkins was not aware of the concerns CSFD shared with AFP's previous area manager and was caught off guard when he read the letter stating AFP's Work at Risk privilege was revoked. After receiving the letter, Mr. Denkins asked FM Lacey what prompted CSFD's position toward AFP. Mr. Denkins reported that FM Lacey listed concerns related to numerous projects dating back to 2015. Mr. Denkins encouraged Fire Board to note AFP's improved work behaviors from April 2016 to present day.

Mr. Colarelli asked who previously managed the area and when did the change in management take place. Mr. Denkins stated that Erik Legum previously managed the area and Mr. Landry, who lives in Colorado Springs, started with the AFP three weeks ago.

Mr. Colarelli asked Mr. Denkins when AFP's protocol for secondary reviews began. Mr. Denkins thought secondary reviews started four months ago. Mr. Colarelli referenced data from April 1st through June 28th (Table 6 of the memo) that documents issues encountered during the plan review process. Mr. Colarelli prefaced the following comment by saying he is not a sprinkler contractor; however, the issues encountered appear pretty simple and the number of recurrences are extraordinary. Mr. Colarelli asked Mr. Denkins to explain why secondary reviews began four months ago, yet documentation indicates a substantial amount of rudimentary issues ensued. Mr. Denkins stated that CSFD maintains higher standards than other jurisdictions and provided that the quality of print, or shading, on plans, which is not defined in NFPA 13, has never been a concern expressed by surrounding jurisdictions. Mr. Denkins also provided that, because of AFP's neglectful business practices in CSFD's jurisdiction, he understands if CSFD scrutinizes AFP's business practices closer than competing business. Mr. Colarelli stated that while he appreciates Mr. Denkins comments, the primary concerns expressed by CSFD involve sprinklers; hydraulic calculations; head spacing; and piping/hangers; all of which are responsibilities that AFP must assume

regardless of whether CSFD discovered them during their review of submitted plans. Mr. Denkins agreed with Mr. Colarelli's statement and explained that on every occasion when AFP is given a document to correct process improvements are made and implemented. Mr. Colarelli declared that data does not support that AFP has effectively addressed issues.

Mr. Denkins wished present day data collection was made available because, most recently, several submissions of plans reviewed by CSFD have passed the first time. FPE Withee provided that AFP submitted 11 plans in April, 3 plans in May, 5 plans in June, and 1 plan in July.

Mr. Colarelli stated data does not support that changes have made a difference, nor has he heard from AFP that modifications within the organization can provide assurances that AFP is performing to industry expectations and at the same level as competitors.

Mr. Colarelli encouraged Mr. Landry to provide his background, what his responsibilities with AFP entail, and how he thinks the process works.

Chris Landry, Arapahoe Fire Protection Area Manager, detailed his background in the industry as: SimplexGrinnell Apprentice; Extreme Fire Protection Fitter; Extreme Fire Protection Field Superintendent; pursuing project management and design; holds Nicet Level 2 certification; and working towards Nicet Level 3 certification.

Mr. Landry supported Mr. Denkins statement that CSFD's standards are higher than he experienced throughout the State. Mr. Landry said, in his opinion, other jurisdictions assume that their inspectors are going to catch mistakes, but in CSFD's jurisdiction the expectation is that plans submitted for review be accurate. Mr. Denkins said that he feels, because the norm is to perform at a level of understanding where submitting plans with mistakes is expected, this has created an industry mindset. Now that AFP knows that CSFD expects plans submitted for review to be accurate, their designers are required to change their mindset and be more detailed and thorough.

Mr. Colarelli asked Mr. Landry to help the Board understand what AFP is doing to correct their past. Mr. Landry stated that he has been with AFP three weeks and that he is currently studying and developing ways to make the review process smoother. Mr. Landry is scrutinizing designers' drawings, providing feedback and expecting corrections be made. Mr. Landry stated inspectors noticed that work in the field has dramatically improved.

Mr. Wallace stated that he is very concerned about a comment contained within the memo that implies, "Arapahoe's practices of using the Fire Department as a fall guy in regards to change orders and stuff like that." Mr. Wallace asked AFP to clarify that these practices will not occur in the future. Mr. Denkins stated that he cannot speak precisely on these circumstances, because he was not directly involved. Mr. Denkins said Denver Hardwood may be the project in question. "There was an existing underground fire line that had never been put in service. It was a requirement to do a flush on it. We did tell the customer about that before we did it. It was a requirement. They did not understand and there was a cost involved. We excluded that, because it wasn't a part of our work. If there's something else, I'm not sure what it was. But how

somebody presents that to a customer and how you explain it can certainly change the way it sounds. The last thing we want to do is blame the Fire Department for something that just needs to be done. I don't know if we did a good job explaining it to the customer prior to starting, but we could have done a better job. It is not our business practice to do that. We are not looking to blame anybody for anything that is a code requirement. We just don't do business by taking advantage of the Fire Department or the requirements of NFPA. If someone were doing that he would stop that person or fire that person."

Prior to making the following statement, Mr. Wallace acknowledged that City Attorney Frederick Stein may offer an edict. Mr. Wallace shared with Mr. Denkins that a client of AFP's stated that AFP was going to charge for an "Aboveground Test Certificate." Mr. Wallace stated that he informed AFP's client that NFPA 13 says there cannot be a back charge for something directly asked for by NFPA. Mr. Denkins commented that he was not aware of this specific situation; however, he does know, that under those circumstances, charges cannot be incurred.

Mr. Denkins reiterated that changes have been and continue to be made by AFP. Mr. Denkins' expectation is that Mr. Landry continues to review all plans prior to submittal. Mr. Denkins encourages communications and positive interactions between AFP's staff and CSFD's staff take place and that good business relationships are built.

Mr. Colarelli asked Mr. Denkins what is Mr. James Gray's affiliation with AFP. Mr. Denkins stated that Mr. Gray is AFP's president, and currently out of the state. Mr. Colarelli asked Mr. Denkins what his role as vice president is. Mr. Denkins stated that he is Mr. Gray's partner in the business and that he shares a small percentage of its equity. As vice president Mr. Denkins oversees AFP's entire operation.

Mr. Colarelli asked the Fire Department if they can affirm Mr. Landry's statement that inspectors noticed that work in the field has dramatically improved. FPE Withee explained that she believes that statement was made very recently by Inspector Ken Sharkey.

Mr. Colarelli asked FPE Withee if she has met with Mr. Dinkins or Mr. Landry prior to today. FPE Withee stated that CSFD has not met with either; however, Mr. Legum was made aware that he may have additional AFP representation during all meetings between AFM and CSFD.

Mr. Colarelli apologized for asking the question and asked the CSFD to identify what the Board's options are with regard to establishing disciplinary action under the code. Attorney Stein quoted, "*City Code 8.3.102: Authority of Fire Board: The Fire Board may review all Fire Department administrative regulations and policies relating to the enforcement/interpretation to the Fire Code.*" Attorney Stein explained that CSFD has come before the Board to ask that guidance be provided in order to enforce code. Specific to this situation, Fire Board of Appeals is the licensing body for fire inspection contractors. Attorney Stein thinks that under 8.3.102 FBA has the ability to fashion a remedy that the Board establishes appropriate.

Mr. Ward asked for further clarification when stating that CSFD is asking that AFP only be excluded from the work at risk program. DFM Loveless stated that CSFD would also like to have AFP be placed on probation for the period of one year. During the probationary year, quarterly updates will be provided to FBA by CSFD and AFP.

Mr. Colarelli asked DFM Loveless if the CSFD saw significant improvements by AFP in one quarter would CSFD recommend that AFP's limitations to participate in the Work at Risk program be lifted. DFM Loveless stated if significant improvements were made by AFP he would bring them before the Board for discussion at that time.

Mr. Putnam asked what "Work at Risk" implies. DFM Loveless deferred the question to FPE Withee. FPE Withee explained that the intent of the Work at Risk program is assist contractors with facilitating efficiencies pertinent to completing the project. A WARP allows contractors to begin work on the project prior to CSFD approving plans and receipt of adequate permits. Work at Risk implies that the contractor assumes all risks associated.

Mr. Colarelli spoke on the Work at Risk limitation when stating that prohibiting a company from participating in the program significantly restricts the clients and the general contractors that the company is working for. Mr. Colarelli reiterated that it is at risk and if the company does not comply with code it does not absolve them from working in accordance with the code.

DFM Loveless responded to Mr. Colarelli's concerns by stating that CSFD does not want "to be the rock in the stream of progress;" however, when CSFD's resources are concentrated on one company's projects, due to repetitive concerns, this becomes a disservice to the contractors, homeowners, business, etc. who are also supported by CSFD.

Audio recording device malfunctioned at 55 minutes, 31 seconds – the following documented information is based on Recording Secretary Katha Snow's notes and is supported and approved by Deputy Fire Marshal Jeff Loveless.

Attorney Stein intervened, stating, per Fire Code Official, Fire Board has the authority to review, approve or deny fire alarm contractor licenses and fire suppression contractor licenses; however, Fire Board does not have the authority to monitor participation in the Work at Risk program.

Motion made by Mr. Putnam to accept Colorado Springs Fire Department's recommendation that Arapahoe Fire Protection, Inc.'s Fire Suppression Contract A (FSC-A) license be monitored for the period of one (1) year. Fire Board of Appeals will be granted updates on AFP's performance quarterly (every three (3) months) for the period of one (1) year. Representatives from AFP and CSFD will attend four (4) FBA meetings that will designate "Arapahoe Fire Protection, Inc. Quarterly Performance Review" on the agenda. At the conclusion of (12) months, Fire Board of Appeals will determine if further action or revocation of AFP's FSC-A license is necessary. Motion seconded by Mr. Colarelli.

Motion Passed 7-0.

All Fire Board of Appeals members supported their votes verbally.

ADMINISTRATIVE

Code of Ethics – Frederick Stein, City Attorney

Attorney Stein’s presentation on the City’s code of ethics was postponed.

ADJOURN

Motion made by Mr. Doiron to adjourn the meeting, seconded by Mr. Colarelli.

Motion passed 7-0.

Meeting adjourned at 9:49am.

-----0-----

Respectfully,

Jeff Loveless, Deputy Fire Marshal
Colorado Springs Fire Department