

**STATE FIRE PREVENTION COMMISSION
MINUTES
February 20, 2020**

Members Present: Edward S. Tochterman, Chairman
Kevin Simmons, Vice Chairman
Douglas Alexander
Mark Bilger
Emily Devan
Michael Faust
Stacy Welch

Members Absent: Charles D. Davis
K.C. Harrington

Chairman Tochterman called the meeting to order at the Taylor Avenue Fire Station in Annapolis, Anne Arundel County.

FIRE MARSHAL REPORT

Fire Marshal Brian Geraci reported he met with Montgomery County officials regarding unsprinklered high-rise buildings. They have identified 76 unsprinklered high-rise buildings and they have developed a plan to host public forums for building owners and associations. They already have some fire protection agreements drafted as things move forward. Rockville City reported they have two unsprinklered high-rise buildings. In conversations with the owner and condominium associations, they are optimistic the buildings will be retrofitted with sprinklers but will fall back on the other options if needed. Gaithersburg and Takoma Park reported no unsprinklered high-rise buildings.

The Office of the State Fire Marshal (OSFM) currently has six sworn and six civilian vacancies. The agency PIO Emily Witty has resigned and Lower Eastern Shore Region Deputy Chief Joseph Flanagan has retired. The civilian vacancies are two engineers, inspectors, and contract inspectors. The process is underway to administer a test for the Deputy Chief position. It will be filled internally and eight Deputies have expressed an interest. Once the promotion occurs that will open a Deputy position to fill.

Fire fatalities for 2020 stand at four. Sixty-three fire deaths were reported in 2019 with three causes of death pending medical examiner reports. If confirmed to be fire deaths, it will be a 5.6% decrease in fire deaths in 2019. Only one child under the age of 18 was killed in a residential fire in 2019. Only two fire deaths were reported in January which is very unusual, perhaps due to the mild winter and fewer heating related fires. The Montgomery County fire death was the result of burn injuries sustained while the person was practicing flaming baton twirling in a shed.

A Community Risk Reduction week took place January 20-26, 2020, with the focus on 5 E's: Education, Engineering, Enforcement, Economic Incentive, and Emergency Response. The OSFM used social media to get messages out during the week and also conducted a side-by-side burn demonstration with the National Fire Sprinkler Association.

The Fire Marshal reviewed various legislation:

- HB153 Public Safety-Maryland Building Performance Standards. Submitted by the Department of Labor, this bill proposes and increase from 18 months to 36 months for local jurisdictions to adopt or amend the State adopted building code. The length was reduced to 24 months which is still more than ample time for local jurisdictions to review and amend. The bill is pending.
- HB175 Public Safety-State Fire Marshal Explosives License. The bill proposes to amend Public Safety Article 11 and 12 to give local jurisdictions authority to designate time parameters for when contractors can conduct blasting operations. It will also allow the OSFM to deny permits or licenses if it is found explosives will be used inappropriately. The bill is pending.

- HB408 Public Utilities-Gas Service Regulator Safety. The bill would require gas regulators to be installed on the exterior of occupied structures and to relocate any existing interior regulators to the exterior in multi-family residential structures. This bill stems from a gas explosion in a Silver Spring apartment building that caused seven fatalities. The bill is pending.
- HB823/SB746 State Fire Marshal-Sprinkler Systems Enforcement. The bill gives the OSFM authority to enforce residential sprinkler requirements and stems from the issue with Allegany County not enforcing the residential sprinkler requirements. A hearing is scheduled for March 5th with the fire service, the National Fire Sprinkler Association (NFPA), and the American Fire Sprinkler Association testifying in favor.
- HB1548 Consumer and Display Fireworks. The bill will authorize persons 18 or older who meet certain requirements to purchase, possess, and use certain consumer fireworks and amends the definition of fireworks. The bill is pending.

The OSFM investigated 768 incidents in 2019, 598 fire related and 132 explosive related. There were 471 incidents where smoke alarms were present and functioned and 164 incidents where residential sprinklers were present and functioned. With the 10-year sealed smoke alarms, there are more activations and more saves. Fifty-four criminal cases were closed with the arrest of 64 persons. Thirty-nine incendiary cases were closed by arrest resulting in a 27.2% closure rate. 11,142 inspections were conducted and 1,763 plans reviewed. All investigation units throughout the state, including local jurisdictions and the OSFM, reported a total of 674 incendiary incidents, a 17.5% reduction from 2018.

The Fire and Explosive Investigation Advisory Workgroup met three times in 2019 and once earlier this month. The group is working on recommendations for minimum training/certification standards for law enforcement and fire investigation. The fire investigation module is based on NFPA 1033. Discussions took place with regards to private fire investigators participating in the fire module. The law enforcement module is being reviewed to determine course material for a basic law enforcement academy. Currently Virginia is the only state holding an entry level Fire Marshal Academy which provides law enforcement and fire investigation instruction. A meeting with Virginia Academy personnel is planned. The group is also working on continuing education requirements for investigator recertification. Who will be instructing the courses has not yet been discussed in any detail. It is very important that OSFM personnel are able to obtain and maintain their law enforcement and pro-board certifications.

The OSFM is currently under a Maryland State Police (MSP) internal audit for fiscal years 2018 and 2019. They are reviewing internal controls, revenues, expenditures, inspections, permits, investigations, grants, contractors, memorandums of understanding, overtime, and inventory.

OSFM personnel participated in the Maryland Special Olympics polar bear plunge again and raised over \$1,000 in donations. The bomb squad dive team stood by for safety.

The OSFM was not involved in the Jehovah's Witnesses Hall firebombing incident in Glen Burnie. The case is being handled by Anne Arundel County investigators and ATF. A woman has been arrested.

CHIEF FIRE PROTECTION ENGINEER REPORT

Regarding the engineer vacancies, Fire Marshal Geraci and CFPE Bush reported they met with the Administrative Services Chief and the OSFM Administrative Officer. Based on recommendations from the Department of Budget and Management (DBM) changes will be made to the Fire Protection Engineer job specifications, classification, and advertisement to be able to bring new hires in at various grades and step levels. An annual salary review will be done to submit with the agency budget to MSP. The engineers have gathered salary information from various government and private sector sources including from a recent engineer salary survey conducted by the Society of Fire Protection Engineers. Surprisingly DBM was already familiar with that survey and suggested using salary ranges from that for entry level and upgrades to existing positions. It is recommended to increase the current entry level salary of \$43,000 to about \$70,000 which is about what Maryland engineering graduates are getting. Everything has been submitted for consideration. Chairman Tochterman sent a letter to Colonel Palozzi expressing concerns with the ongoing FPE vacancies and low salary.

MSP has signed off on the COMAR amendments to correct the references in NFPA 495. It has been forwarded to the Administrative Legislative Executive Review (AELR) Committee as emergency action and is pending their approval. Chairman Tochterman spoke with Mr. Lancaster on the AELR Committee last week who advised he had not yet received it for review. It apparently is making its way through the process.

NFPA has sent CFPE Bush drafts of the Maryland versions of NFPA 1 and NFPA 101. He and Secretary Ritchie have been reviewing the drafts and providing comments. CFPE Bush has spoken to Steve Sawyer with NFPA on several occasions about this project. They are starting to design a cover as the final reviews continue to move along. There is no cost to the agency and NFPA will offer the codes for sale on their website which will be a benefit to architects and contractors.

The office has been receiving inquiries regarding BBQ grills on balconies, several of which have mentioned the Commission's 2007 Declaratory Ruling. This ruling signed by Chairman Brooks pertains to the 2006 edition of NFPA 1, Section 10.11.7 which states:

For other than one- and two-family dwellings, no hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking, heating, or any other purpose, shall be used or kindled on any balcony or under any overhanging portion or within 10 ft (3 m) of any structure. Listed electric ranges, grills, or similar electrical apparatus shall be permitted.

At that time COMAR 29.06.01.08Q amended this section to replace "10 ft" with "15 ft" and to delete the last sentence. The Commission's declaratory ruling specified that the deletion of the last sentence did not prohibit the use of electric equipment but did specifically prohibit the use of devices listed in the first sentence. The deletion of the last sentence was to provide local jurisdictions authority to prohibit electric devices if they chose to do so. Subsequent editions of NFPA did not specify types of grills. The current 2018 edition of NFPA 1, Section 10.10.6.1 reads as follows and the current COMAR amendment therefore only amends "10 ft" to "15 ft".

For other than one- and two-family dwellings, no hibachi, grill, or other similar devices used for cooking, heating, or any other purpose, shall be used or kindled on any balcony or under any overhanging portion or within 10 ft (3 m) of any structure.

During the last cycle there was input at the NFPA meetings to clarify whether electric devices were permitted. NFPA did not want to specifically say they are permitted since they feel the use of any cooking/heating device poses a potential fire hazard and therefore no cooking/heating devices or grills of any kind should be permitted on balconies. This matter is brought before the Commission to request clarification as to whether the declaratory ruling stands, allowing electric devices; or whether the current NFPA 1 code as written should be enforced to prohibit all types of devices.

After discussing the issue and the changes in the NFPA 1 Code, motion by Commissioner Bilger to enforce the current code which prohibits all types of grilling/cooking/heating devices; second by Commissioner Alexander and unanimously carried.

At the last meeting CFPE Bush reported NFPA had requested the OSFM consider its water-based professional certification to qualify for Maryland fire sprinkler contractor licenses. CFPE Bush advised that is still in the process of being reviewed. The regulation allows fire sprinkler contractors to have either NICET certification or equivalent so there would be no need to amend the regulation if the NFPA certification is deemed acceptable.

CHAIRMAN REPORT

Chairman Tochterman reported that with Commissioner Bilger's move to Carroll County from the Eastern Shore, a request was made to the Governor's appointments office to change his representation to at-large and Commissioner Faust's representation to the Eastern Shore. The change has been approved.

Vice Chairman Simmons previously advised the Chairman that Annapolis City intends to propose a requirement for existing buildings along Main Street from the circle to Market Street to be retrofitted with automatic sprinkler protection. They wanted any appeals to come before the State Fire Prevention Commission. After checking with Assistant Attorney General Susan Baron, the State cannot hear appeals of requirements in locally adopted codes and regulations. Chairman Tochterman recognized Captain Zapata with Annapolis City Fire Marshal's Office. He reported that about a year ago someone wanted to sprinkler their private home but the architect engineer approved the plans without sprinkler in the attic not realizing the attic would be used for livable space. When the Annapolis Fire Marshal's Office realized this during its review process, it approached the architect engineer who admitted he had in fact overlooked this requirement in error. The property owner was advised of the error but she did not want to sprinkler the attic. The property owner filed an appeal with the Annapolis City Board of Appeals which upheld she did not have to sprinkler the attic. The Annapolis Fire Marshal's Office was hopeful the State Fire Prevention Commission would be able to hear city appeals, but unfortunately it cannot. Regarding the current proposal, there are about 40 businesses that have not yet sprinklered their buildings. They will have until 2025 to do so. So far, no one has opposed this plan and more than half of the City council is on board. It will be discussed further at the next council meeting.

Vice Chairman Simmons, retired Annapolis Deputy Fire Chief, added that this is the third effort to retrofit businesses. It was attempted in the 1990's after a fire on Main Street and again in 2015 after the Annapolis Yacht Club fire. A report was generated in the 1990's which will forward to the Commission. A fire occurred last November on Duke of Gloucester, another historic area. A lot of businesses would like to use the upper floors of their buildings but cannot without sprinklers. Annapolis is visited most often for the Naval Academy and the historic architectural nature of the city so it is very important to protect this vital part of the local economy. The city is proposing incentives through low interest loans. Vice Chairman Simmons motioned that the Commission show its support for the initiative either by a letter or live testimony at the next council meeting. Live testimony would be better to reflect the importance of the issue. After discussion, the motion was seconded by Commissioner Bilger and unanimously carried. Vice Chairman Simmons and Captain Zapata will provide additional details on dates and location of the meetings. Vice Chairman Simmons will not provide testimony on behalf of the Commission but will be there in support as the Director of Annapolis Emergency Services.

As discussed at the last meeting, Chairman Tochterman reported he sent a letter to Colonel Pallozzi expressing the Commission's concerns about the difficulty in filling the OSFM engineer vacancies and the low salary. Hopefully that letter has found its way to the new Colonel.

Chairman Tochterman reported the December minutes did not reflect any discussion regarding a line item budget for the Commission. Secretary Ritchie checked the transcript and found no budget discussions mentioned. Since the Commission is mandated to perform certain duties which require expenditures, it is his opinion the Commission should have its own budget instead of relying on the funds allotted to the OSFM. At the Chairman's direction, Secretary Ritchie prepared a list of expenses routinely incurred by the Commission and Commissioner Bilger provided information on the cost of the Mid-Atlantic Life Safety Conference. After reviewing and rounding off the amounts, Chairman Tochterman distributed the proposal to the members for consideration. Members expressed their support for requesting a line item budget for the Commission. Fire Marshal Geraci reported he has no input on the amount of his budget, he is given the amount each fiscal year and while there may be a few red line items at the end of the fiscal year, overall it stays in the black. He has no issue with the Commission making a request. The proposal does not include Secretary Ritchie's salary and general office costs since she is an employee of the OSFM and works in an OSFM office. The request includes items such as mileage and travel expenses, court stenographer, code books and expenses typically incurred by the Commission, amounting to approximately \$16,884. While NFPA has provided code books gratis in the past, their continued support cannot be taken for granted.

Based on information provided by Commissioner Bilger, the 2019 Mid-Atlantic Life Safety Conference (MALSC) took in \$21,000 and expended \$15,000, leaving \$6,000 remaining for future use. Donations and expenditures for the conference are handled by the Fire and Burn Safety Coalition of Maryland (FABSCOM) which is a 501(3)(c) organization. In the past tax-exempt donations to sponsor the conference have been received from the NFPA and Underwriter's Laboratory, as well as the Maryland State Fireman's Association (MSFA) and the Maryland Fire Chiefs Association. These donations along with the attendee registration fees help cover the costs. Registration fees alone would not Maryland law requires the Commission hold at least one conference a year but it doesn't have to be the MALSC. Regardless, no budgetary funds have ever been appropriated to the Commission for this purpose. The Commission is listed as a sponsor for the conference and Commissioner Bilger currently chairs the conference's organization committee but otherwise the Commission has little involvement. If the Commission wishes to continue using the conference to satisfy the mandate, a budget request of \$15,000 would seem appropriate.

After discussion, motion by Commissioner Bilger, second by Commissioner Faust, and unanimously carried to request a line item budget specifically for the Commission based on Chairman Tochterman's recommendation.

Chairman Tochterman reminded members to file their annual financial disclosure reports and to provide Secretary Ritchie with the confirmation number.

OTHER BUSINESS

Vice Chairman Simmons recommended the Commission send a congratulatory letter to newly sworn in Prince George's County Fire Chief Tiffany Green who is the first female African American to hold the position. He also recommended sending a letter to recently appointed Secretary of State Police Colonel Woodrow Jones. Chairman Tochterman will do so and extend an invitation to attend the Commission's meetings. Vice Chairman Simmons thanked the Commission and departed for another meeting.

Commissioner Bilger made a motion to include in the letter to Colonel Jones an inquiry as to the status of the reappointment of Fire Marshal Geraci. Second by Commissioner Devan. It was noted that at the time the Commission forwarded its recommendation for the appointment in August 2019, the Secretary of MSP was Colonel Pallozzi. Commissioner Welch questioned whether such an inquiry to the new Colonel would raise questions. Fire Marshal Geraci had previously reported that Colonel Pallozzi sent a letter of recommendation to Governor Hogan to reappoint him, anticipating this would occur most likely in April or May after the legislative session was over. So the Governor would be sending his response back to the MSP Secretary, it now being Colonel Ford. Fire Marshal Geraci recommended not making an inquiry. Commissioner Bilger amended his motion for the letter to be introductory only with an invitation to attend the Commission's meetings. Motion unanimously carried.

Commissioner Bilger reported that thanks to MSFA President Michael Faust, the 2019 edition of the Maryland Fire Laws book is now available on line at the msfa.org website in the members section. You would have to become a member to access but there is no cost to join.

Commissioner Alexander inquired if any action could be taken to facilitate a replacement for Commissioner Harrington whose term expired June 2018. Commissioner Davis' second term will end June 2020. With two vacancies this could present quorum issues. Although Commissioner Harrington has been able to continue attending some meetings until he is replaced, this is becoming more difficult for him. Find a building contractor to serve on the Commission has been the issue.

Regarding the December minutes, Chairman Tochterman stated he did not think they were accurate since there was no mention of the budget being discussed. After having Secretary Ritchie check the written transcript, she advised it did not contain any budget discussion. Court Report Walter Murphy advised the audio is still available and he will check it to determine if the transcript was accurate. As such, Commissioner Faust motioned to table the approval of the December minutes until the next meeting after the audio has been checked. Second by Commissioner Welch and unanimously carried.

MEETING SCHEDULED

The next meeting is scheduled for:

Thursday, April 16, 2020 - 9:30 a.m.
Laurel Municipal Building, Council Chambers
8103 Sandy Spring Road
Laurel, Prince George's County

There being no further business, the meeting was adjourned.

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

A handwritten signature in blue ink that reads "Heidi Ritchie". The signature is written in a cursive, flowing style.

Heidi Ritchie, Secretary