

FINAL

**FIREFIGHTER AND FIRE SAFETY INSPECTOR TRAINING COMMITTEE
MEETING MINUTES
April 14, 2009**

Chaired by: Phil McLean

Meeting Date and Location: April 14, 2009, Ohio Department of Public Safety (ODPS), 1970 West Broad Street, Columbus, Ohio 43223

Committee Members Present: Bob Babb, Brent Gates, Terry Gill, Mark Lundy, Mark Mankins, Richard Sacco, and Jim Steele

Staff Present: Summer Boyer, Aleta Dodson, John Kennington, Tom Macklin, Doug Orahod, Richard Rucker, John Sands, Melissa Vermillion

Guests: Dave Belcher, Ohio Society of Fire Service Instructors/Violet Township Fire Department; Mark Burgess, EMS Board; James Davis, EMS Board; Charlie Dixon, Columbus Fire Department/Ohio Society of Fire Service Instructors; Daryl McNutt, EMS Board; Mark Resanovich, EMS Board; Michael Vedra, Columbus Fire Department; Steven Wallis, Ohio Society of Fire Service Instructors/Ohio Fire Rural Council; Scott Walker, Ohio State Fire Marshals Office/Ohio Fire Academy; John Wilt, Columbus Fire Department

The meeting was called to order at 10:00 AM.

REVIEW AND APPROVAL OF THE MARCH 10, 2009 FIREFIGHTER AND FIRE SAFETY INSPECTOR (FFSI) TRAINING COMMITTEE MINUTES

ACTION: Motion to approve the March 10, 2009, committee minutes. Steele first. Sacco second. None opposed. Motion approved.

STAFF REPORTS

EXECUTIVE DIRECTOR REPORT, Richard Rucker

Mr. Rucker reported the Transportation bill was approved, which will give the Division a portion of the abstract title fees to support the administrative expenses. This allows all money received from seat belt fines to go entirely toward EMS grant funding. The budget is good for two years.

OPEN FORUM

Mr. McLean brought up the subject of fire certification of non-affiliated firefighters that was discussed at the March 18, 2009 EMS Board meeting. He read a letter from the Akron Canton Airport stating their firefighters did not know about the required firefighter renewal deadline. Mr. Resanovich said he received a letter from that airport fire brigade and they are truly non-affiliated. They have no FDID number, they don't report to the Fire Marshal's office, and don't volunteer at other departments. Mr. Resanovich thinks they may have legitimately slipped through the cracks. There are other airports that fit the same description who have recertified.

Mr. Resanovich told the Director about the issue last month and told him members of the brigade should be prepared to retest.

Mr. Burgess, EMS Board Chair, said at the last Board meeting a firefighter from Westerville spoke during the open forum requesting the process that has been implemented regarding certification registration be reviewed and make accommodation for individuals who have not met the current rules. During the fire portion of the Board meeting, that request was discussed and felt it should come before this committee. There are some areas that might need looked at, but there is a process already in place and the rules pretty well define it. Mr. Burgess deferred to the committee for discussion.

Mr. McLean asked Mr. Kennington if the firefighter who spoke at the Board meeting was the same issue this committee dealt with last month. Mr. Kennington said it was. Mr. Burgess said the man gave the example that if a firefighter graduated from an accredited training program, had their certification, and went to school out of state, they would not know about the process and should not be penalized for not knowing. Mr. Steele asked if the gentleman mentioned that the individual was attending college in Ohio, his uncle was a fireman who did recertify, but elected not to tell his nephew. Mr. Burgess said those issues were not addressed and the Board found out later as more information was made available. Mr. Burgess said the gentleman did say he felt they should not have to retest since they have been certified firefighters.

Mr. Davis said an individual did address the Board last month, but feels their comments are not being represented correctly at this meeting. He did not recall the individual asking for his nephew to be reinstated without taking the test. The gentleman's comments identified an unintended consequence of the rule making process. After talking to Mr. Kennington, there were a few hundred constituents who did not recertify. Mr. Davis said the fact is there is a group of people unaffiliated with any organization who did not have the ability to be notified in a correct manner since no mailings were done. There are students going to college outside of Ohio getting fire degrees that will come back and fill out job applications listing their certification cards and attesting that the information is correct. Unfortunately, when their background check is done, they discover that it is not correct. These individuals said they had no knowledge of the recertification, their fire cards have no expiration date, and individuals who were out of state and move back had no knowledge of this. The gentleman before the Board was not asking anybody be given back their card, but that a process be set in place or be looked at to allow an appeal be made and provide due process. Mr. Davis said there is no policy and it's undefendable. He said the comments of the Attorney General representative made it very clear that having a policy that ensures appeals can be administered consistently is needed. Mr. Steele wondered why the Attorney General's office did not contact this committee directly about the issue. Mr. Burgess said he can't speak for Ms. Tertel, but he thinks she felt as long as there was some written process in place, it wasn't that big of a deal. Mr. Orahod said there is no difference between affiliated and non-affiliated. Mr. Orahod said phone calls are taken and staff does not sit in judgment. The rules are explained and staff tells them what the process is to meet the rules. The first time an individual says that's not fair, then they are given the options of what they can do. Staff does not have the ability to break a rule that has been established in the Ohio Administrative Code.

Mr. Sacco and Mr. Gates said a process is already in place and wanted to know what more Mr. Davis wants the committee to do. Firefighters have a two year period to comply: six months to re-take the test and 18 months to retest with continuing education hours. Mr. Gates department consists totally of volunteers and they need everyone they can get, but he doesn't just want someone coming from out of state that has not been connected to a fire department for the last two years, has no continuing education, their skills aren't up to date, and they haven't driven a fire truck. Mr. Gates feels very strongly that if someone has been out of state and has not been an active firefighter for the last two years, he does not think they should just be handed a card. Mr. Davis said first of all, it is not what he has in mind, but a constituent of the state addressed an issue to the Board and the Board has a responsibility to make sure that issue is addressed.

Mr. McLean said while these rules were being drafted at Violet Township, there were multiple lengthy discussions over non-affiliated people. Mr. McLean believes the way the rules are structured with the six month time frame to retake the test is pretty lenient. Firefighters are needed, but Mr. McLean has to be assured their training is up to date. Maybe the committee missed the boat and should have instituted practical skills testing besides the written test to ensure they are proficient. The fire alliance and organizations support the rules the way they have been structured and written. Mr. Gill said at every meeting Jim Holcomb was the only Board member that attended. He said legal counsel from the Attorney General's office was there and Ms. Tertel was at some of those meetings. Why after everything is said and done, it now comes back to this Committee.

Mr. Davis said issues are going to arise during the course of this that are no fault of anybody's. He thinks the big concern is that certain people think this is an attack on them, their group, the staff or their rulemaking process and that is not what this is about. Mr. Davis said this committee is being asked to do nothing more than to commit the process in writing so that when a person calls with an extenuating circumstance, it is not just up to the discretion of the staff whether or not to bring it back to this committee. The individual would know they can submit a form with supporting documentation as to why they did not renew and have an appeals process.

Mr. McLean asked Mr. Davis what issue the staff has with the process. Mr. Davis said he did not say the process, he said the staff acknowledged that there is an issue with 200 plus people who have not renewed. Mr. McLean said there are various issues with these 200 people and probably only 10 of those are non-affiliated. Mr. Davis said it is probably a small number, but when those people call, it doesn't matter if it's the guy who just didn't want to do it or if it's the guy who has been on long-term injury leave that fell through the cracks. If the individual believes they have extenuating circumstances, they have the right for this committee to review it. Mr. Davis said it should not be at the discretion of whether a staff member decides to bring it to the committee.

Mr. Steele said this committee had a report that of the 200 people who have made contact with the Certification section, there are 10 or less who were out of state or non-affiliated. That is a very small number out of 42,000. Mr. Steele said the compliance rate is greater than 99.5% which speaks volumes. This is a very fractional amount of people the committee is looking at. Mr. Steele said he is very comfortable with the reinstatement process. If the individual is an experienced fireman, they are a test away from having their card and recommended they take the test. Mr. Orahood said 188 have taken the reinstatement test and 145 have passed. Mr. McLean

said not all of those are non-affiliated. These are people working in Ohio who didn't know, claim they didn't know, didn't want to do it, you name it, every excuse in the world. Mr. Burgess said it was for the people who could have fallen through the cracks, not the ones who refused to renew. Mr. Lundy thinks the appeals process shouldn't be different for an affiliate or non-affiliated.

Mr. Rucker said the good thing is that some of the things Mr. Davis is saying are being done. Everyone who has called in has been reviewed on a case by case basis. Mr. Rucker said some of them have been brought to the committee, stated why the individual felt they should be certified, and due diligence has been done. Mr. Davis said the direction of the Board last month was that the appeal process be committed in a written format.

Mr. Lundy thinks Mr. Davis is asking what is the process when a person calls the office and says they did not recertify and how does it get to this committee. Mr. Davis said if a member of the community calls asking to implement their appeals process, the Division has the responsibility to give them their request, not arbitrarily decide which cases are brought to this committee. Mr. Orahood said he or Mr. Kennington will receive a call, the individual will explain why they didn't certify, they will be given the option in rule that says they will reinstate before July 24, 2009 by taking the test, and if that is not done, they have another twelve months to pass the test and complete 18 hours of education by July 24, 2010. Mr. Rucker said 187 of those people have retested. Mr. Lundy said once they talk to staff and decide to write a letter of appeal, it comes here. Mr. Kennington said it is automatic. However, they do not encourage individuals to speak before the committee, but if they choose to, that is their right. Once they write the letter, it is brought before this committee; that is not an arbitrary situation the staff decides. Mr. Lundy asked if an individual calls in, are they given that option and is their right to appeal explained. Mr. Kennington said it is not given to them unless they ask and then the process is explained. Mr. Davis said that's the problem right there. In our discussion with the Attorney General's representative last month, that is undefendable. The committee cannot sit here today and say they are going to grandfather these people from Akron because they were unaffiliated and turn around and tell the kid that came from Eastern Kentucky who is down there getting his four year fire degree and make him retake the test without an appeal process for them. Mr. Davis said he thinks the direction of the Attorney General last month was very clear in the fact that the easiest way to make it defensible is to have a policy in place. Mr. Davis asked to have the motion from last month's Board meeting be read into the record. Ms. Dodson said these are draft minutes that have not yet been approved by the Board and gave them to Mr. Burgess. He read the first motion ***"to have Mr. Rucker develop an appeals procedure for non-affiliated individuals or those with extreme circumstances to present to both the EMS Fire Board members and the FFSI committee members."*** Mr. Burgess read the revised second motion ***"to have the Fire Committee develop an appeal process to deal with extenuating circumstances regarding not meeting the January 24, 2009 firefighter renewal deadline for presentation to the Board for approval, and once approved, present to the Executive Director."***

Mr. McLean said the way he understands it is the rules are in place to support the process and testing, but what he is hearing is there needs to be some type of policy in place that can be read to them when they call the Division. Mr. Davis said it doesn't even have to be read, they can be posted on the EMS website and list what they need to submit so it is automatic that they have a due process. Mr. Rucker said they will put together a written policy and bring it before the

Committee to approve by the next meeting, and once approved, then present to the Fire Board members. Mr. Davis said that was the whole discussion with the EMS Board last month was that there is some concern that the EMS Board is not happy with the rules and he does not recall that being the case. Mr. McLean said he received phone calls from various people on numerous things. Mr. Davis said it stands to be a huge concern where the circumventing of the process by manipulation is just unacceptable and has to stop.

Mr. Gill said he is 125% behind Mr. Kennington, the Director, Ms. Vermillion, and the staff. If Mr. Davis wants to put it in black and white, fine, but he doesn't see there is a problem. Mr. Rucker said it is always good to have a written policy. Mr. Rucker said they have been giving everybody due process, but should have a written policy in place that spells it out. Mr. McLean said the bottom line is that the Director will institute a policy on something Mr. Kennington and Mr. Orahood have been doing already. Mr. Davis said he doesn't think anyone is saying that the staff here isn't doing their due diligence.

Mr. Resanovich told Mr. Rucker at the EMS Board meeting that he will publicly and privately support the decision he and the Fire committee make. He thinks Mr. Davis brought up a good point about defining the process and believes it will be identified. Mr. Resanovich said he has a hard time opening the door when other people in the state have complied with the rules. Mr. Gill said he heard the other two gentlemen say they'd support whatever the committee develops, but hasn't heard Mr. Davis say that. Mr. Davis said he absolutely supports the due process and the appeal process, and if that is what the committee chooses to do, he will support that.

FIRE COORDINATOR REPORT, Doug Orahood

Mr. Orahood said the Volunteer Fire Course Committee has held several meetings. The objective list has been created. The test bank has 700 questions for all three books and the committee reduced those to 186 questions for the volunteer test. The test will contain 75 questions. Mr. Wallis said they are six hours into the 36 hour course. They are tweaking the course as the pilot course continues. Mr. Sacco showed the volunteer course objectives to some instructors and they think it looks fine.

Copies of the investigation report were distributed and Melissa Vermillion was in the audience to answer any questions. On the second page there was a question regarding suspensions and continuing education hours. Ms. Vermillion said the majority are consent agreement. They only had one Goldman hearing on an individual who stole the patient's wallet and they have been permanently revoked.

The monthly fire report was distributed and there was a question on the reinstatement report. Mr. McLean said 188 of 300 retook the test and have received their card. Mr. Orahood said 145 passed and 43 failed. Mr. McLean said in relating that number to the one discussed earlier, he said that 300 number is smaller. Mr. Davis said there is a disconnect because it has nothing to do with retaking or not retaking the test, these individuals are only being given one option. He is sorry that message is not being received. Mr. McLean said they understand, but in your initial comment you said there 300 problem people, and 188 retested.

Mr. Orahood attended the Ohio Fire Rural Council workshop and the New Fire Chief Symposium.

The certification report was distributed. Members asked Mr. Kennington if he could remove the 2007 and 2008 totals for them. Mr. Steele asked if instructor and assistant instructor numbers will continue to be hand sorted this year. Mr. Kennington is working on a report to notify those individuals as soon as they renew.

The State Fire Marshal education collaboration group has not had additional meetings. A survey will be placed online in the near future to gather statistics from the State Fire Marshal's office. Mr. Orahod reported that the stackable certificates through the Ohio Board of Regents have been completed. The Firefighter Safety Inspector and Fire Instructor have been forwarded to the Board of Regents for approval. Mr. McLean wanted to know how many hours of credit they will be given and Mr. Orahod will check on it.

Mr. Kennington read letters of appeal for four individuals that he received. Below is a brief summary.

- Case #1 – The individual does not work for a fire department and just found out from his former paramedic instructor about the deadline. He would like to keep his card current in case he ever goes back to a department, but right now he owns a business and it is hard for him to get out and take a civil service test. He would like leniency as he did not receive any notification of the certification renewal deadline.
- Case #2 – The gentlemen requested a waiver because of a medical issue that occurred in September 2008, with ensuing complications keeping him from returning to work. His department sent email reminders about renewing, but since he was at home and not at the fire station, he could not receive them. His Assistant Fire Chief wrote a letter of support for leniency for him stating they discovered his certification was expired during their annual audit.
- Case #3 – The individual is a volunteer firefighter who was a former fire chief who says he did not know about the renewal date.
- Case #4 – All individuals of an airport fire brigade did not renew. Since they do not have a FDID number and do not report to the Fire Marshal, they did not receive notification about the renewal. None of them volunteer or work at fire departments where they might have been notified of the certification requirement.

Prior to the vote being taken, Mr. Gates said he needed to leave the room as he knows the gentleman in the third case presented and said the individual was on the radio the other day directing Med Flight and, off the record, he's a kook. Mr. James Davis, EMS Board member, asked what that was about and said the committee needed to stop right there. He took exception to what Mr. Gates said and if that is his behavior on the committee, he has no business being on the committee. Mr. Davis told Chair McLean that he has to take exception to the comment and asked that this be forwarded to the full EMS Board because he does not believe the committee can weigh on this with any type of fairness. Mr. Davis said this needs to be sent to the Executive Director as the Ohio Revised Code allows the Director to make the decision because he believes the committee is now biased in their opinion. Mr. Sacco said he tended to disagree. Mr. Davis said if the Chair doesn't do it, he will call the Attorney General's office and file an ethics complaint. Mr. Sacco said how about this, the committee makes their decision and forwards it to Mr. Rucker with your exception and he can weigh on both of those. Is that fair? Mr. Davis said his recommendation to your committee is that...what you did is unethical. Mr. Sacco said they

will add Mr. Davis' exception to it. Is that all right? Mr. Davis said your committee does what it has to do. Mr. Sacco said he bases his decision on the letter that was written and has other objectives he uses for his decision. Mr. McLean said based on the discussion, where is the group on this one? Mr. Gill said the committee simply makes a recommendation and it is 100% the Director's decision anyway. He would like to think that Mr. Davis ought to give us a little more credit than that. Just because Mr. Gates made that comment isn't going to change what he was going to decide. Mr. Davis said it is unprofessional behavior in a public meeting and he thinks exception should be taken to it and is embarrassed that nobody else on this committee has taken exception to this. Mr. Sacco stated he makes his decision based on the information given. Your exception is noted. Mr. McLean said he recommends on this issue, based on the information the committee heard over a year ago on conduct in a public meeting, that this case will be passed to Mr. Rucker and bring it back here next month. Mr. McLean said his decision would not have been weighed on what was said, but what was said shouldn't have been said.

Prior to voting on the cases, members discussed circumstances of case number two and Mr. Steele said the individual had ample time prior to their injury to certify. It is the responsibility of the individual, not their department. Mr. Gill said posters were distributed in April to fire departments. Mr. McLean referred to 4765.10.17 that a medical hardship as determined by Executive Director can be waived for continuing education only.

Members discussed case number four regarding the airport brigade. Mr. Kennington said all other airports without FDID numbers had renewed. Mr. McLean recommends they take the test.

ACTION: Motion to make recommendation to Executive Director to deny waiver for case number one presented who missed the renewal deadline and retake the test. Steele first. Babb second. None opposed. Motion passed.

ACTION: Motion to make recommendation to Executive Director to deny waiver for case number two presented who missed the renewal deadline and retake the test. Steele first. Babb second. None opposed. Motion passed.

ACTION: Motion to make recommendation to Executive Director to deny waiver for case number four presented who missed the renewal deadline and retake the test. Steele first. Gill second. Babb, Sacco opposed. Motion passed.

Mr. McLean said staff will review case number three with the Executive Director due to comments made regarding the case by a member of the FFSI committee.

Mr. Kennington said in February 2009 it was discussed that they hope to have all fire certifications on one card. They are working with IT to redesign this showing each certifications expiration date. Mr. Kennington said they are close to going online with the initial certification process.

Mr. Walker of the Ohio Fire Academy reported that Fire Marshal Bell left April 10th and no interim appointment has been made yet. He assumes Chief Deputy Cooper is in charge.

Members requested letters received on the waiver request. Mr. Kennington will give to Ms. Dodson who will redact the names before distributing at the next meeting.

CHAIR'S REPORT, Phil McLean

The NFPA 1403 committee members need to get their slides to Mr. Orahood prior to the May meeting. They will present to the Fire Alliance and Instructor meeting. Mr. Orahood said the PowerPoint will be reviewed by the FFSI committee and then the fire alliance. Mr. McLean said the meetings will be held offsite, and one will be here in Columbus. Mr. Mclean. The meetings will provide continuing education credit for the instructors.

Mr. McLean reported five departments in Akron area participated in a live burn of an acquired structure. Eight burns were performed and five departments had not burned a house in two years. This was a good educational process and reinforces the work on NFPA 1403.

NEW BUSINESS

Mr. Gates apologized for the comments he made earlier.

Mr. Gill asked who he makes a public record request for the e-mails discussed. Ms. Dodson said Ellen Owens.

OLD BUSINESS

No old business was brought forward.

ADJOURNMENT

ACTION: Motion to adjourn. Babb first. Steele second. None opposed. Motion approved.

Meeting adjourned at 11:52 AM.