

City of Shelton
Ad Hoc Committee on Blasting Policies

'DRAFT'

REPORT TO THE BOARD OF ALDERMEN

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CONTENTS

INTRODUCTORY INFORMATION - 3 -
 Background - 7 -
 Committee Composition - 7 -
 Goals and Objectives - 7 -
 Methodology/Approach - 7 -

FINDINGS - 7 -
 The Role of the State of Connecticut and Committee Action to Influence State
 Regulation - 7 -
 What Can Be Done at the Local Level?..... - 7 -
 Role of the Shelton Fire Marshal - 7 -

RECOMMENDATIONS - 7 -
 Committee Recommendations to the Shelton Fire Marshal - 7 -
 Committee Recommendations to the Board of Aldermen..... - 7 -

ATTACHMENTS - 7 -

INTRODUCTORY INFORMATION

Background

The Ad Hoc Committee on Blasting Policies (“the Committee”) was appointed by the Board of Aldermen (BOA) at the request of BOA President John F. Anglace, Jr. The charge of the Committee was to review the status of blasting operations within the City of Shelton and to make recommendations to the Board of Alderman that would safeguard the public. The formation of the committee was a result of a series of concerns voiced by residents in and around neighborhoods where blasting had occurred or had been planned.

Committee Composition

The BOA’s stated goal for committee membership was to create a committee of knowledgeable and interested parties, thus generating informed discussion from multiple perspectives. Committee appointments included: three aldermen, three present and former engineers, one professional blaster, one builder, the City’s former Public Safety Director, the City’s Fire Marshal, and residents from the general public. All committee members are residents of Shelton.

Goals and Objectives

The Committee unanimously agreed on the following goals and objectives:

1. Provide for public safety and the protection of Shelton property owners
2. Provide information/data to assist with the complaint procedure
3. Develop a statement in support of recommended blasting regulations and/or legislation (at both the local and state level).

Methodology/Approach

The Committee’s approach was to obtain as much factual information as was prudent and provide recommendations to the BOA based upon that information. The Committee unanimously agreed on the following discussion approach:

1. Receive an overview of current blasting statutes and regulations
2. Receive an overview of current blasting procedures and techniques
3. Develop an understanding of potential problems and remedies
4. Complete a series of workshops on recommendations

The Committee spent months reviewing - State Statutes /Regulations, City Policies/Protocols, prior discussions of the BOA Public Safety Committee, blasting operational procedures and listening to the testimony of residents and eleven professionals from a number of disciplines.

These included:

- Detective Jose Colon of the State Fire Marshal’s office

- Attorney Thomas Welch, City of Shelton Corporation Counsel
- Richard Schultz, City of Shelton Planning and Zoning Administrator
- State Representative Richard O. Belden, 113th District, Shelton
- Douglas Simms, President, DRS Consultants, Inc., Pre/Post Blast Inspections
- James Tortora, Shelton Fire Marshal
- Mark Franklin, Office of Insurance Commissioner, State of Connecticut
- Ed Turcotte, Agent, Miller Agency, the City's insurance Broker of Record
- Alan Sabel, President, Sabel Adjusters, Insurance Adjuster
- Mel Hartman, Owner, Hard Rock Company
- Susan Shepley, Area Manager, Geosonics, Inc., Blasting & Seismology Consulting

The contribution of all professionals was invaluable in helping the committee to understand state regulations/statutes, the role of the state and local fire marshals, the regulatory tools available to municipalities, blasting operations, pre-blast and post-blast inspections, seismographs, and the possible steps the Committee and the Board of Aldermen can take toward achieving its stated goals.

The Committee referred all recommendations and publications to the Corporation Counsel for his review. Corporation Counsel has responded with an opinion.

The Committee has made the Draft report available on the City of Shelton website and in City Hall for public review and presented to the public its draft findings with opportunity for the public to provide comment.

FINDINGS

The Role of the State of Connecticut and Committee Action to Influence State Regulation

The State of Connecticut, through the Department of Public Safety, has exclusive regulatory authority over all blasting operations. Our local fire marshal simply enforces State regulations. Detective Colon informed the Committee that State regulations pertaining to blasting have not been updated since the 1970's and that staff had prepared draft regulations to replace those sections deemed to be outdated.

In response to this discussion, and consistent with the Committee's goals, the Committee drafted a letter to the Commissioner of Public Safety, requesting that he move the regulatory review process forward for these regulations. The Committee informed Governor Rell of this request and quickly received a response from the Commissioner of Public Safety informing us that his staff would soon be moving the proposed changes forward through the review process. The Committee considers this a significant success.

The state regulations, as proposed, provide for increased protection for property owners through mandatory procedures and safeguards governing blasting operations.

In addition, the Committee recommended to the Insurance Commissioner that State Regulations concerning blasting operations and claims be reviewed to provide for a more efficient, effective and expanded claims process.

What Can Be Done at the Local Level?

Given that the State of Connecticut has exclusive jurisdiction over blasting regulations, there is little that can be mandated of blasters by local fire marshals. Regulations imposed by municipalities in excess of State regulation may be implemented but cannot be enforced. This manifested itself as a significant impediment to Committee recommendations and was a primary motivation for the letter dispatched to the Governor and the State's Commissioner of Public Safety.

In an effort to understand what other municipalities have done to strengthen their own regulations, the Committee reviewed a number of regulations from other towns. The Committee identified that some did require more of blasters than is authorized by State regulation. It should be noted that in those cases blasters are not obligated to abide by those excess requirements. Compliance with such regulations is voluntary and may not be enforced by the local fire marshal.

However, it was determined that municipalities may:

1. Require notification to neighbors within a stated radius, with specific information, and within a stated time period.
2. Require notification to specific City officials.
3. Govern the permitting process within that which is required by State Regulation.
4. Require seismographs in all blasting operations.

5. Govern the complaint process.
6. Provide related information to the public on blasting operations.
7. Request voluntary compliance with city policy above state requirements.

Role of the Shelton Fire Marshal

The Shelton Fire Marshal has exclusive authority over blasting operations within the City of Shelton as authorized by State Statutes/Regulations. This includes the approval of permits for blasting operations and the transport of explosive materials to and from blasting sites, the use of proper procedures by blasters, the monitoring of blasting vibrations for conformance to permitted levels and the investigation of the violation of State Statute/Regulations governing blasting. The Shelton Fire Marshal does not inspect structures for damage or function as an arbiter over damage claims. The Shelton Fire Marshal does accept complaints from the public and refer them to the proper authority.

RECOMMENDATIONS

Committee Recommendations to the Shelton Fire Marshal

The Committee has recommended a number of policy and practical changes through the office of the Shelton Fire Marshal. The Marshal's assistance and consultation has been helpful in the implementation of a number of system improvements. Certain items below may not be mandated due to state statute. In those instances, the Shelton Fire Marshal may request that blasters comply with the stated standard voluntarily.

The following procedures/protocols, as recommended by the Committee, have been instituted by the Shelton Fire Marshal:

Public Notification

1. A formal and standardized blasting operations notice is currently being distributed to all residents within 500 feet of blasting area.
2. An informational brochure about blasting is currently being distributed to all residents within 500 feet of a blast area and is available to the general public.
3. Blasting firms, in their notification to residents, are distributing the above information and forms in a standardized manner.
4. The local Fire Marshal is now mandating that all required public notification be sent to residents by blasters in a manner that provides proof of delivery.
5. Blasters must now distribute the above required information to residents at least nine days prior to blasting permit issuance.
6. The above referenced informational brochure has been published on the City of Shelton website (www.cityofshelton.org), which also has links to relevant State of Connecticut websites.

Notification to Officials

1. Blasters shall notify the Shelton Fire Marshal as well as the Shelton Police Department of blasting operations in process on a daily basis.
2. The Shelton Fire Marshal is maintaining an official complaint/inquiry log to document any inquiries and/or complaints by residents and bystanders.

Blasting Permit Issuance

1. The Shelton Fire Marshal is requiring that all notification requirements be satisfied prior to the issuance of a blasting permit.
2. The Shelton Fire Marshal is requiring the submission of a blasting plan and/or operational checklist prior to the issuance of a blasting permit.

3. Blasting permits are issued for thirty days. If renewal does not occur within thirty days of the expiration of existing permit, then a new permit is required. The new permit requires that all notification requirements be met.

Blasting Operations

1. Each blast shall be monitored by approved seismic monitoring instruments. When a seismic instrument is used, it shall be located, at a minimum, between the blast site and the closest structure. Under special circumstances, the Shelton Fire Marshal may require the use of additional seismograph units for monitoring at multiple locations of concern.
2. A current certificate of calibration for each seismic instrument shall be on file in the Shelton Fire Marshal's office.
3. The Shelton Fire Marshal shall be notified by the blaster of all seismic readings registering 2.0 in/s or higher or exceeding the standards of the US Bureau of Mines or if an instance of flying debris occurs.
4. Blasters are requested by the Shelton Fire Marshal to provide pre-blast surveys of all structures within 250 feet of a blast site. This cannot be mandated but is requested of blasters.
5. A copy of any pre-blast survey report is to be issued to residents upon the residents' request. This cannot be mandated but is requested of blasters.
6. Well tests for purity and clarity are to be offered to residents within 300 feet of a blast area as appropriate this cannot be mandated but is requested of blasters.

Complaints and Claims

1. A standard complaint form is being utilized for all complaints.
2. The blaster shall make a written report to the Shelton Fire Marshal describing the corrective action taken as a consequence of the complaint.
3. Post-blast surveys are requested when claims are made. This shall occur in instances where a pre-blast survey has been performed. This cannot be mandated but is requested of blasters.
4. On all complaints the Shelton Fire Marshal shall notify the complainant as to the determination.

Committee Recommendations to the Board of Aldermen

Based on the findings of the Committee, the following recommendations are offered to the Board of Alderman (BOA) and it is respectfully requested that the Board take appropriate action that:

1. The BOA pass a resolution that:
 - a. endorses a revision of the State of Connecticut Department of Public Safety's Blasting Regulations as provided by the committee and monitor the status of such revision process;

- b. adopts the procedures and protocols, as recommended, by the committee and implemented by the Shelton Fire Marshal;
 - c. adopts the actions and recommendations emerging out of the Committee and issued in this report;
 - d. And dissolves the Ad-Hoc Blasting Committee and clarifies that the necessary monitoring of any adopted recommendations be entrusted to the Shelton Fire Marshal and/or the BOA Public Safety Committee.
2. The BOA request that the Shelton Fire Marshal evaluate staffing levels within the Shelton Fire Marshal's office as they pertain to the review of blasting operations;
3. The BOA work with the Shelton Fire Marshal to review the level of voluntary compliance with the newly instituted procedures/protocols after one year;

ATTACHMENTS

- Current DPS Blasting Regulations;
- Blasting Complaint Summary 2006 –2007;
- Correspondence to the Governor and the Commissioner of Public Safety;
- Correspondence to the Commissioner of Insurance;
- Response from the Commissioner of Public Safety;
- Draft - State Blasting Regulations;
- Correspondence to the Commissioner of Public Safety outlining Committee's proposed revisions to State Regulations;
- Draft - Notice of Intent to Blast;
- Draft - Informational Brochure;
- Shelton Fire Marshal's issued Blasting Procedures and Policies;
- Miscellaneous Correspondence.