

STATE FIRE PREVENTION COMMISSION
MINUTES
October 18, 2018

Members Present: Charles D. Davis, Chairman
Joseph L. Scheffey, Vice Chairman
Douglas C. Alexander
Mark A. Bilger
Kevin J. Simmons
Edward Tochterman, Jr.

Members Absent: K.C. Harrington
Stacy Welch

Chairman Davis called the meeting to order at the Laurel Municipal Building in Laurel, Prince George's County.

The Commission welcomed recently appointed Commissioner Kevin Simmons. He will represent the Central Maryland Region for the career fire service. Commissioner Simmons thanked the Chairman for his welcome. He has been in the fire service for almost forty years, retiring from Howard County Department of Fire and Rescue and currently employed in Annapolis. He looks forward to serving on the Commission.

FIRE MARSHAL REPORT

Fire Marshal Brian Geraci reported the Office of the State Fire Marshal (OSFM) currently has six sworn and six civilian vacancies. The positions are in various phases of being filled. The two engineer vacancies have been difficult to find qualified applicants. Deputy State Fire Marshal (DSFM) Don Brenneman, Southern Region, recently resigned to move south. DSFM Joshua Matthews was recently hired and is attending the law enforcement academy in Carroll County. He is the son of Fire Safety Inspector (FSI) Mike Matthews, Southern Region. Another DSFM is scheduled to be hired in November. She will be the agency's first African American female deputy and will begin the law enforcement academy in January.

Recent recruitment orientations for DSFM positions had 75 persons attend, 13 of whom are currently serving in law enforcement agencies. Lateral transfers do not need to take the written or physical exams or attend a police academy since they are already certified. They still are subject to a polygraph test and background/criminal history check.

The agency mourns the deaths of retired DSFM Chuck Dammann who served twenty years in the Southern Region and DSFM Dale Hill who served eight years in the Western and Central Regions.

Fire fatalities stand at 47 for this year compared to 53 for the same period in 2017. The January-June report was distributed which provides more detailed information. Some fatalities are pending final results from the medical examiner's office.

Pepco has provided 1,000 smoke alarms to Montgomery County, Prince George's County, and the District of Columbia Fire and Emergency Medical Services for distribution in its service areas. Delmarva Power will be donating 2,000 smoke alarms for distribution on the Eastern Shore.

Governor Larry Hogan has proclaimed September Campus Fire Safety Month and October 7-13 as Fire Prevention Week.

Community risk reduction weekend will be October 20-21. Fire departments are encouraged to get out into their communities to check and install 10-year sealed battery smoke alarms and educate residents on fire prevention and life safety.

The third quarter statistics for inspections and investigations are not yet available due to the employee who compiles them being on leave. Engineers received 1,309 plans, reviewed 1,011 plans, and conducted 42 inspections during the third quarter.

CHAIRMAN REPORT

Chairman Davis reported fire departments and others are promoting the closing of bedroom doors when you go to bed to prevent the spread of smoke and fire. He was recently made aware by a fire department member and realtor that new houses are being built in Southern Maryland that have vents over doors so heat from the hallway can vent into the rooms. Apparently this is not prohibited by code. Hopefully the new houses are being provided with residential sprinkler systems as required. The only area the Fire Marshal is aware of new houses not being sprinklered is Allegany County. The Fire Marshal has been in contact with the Department of Labor, Licensing, and Regulation (DLLR) which is now responsible for Maryland building codes, to discuss this issue.

OTHER BUSINESS

In a response to an inquiry from Commissioner Simmons, the Fire Marshal advised he has not been contacted by Baltimore City to assist with the recent gas fire in which six firefighters were injured, one seriously. The State Fire Marshal has no authority in Baltimore City and he has not gotten any details other than from information available through social media.

Chief Fire Protection Engineer (CFPE) Ken Bush reported the 2018 code update training seminars are currently in progress. Steven Sawyer, a Fire Code Regional Director with the National Fire Protection Association (NFPA), is the instructor. Mr. Sawyer is also the executive secretary for the International Fire Marshals Association. NFPA donated the code books for all attendees. Approximately 95 persons have attended each of the three one-day sessions. The two-day class is scheduled for next week. CFPE Bush distributed the code books to Commissioners Alexander and Simmons.

CFPE Bush reported the COMAR amendments to update the State Fire Prevention Code have been submitted to the Maryland State Police to begin the formal adoption process. It needs to be reviewed and approved by the Administrative, Executive, Legislative Review Committee before it can move forward and be presented for public comments and a hearing. Realistically it looks like a public hearing may not occur until the February or April Commission meeting.

The International Code Council (ICC) hearings will start October 21 in Richmond. High-rise cross-laminated timber construction will be coming up for a vote. The OSFM has no direct involvement with the ICC hearings. The OSFM has representation on the Maryland Building Officials Association's board meetings so there is some interaction with building officials to make sure there are no major conflicts between the fire and building codes. DLLR is responsible for the adoption of building codes in Maryland. NFPA continues the development of the 2021 editions of NFPA 1 and 101 with several OSFM staff members being involved in that process.

Vice Chairman Scheffey reported that the high-rise workgroup met again on September 12 and has essentially concluded its work. Four potential options for protection have been developed, three unanimously accepted by the workgroup with some dissent on the fourth option. The group looked at the technical aspects of improving life safety and not administrative issues. Vice Chairman Scheffey will prepare a formal proposal to present at the December meeting.

Commissioner Bilger reported that approximately 170 persons attended the Mid-Atlantic Life Safety Conference this year. A meeting has been arranged with Chairman Davis, Commissioner Bilger, and other agencies that provide support for the conference to ascertain continued and future support. It is scheduled for Saturday afternoon at the Maryland State Firemen's Association's Executive Board meeting in December. Any Commission members wishing to attend are welcome. Commissioner Bilger will provide an update at the December meeting.

The Commission discussed the Fire and Explosive Investigation Advisory Work Group and the development of minimum training recommendations and conducting peer reviews. The Fire Marshal's proposal to form this group was an outcrop from a legislative proposal last year to create a Science Advisory Workgroup similar to one in Texas that has since disbanded. Fire Marshal Geraci has discussed it with other fire investigation unit managers and it was felt that it may be good to review certain issues within the fire and explosive investigation community. Guidelines have been drafted and invitation letters will be sent to various groups to ascertain their formal interest in participating. There should be no need for any funding to support this process and OSFM personnel can handle any administrative duties. The draft recommendations, invitation letter, and list of potential agencies had previously been distributed to Commission members. Each agency and the Commission can select who will be its representative. The Fire Marshal will reach out to the Maryland Fire and Explosive Investigators Association for potential private investigator input. Motion by Commissioner Bilger, seconded, and unanimously carried to move forward with the process and invitations.

Motion, seconded, and unanimously carried to approve the August minutes with a correction to indicate Commissioners Harrington and Hubbard were not present.

APPEAL 18-01 MARYLAND SCHOOL FOR THE DEAF

Vice Chairman Joseph Scheffey recused himself from participation in the appeal because of his association with Jensen Hughes, the company that provided fire protection engineer services in connection with the installation of the fire alarm/mass notification system installed at the Maryland School for the Deaf in Frederick, Maryland.

The Petitioner, the Maryland Department of General Services, filed an appeal on behalf of the school seeking review of a decision of the State Fire Marshal. The Fire Marshal determined that the system is not in compliance with NFPA 72 § 23.8.1.1 because actuation times for the campus scrolling LED textual display message signs exceed the 10-second maximum permitted by the code.

After hearing the testimony, Chairman Davis concluded the public meeting and the Commission convened in closed session to deliberate its findings. The Commission unanimously concluded that the Fire Marshal correctly determined that the actuation times exceed the 10-second maximum and that the other components of the mass notification system that send text messages to cell phones and computers do not provide an equivalent level of life safety protection because the Fire Marshal has no control or jurisdiction over individual cell phones and computers and it is therefore impossible for the Fire Marshal to ensure that they are in working order.

Therefore, the Commission affirms the February 13, 2018, decision of the State Fire Marshal and denies the appeal.

A copy of the Commission's Amended Memorandum Opinion and Order is attached.

APPEAL 18-02 BLACKWATER DISTILLING INC.

The Petitioner, Stevens Palmer LLC, filed an appeal on behalf of Blackwater Distilling Inc. in Stevensville, Maryland, seeking review of a decision of the Queen Anne's County Fire Marshal's Office to require the installation of an automatic fire sprinkler system if the tavern hosts live music events. The Commission will schedule a hearing for the appeal at a future meeting.

MEETING SCHEDULED

The next meeting is scheduled for
Thursday December 20, 2018 – 9:30 a.m.
Maryland State Police Headquarters
1201 Reisterstown Road
Building C Classroom
Pikesville, Baltimore County

There being no further business, the meeting was adjourned.

Respectfully submitted,
(as summarized from transcript provided by Hunt Reporting),



Heidi Ritchie, Secretary

Attachment: Amended Memorandum Opinion and Order

BEFORE THE FIRE PREVENTION COMMISSION

DEPARTMENT OF GENERAL
SERVICES,

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Petitioner,

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v.

Case No. 18-01

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STATE FIRE MARSHAL,

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Respondent.

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AMENDED MEMORANDUM OPINION AND ORDER

I. Introduction

The Department of General Services (“DGS”) has filed an appeal to this Commission seeking review of a decision of the State Fire Marshal concerning the new fire alarm/mass notification system (“the system”) that has been installed at the Maryland School for the Deaf in Frederick, Maryland.¹ The Fire Marshal has determined that the system is not in compliance with NFPA 72 § 23.8.1.1 because actuation times for the campus scrolling LED textual display message signs exceed the 10-second maximum permitted by the code.

DGS acknowledges that the system does not comply with the 10-second notification requirement, but it requests a waiver of the provisions of NFPA 72 § 23.8.1.1. DGS advances several arguments in support of its request: the new system

¹ Commissioner Joseph Scheffey recused himself from participation in this appeal because of his association with Jensen Hughes, the company that provided fire protection engineer services in connection with the installation of the system at the school.

is a marked improvement over the old fire alarm system; the fire alarm portion of the new system is separate from the emergency mass notification portion of the system, so that if there is a fire, the occupants of the building will know that they should immediately evacuate; emergency notification is made within ten seconds to cellular telephones and computers located in the offices and classrooms, and school employees (and the students who can read) will rely on these notifications rather than the scrolling text notifications located in the hallways.²

In response, the Fire Marshal argues, and this Commission agrees, that the system was presented for its review as a fire alarm/mass emergency notification system, not as a fire alarm system, and that the system must therefore comply with NFPA 72 § 23.8.1.1. The Fire Marshal's office explained that it is unable to determine that the notification to the cell phones and computers provides an equivalent level of life safety protection because the Fire Marshal has neither control nor jurisdiction over the cell phones and computers, which may or may not be operational at the time of an emergency.

For the reasons set forth below, this Commission agrees with the Fire Marshal's determinations that (1) the system does not comply with NFPA 72 § 23.8.1.1, and (2) the system does not provide an equivalent level of life safety

² This is especially the case given that one of the emergency situations contemplated by the system is an active shooter on the campus: it is therefore much safer for the occupant of the building to remain in a classroom or office and to check a cell phone or computer in order to determine the nature of the emergency before venturing out into the hallway.

protection by way of emergency notification to cell phones and computers located in the school's offices and classrooms.

II. Issue

Should the fire alarm/mass notification system at the Maryland School for the Deaf be excused from complying with NFPA 72 § 23.8.1.1?

II. Facts

1. The campus of the Maryland School for the Deaf ("the school") is composed of thirteen administrative and classroom buildings in Frederick, Maryland. The school has installed, at enormous expense, a new, state-of-the-art fire alarm/mass notification system that interconnects eleven of those buildings.

2. The school has approximately 350 deaf or hard of hearing students, ranging in age from babies to high-schoolers. Approximately twenty of the students are deaf and have low vision. About a quarter of the students cannot read either because they are too young or because they have a disability that prevents them from learning to read. The school has approximately 250 employees, about 75% of whom are deaf or hard of hearing. The school also welcomes visitors.

3. The former fire alarm system had a marginally working mixture of outdated fire alarm systems with no interconnectivity, and it had no mass emergency notification component.

4. The new fire alarm/mass notification system is a major improvement over the former antiquated fire alarm system.

5. The new system notifies building occupants of a fire by way of a flashing white strobe light that emanates from a piece of equipment that is marked with the word "FIRE." When the occupants of a building are notified of a fire, they are required to evacuate the building immediately.

6. The new system notifies building occupants of a non-fire emergency by way of a flashing yellow strobe light that emanates from a piece of equipment that is marked with the word "ALERT." The mass notification system also features scrolling LED textual message signs, horns, audible alarms, cellular phone text messages, computer pop-up messages, and a scoreboard message sign on the athletic field.

7. Not all of the scrolling LED textual message signs at the school are actuated within ten seconds of the alert notification, most likely as the result of the age of the fiber-optic cables that run between the buildings. The other notification mechanisms operate within ten seconds of the alert notification.

8. The Fire Marshal does not have jurisdiction or control over the cellular phone text message and the computer pop-up message components of the mass notification system.

IV. Conclusions of Law

1. This Commission has incorporated by reference NFPA 101 Life Safety Code (2015 ed.) into the State Fire Prevention Code, except for certain amendments not relevant to this case. COMAR 29.06.01.07.

2. NFPA 101 incorporates the provisions of NFPA 72 (2013 edition) by reference at § 2.2.

3. NFPA 72 § 3.3.173 defines “Notification Appliance” as:

Notification Appliance. A fire alarm system component such as a bell, horn, speaker, light, or text display that provides audible, tactile, or visible outputs, or any combination thereof.

4. NFPA 72 § 3.3.173.3.1 defines “Textual Visible Notification Appliance”

as:

Textual Visible Notification Appliance. A notification appliance that conveys a stream of visible information that displays an alphanumeric or pictorial message. Textual visible notification appliances provide temporary text, permanent text, or symbols. Textual visible notification appliances include but are not limited to, annunciators, monitors, CRTs, displays, and printers.

5. NFPA 72 § 23.8.1.1 provides as follows:

Actuation Time. Actuation of alarm notification appliances or emergency voice communications, emergency control function interface devices, and annunciation at the protected premises shall occur within 10 seconds after the activation of an initiating device.

V. Conclusion

Based on the above findings of fact, and the provisions of NFPA 72 quoted above, this Commission concludes, as DGS has conceded, that the Fire Marshal has correctly determined that the actuation times for the scrolling LED textual display message signs of the fire alarm/mass notification system on the campus of the Maryland School for the Deaf exceed the 10-second maximum permitted by NFPA

72 § 23.8.1.1. The Fire Marshal has also correctly determined that the other components of the mass notification system, including the component that sends text messages to cell phones and pop-up messages to computers, do not provide an equivalent level of life safety protection. As the Fire Marshal's office explained during the hearing in this case, the Fire Marshal has no control or jurisdiction over individual cell phones and computers, and it is therefore impossible for the Fire Marshal to ensure that they are in working order.


Therefore, the Commission will, by separate order, deny the appeal brought by the Department of General Services, and it will affirm the February 13, 2018 decision of the State Fire Marshal concluding that the actuation times for the scrolling LED textual display message signs of the fire alarm/mass notification system on the campus of the Maryland School for the Deaf must comply with the 10-second requirement of NFPA 72 § 23.8.1.1.

ORDER

For the foregoing reasons, it is, on this 16th day of November, 2018, by the Fire Prevention Commission,

ORDERED that the appeal of the Department of General Services is DENIED, and it is further

ORDERED that the decision of the Fire Marshal is AFFIRMED.


C. Daniel Davis, Jr.
Chairman, Fire Prevention Commission