

STATE FIRE PREVENTION COMMISSION
MINUTES
April 15, 2021

Members Present: Edward S. Tochterman, Chairman
Kevin Simmons, Vice Chairman
Douglas Alexander
Mark Bilger
Emily Devan
Randy Sanger
Daniel Stevens
Stacy Welch

Members Absent: Michael Faust

The Fire Prevention Commission held a public meeting on April 15, 2021, at 9:30 a.m. at the Taylor Avenue Fire Station, 620 Taylor Avenue, Annapolis, Anne Arundel County. The Pledge of Allegiance was recited.

Chairman Tochterman welcomed Commissioner Sanger to his first face-to-face meeting.

FIRE MARSHAL REPORT

The Fire Marshal reported there have been 23 fire fatalities to date in 2021, 21 occurring in residential structures. Four fires had multiple fatalities.

Hiring freeze exemptions have been submitted for all remaining vacant positions which include the contractual inspectors and the public information officer/community risk reduction coordinator. All were approved and the hiring process has begun. About 300 applications have been received for the inspectors. Unfortunately only two applications were received for the previously advertised engineer positions and they both accepted jobs elsewhere. With the engineer salary increase July 1, 2021, the positions will be advertised again.

The Fire and Burn Safety Coalition of Maryland has agreed to purchase fire safe cannula valves. This should be a solution to reducing the number of fire deaths caused by individuals smoking while on oxygen. A program will be developed to get them distributed for free. Minnesota has a similar program. The Fire Marshal was unsure cost but FABSCOM is solvent with funding. Through the crowd manager program which is managed for the OSFM by the National Associate of Fire Marshals, FABSCOM receives about \$2,000-\$2,500 a month for persons taking the course.

Deputy State Fire Marshal (DSFM) Helys Valles-Alicea graduated from the Carroll County Sheriff's Law Enforcement Academy on April 1st. She will be assigned to the Southern Region. She received an award for the highest academic achievement with a 97% class average. She previously was in law enforcement in the District of Columbia and holds a degree in forensic science. The agency is fortunate to have her on board. Her father, a detective from Puerto Rico, attended the graduation ceremony and presented her badge. She is the first DSFM to graduate at the top of the class, she is fluent in Spanish, and is the agency's first female Latina deputy.

With DSFM Valles placement in SRO, staff are now fully placed and the Bomb Squad is fully staffed. An updated organizational chart was distributed.

For the first quarter of the year, a total of 409 plans were reviewed and 1,783 inspections conducted. Of the 229 investigations, 181 were fire related, 31 explosive related, and 17 other.

The General Assembly concluded on April 12th. The OSFM was involved with the following bills along with the fire service:

- HB696 Consumer and Display Fireworks: Failed in committee. Authorizing a person who is at least 18 years old and meets certain requirements to purchase, possess, and use certain consumer fireworks; prohibiting a person from intentionally igniting or discharging certain consumer fireworks in certain circumstances; altering certain provisions to establish that certain provisions authorizing the State Fire Marshal to issue a certain permit relating to fireworks apply only to certain display fireworks; applying certain penalties to a violation of the Act; etc.
- HB1075/SB481 State Fire Marshal - Investigations - Reporting Requirement: Failed in committee. Requiring the State Fire Marshal to report to the Public Service Commission with an update of a certain investigation within 90 days after a fire or explosion or attempt to cause a fire or explosion and every 90 days thereafter until the investigation is concluded; and requiring an update to include the status of the investigation and the expected date on which the investigation will conclude.
- HB0989/SB714 Public Safety - 911 Emergency Telephone System - Alteration: Passed in both chambers. In the absence of a county or municipality designated enforcement unit, the OSFM, including the State Fire Marshal, an Assistant State Fire Marshal, or a Special Assistant State Fire Marshal shall be responsible for enforcing subsection (B) of this section. Multi-line phone systems must be able to dial 911 direct.
- HB345/SB503 Public Utilities - Gas Service Regular Safety (Flower Branch Act): Passed in both chambers. Requiring newly installed gas service at an occupied structure have a gas service regulator installed only on the outside of the structure; Requiring existing interior regulators in multifamily residential structures be relocated outside whenever a gas line or regulator is replaced; On or before January 1, 2022 requiring a gas company to file a plan with the Public Service Commission to relocate any regulator that provides service to a multifamily residential structure.
- SB156 Public Safety - Law Enforcement - Veterinary Care of Retired Law Enforcement K-9s Act: Passed both chambers. Requiring certain state and local law enforcement agencies to reimburse individuals who take possession of dogs formerly used in law enforcement work under certain circumstances for reasonable and necessary veterinary treatment, not to exceed \$2,500 per calendar year or \$10,000 over life of dog; Authorizes agencies to accept public donations for such. K-9s usually are in service for about eight years before retiring. The veterinary cost will come out of the OSFM budget.
- SB940 Public Safety – Fire Prevention Codes and Maryland Building Performance Standards – Solar Energy Generating Systems: Failed in Committee. Subjecting the adoption of a certain fire prevention code to authorizations granted to a county or municipal corporation for the installation of solar energy generating systems of any size on the rooftop of a single-family residential dwelling for which a permit is required; authorizing a county or municipal corporation to require the installation of a certain solar energy generating system to include a certain fire protection pathway, subject to certain

exceptions; etc. This would have reduced the width of pathways on roofs to allow more panels which would impact firefighter safety.

- There have been numerous bills pertaining to law enforcement. Chief Deputy State Fire Marshal Der will be working with the Department of State Police on how the new laws will affect sworn personnel. These changes deal with officers' bill of rights, body cameras, physical agility testing, psychological testing, personnel records, etc. The agency typically makes arrests through warrants and not on-scene so the impact may be minimal.

Chairman Tochterman requested the Fire Marshal discuss three investigation incidents that caught his attention from the media releases that are distributed.

The first occurred in March involving a sprinkler activation caused by a five-year-old playing a lighter in a closet in an apartment building. The sprinkler functioned properly to extinguish the fire and the Chairman feels it is important to emphasize such successes since the Commission, the OSFM, and the State of Maryland support and promote residential sprinklers. The Fire Marshal stated it occurred in a three-story apartment building in Washington County and the child and his friend retrieved a torch-type lighter from the kitchen counter and were playing with it in his bedroom closet. The clothes on the floor caught fire and the child and his friend walked away. A short time later the smoke activated the smoke alarm, the father saw a tremendous amount of smoke down the hall, grabbed the children and left the building to call 911. When the fire department arrived, the sprinkler system had already activated in the bedroom and extinguished the fire. There was little damage and no injuries. None of the other apartments in the building were affected. Effectively the sprinkler and smoke alarm saved three lives in the apartment unit of origin, and the other occupants of the building by containing the fire. Maryland sprinkler and smoke alarm saves are tracked by the OSFM.

Another incident occurred in March in Cecil County involving an underground biodiesel tank explosion with a \$300,000 loss. The tank heater or an electrical component going to the heater was the cause. Investigators did not enter the tank itself but since that was the only ignition source and the blast initiated right around the heater, it was either the heater or electrical.

In April a triple fatal fire occurred in Cambridge, Dorchester County, in a two-family home during the early morning hours. The home had a living unit on the first floor and a living unit on the second floor. The fire originated on the second floor, the smoke alarms on the first floor activated, and the first floor occupant exited the home. Outside he could see fire in a second floor bedroom window which was still intact. He went back to alert a female occupant to get out. There was an 11-year-old child on the second floor who was able to get to a balcony porch-type area to the rear of the home. The first arriving law enforcement personnel were able to rescue the child. Two adults jumped from the third story of the structure and were found outside on the left side of the building. The male was unconscious but alive. He coded in the ambulance. Based on the autopsy report he had numerous broken bones and organ damage. The death appears to be from trauma as opposed to fire related injuries. The female broke her back and is still hospitalized and intubated. It took the fire department 12 minutes to get to the scene from the time of the 911 call. Upon arrival there was heavy fire on the second and third floors. During the firefight it was learned that there were two other occupants, an 18-year-old female and an eight-year-old male. Both were discovered deceased during the investigation. The autopsy report showed high CO levels. This was the fourth multi-fatality fire this year.

There was another multi-fatality fire that occurred in Hagerstown City, Washington County, this year in which two children and one adult male died. A double fatality also occurred in Salisbury on the lower shore.

Commissioner Bilger inquired if the structures were properly permitted to be multi-family rental units. The Fire Marshal advised the OSFM inspector is working with the city of Cambridge to ascertain code compliance for that structure. There was heavy damage, numerous ignition sources, extension cords, and propane heaters being used. The cause remains undetermined. The second and third floors completely collapsed. It is unclear why the persons on the second and third floors didn't hear any smoke alarm. The occupants on the third floor were unable to exit through the second floor so they had to jump to the ground about 26 feet below.

As a reminder, the Maryland Fire and Life Safety Information Exchange Program website is www.mdflifesafety.org.

CHIEF FIRE PROTECTION ENGINEER REPORT

The Southern Region Engineer Derek Murgatroyd provided the report in Chief Bush's absence.

The Code Update Committee continues to review the 2021 editions of NFPA 1 and 101. The review of NFPA 101 is nearly complete with some additional research being done on valet trash amendments. A significant change in 2021 NFPA 101 is to the sprinkler requirements in daycare centers and assembly occupancies. Assemblies having 50 or more occupants (reduced from 100) are now required to be sprinklered, including bars and restaurants. The committee felt the International Building Code (IBC) requirements provide an adequate level of safety and the committee set the threshold at 100 to be consistent. There is also an IBC requirement that assemblies having an area greater than 5,000 square feet that are located on a floor other than the level of exit discharge must be sprinklered. NFPA also added a new requirement that all daycare centers must be sprinklered. The committee felt the IBC provides an adequate level of safety with some exceptions for daycares where all daycare rooms have an exterior door at grade level provided the building is less than 12,000 square feet in area. The committee is proposing amendments to align with the IBC requirements.

For newly appointed Commissioner Sanger's benefit, Chairman Tochterman explained the NFPA 1 and NFPA 101 three year update cycle, the Code Update Committee's review of the NFPA changes, the need to add, delete, modify any State amendments, and whether requirements are compatible with other Maryland codes (such as the IBC) and laws. It is a very thorough process. The committee then presents its proposal to the entire Fire Prevention Commission which is tasked with promulgating the State Fire Prevention Code. Once the Commission votes to accept the committee's proposal, the proposed amendments are processed through the Department of State Police and the Division of State Documents, advertised for public hearing and comment, and if no substantive changes are made from the original proposal it is advertised for final adoption. CFPE Ken Bush chairs the committee and the Commission's Secretary Heidi Ritchie monitors the progress and completes the administrative work. Since the meetings are virtual, every two weeks for three hours, instead of all-day face-to-face meetings as in the past, the process is taking a bit longer. Everyone is doing an excellent and professional job. Commissioner Welch, a committee member, remarked that about 30 persons consisting of various state and local fire and building code officials participate so you get a good feel of the different challenges they face in their jurisdictions.

Recruitment for the two vacant engineer positions continues as previously reported by the Fire Marshal.

For the 2024 national model code work, the International Code Council hearings are currently in progress to update its series of codes. CFPE Bush is participating in some of those hearings this week.

The NFPA 1 technical committee will begin meeting the last week of April in preparation for the 2024 edition. The NFPA 101 technical committee will begin work in the middle of July.

The engineering staff continues to work remotely with some projects being reviewed electronically. It seems to be working well for staff and constituents.

Since this is the first time many Commissioners are meeting FPE Murgatroyd, Vice Chairman Simmons asked him to provide a brief background. He is a University of Maryland graduate of the Fire Protection Engineering Program. He began his education in fire protection at Delaware Technical and Community College. He has a Bachelor's Degree in Fire Protection Engineering and an Associate's Degree in Fire Protection Engineering Technology. He was a fire protection consultant in his early career before his employment with the OSFM in 2011 where he is assigned to the Southern Maryland Region.

CHAIRMAN REPORT

In response to Chairman Tochtermann's inquiry, the Fire Marshal has not received any official notification of his reappointment. For the new Commissioners' benefit, the Chairman explained that the Fire Marshal position is an appointed six-year term position. At the end of six years the position is advertised and applications are accepted. Fire Marshal Geraci re-applied for the position. The Commission is provided a list of eligible candidates from the Department of State Police, the Commission recommends three candidates to the Secretary (Colonel) of the State Police who then makes the appointment with the approval of the Governor. The Commission forwarded its recommendation to the Colonel in August 2019. Since that time a new Secretary of State Police was appointed so the Commission is attempting to bring the new Secretary up to date.

Regarding amendments to the OSFM fee schedule, the Chairman has been in discussions with OSFM staff. The State Treasurer's Office has purchased a canned program to handle and track receipts and expenditures. The State has also changed banks. In doing so they selected a new bank that does not accept credit card payments. It is the intent that all fees will be done electronically. By law the OSFM has to collect fees for plan reviews and inspections. The Commission is responsible for reviewing the fees annually to make sure that fees charged cover the cost of providing the services. All fees collected go to the general fund and not directly into the OSFM budget. The fees can be adjusted by regulation or the State law can be changed to eliminate them. Commissioner Alexander was in favor of eliminating the fees. The time OSFM personnel spend sending invoices and attempting to collect overdue debts could be better spent elsewhere. The Chairman feels that once an electronic fee for OSFM services is entered into the system, it should not be the responsibility of the OSFM to ensure the fee is collected—if you are given a traffic ticket it is not the officer's responsibility to ensure you pay it. The Chairman has spoken with CFPE Bush numerous times and if any changes are made it is encouraged that they be to the advantage of the plan reviewers and inspectors to make them as simple as possible. Plan review and some inspection fees are currently structured based on occupancy classification and square footage. Fire protection system fees are based on the number of sprinkler heads or fire alarm devices and other things. Some inspections have just a flat fee. CFPE Bush feels the current system provides equity

from the perspective a small local store is not charged the same fee as a big box store. The Chairman suggested CFPE Bush talk with the plan reviewers and inspectors and provide suggestions to the Commission. Any proposal will be reviewed by the Commission's legal counsel, Susan Baron, to ensure compliance with State law prior to making an official changes. Per the Fire Marshal, if a legislative proposal is to be submitted, it will have to be a decision made at the June meeting since all legislative proposals must be submitted through the department in August. The Fire Marshal would like to see the fees eliminated by law. The Chairman entertained a motion to request the fees be removed by legislation. Motion by Commissioner Alexander, second by Commissioner Welch. Commissioner Bilger opposed the motion because when the fees were first proposed during lean budget years, the Fire Marshal was able to show the leadership of Maryland government that his agency was generating revenue instead of costing the state revenue. He feels the fees are reasonable and appropriate. The Fire Marshal noted that unpaid fees are not sent to Central Collections until at least three months payment is overdue. OSFM personnel send the initial invoice, a second unpaid notice, and a third unpaid notice before it goes to collections. An automated system is already in place in Louisiana but it will take funding to automate Maryland. The Fire Marshal stated if an inspector finds a violation, there can be a fine imposed but they are given numerous opportunities to comply so fines are rare.

There has been no news on the Commission's request for a line item budget. The Fire Marshal reported he has spoken to the Colonel's Chief of Staff about this. The request apparently was forwarded to Paul Able, the Chief Financial Officer who does the budget. The Fire Marshal also expressed to the Chief of Staff the Commission's desire to have the Colonel attend its June meeting. It was recommended the Commission send the Colonel a letter providing him with topics of discussion so he can prepare for the meeting. Chairman Tochtermann will send a letter to include the Fire Marshal's reappointment and the line item budget.

OTHER BUSINESS

Commissioner Bilger reported the Johns Hopkins Lab has not made a decision on use of the conference facility. It is unknown what will happen with the annual Mid-Atlantic Life Safety Conference, which had to be cancelled last year due to COVID. The conference committee is working on a virtual/live streaming program with assistance from MIEMMS and MFRI. The date is still set for September 28, 2021. It will not be an all-day program so the time has not been set. The plans are to have three live streaming programs the day of the conference and six other pre-recorded programs that individuals can access on-line for a period of time. The Governor will be invited to do some type of pre-recorded message. CFPE Bush will do a live-stream presentation on the code updates. The committee also intends to invite the State Fire Marshal to make a presentation and former Commission Chairman Richard Brooks to discuss the history of the conference. This should satisfy the requirement for the Commission to host an annual seminar. There is no intention to charge a registration fee. Max Sanders from MFRI who handled the booths at the live conferences is working to develop virtual booths where information can be pre-loaded onto a website for accessing. There may be a charge for that. The committee intends to select a Public Safety Educator of the Year and have a pre-recorded presentation.

Mischelle VanReusel, Department of Labor, was introduced. Her department deals with elevator and boiler inspections, OSHA signs, and building codes. Various units under the department collect money in different ways. It is difficult and frustrating. Some of the money goes to special funds, some back to the department, and some to the general fund. Very little goes back to the department from the millions collected. The special funds go toward non-salaried items. Going through legislative audits can be a challenge. Sometimes it takes more

time and expenditure to manage the collection of money than the amount of money collected. They have a third-party vendor handling credit cards, and a third-party vendor, Black Box, to handle checks because it takes three different people with three different backups to go through the check cashing process. With Black Box, all the checks go through them, they cash them, and send money back to the department's account. The third-party credit card company uses a different bank and then sends the money to the bank the State uses. If a fee isn't paid, services are withheld. Eventually if unpaid it goes to collections.

Fire Marshal Geraci stated the Department of State Police also collect fees for various licenses, gun permits, and other things. Commissioner Devan noted there is little incentive to pay fees when the client has already received the plan review or inspection before an invoice is even sent. She suggested perhaps that could be changed to have fees paid up front before providing the service. The Fire Marshal agreed that might work for plan reviews but not inspections. The inspectors are very busy and people would be paying but the inspector can't get there right away. When a plan review is conducted, there is no additional fee for the final inspection. Vice Chairman Simmons and other members remarked that it appears the collection of the fees is the issue, not the fees themselves. It was suggested to look how other departments and agencies within the State are handling fees before proposing legislation to remove them. It is unlikely that another State agency, such as the Department of Budget and Management, would be willing to take on the workload of collecting the OSFM fees. Third-party private vendors may be the solution. If legislation is proposed to remove fees from the Public Safety Article, it would go to the Judiciary Committee for review. Rarely does a proposal go through as originally proposed, but it may spur conversation about the fees and how they are collected. The Fire Marshal recommended legislation be deferred for a couple years. Chairman Tochtermann will include fees and collection as a topic in the letter he sends to Colonel Jones.

A copy of the internal audit of the OSFM was distributed. The audit is critical in a number of areas of the OSFM operations. The Fire Marshal has responded. Chairman Tochtermann commented that it is obvious the auditors have virtually no expertise in fire protection or fire prevention. Much of the report concerns records not matching, such as inspection paperwork not matching data that is inputted to various computer programs. One item is whether the current number of OSFM personnel is capable of performing all the code required inspections. The report does not address the organizational structure of the OSFM, the adequacy or age of equipment the inspectors and investigators need, or adequate funding for the agency. It is critical of the fees and meeting the requirements to process and deposit checks. It does touch on productivity and up-to-date methods and technology that are available. All the inspections are conducted using paper forms.

The report notes in Finding #4 the OSFM did not establish a frequency of fire inspections necessary to mitigate risks of loss of life and property from fire, quoting Public Safety Article (PSA) 6-607 which sets the standard that the OSFM shall inspect for fire exits and reasonable safety all institutions owned by the state, county, or municipal corporation and all schools, theaters, churches and places of public assembly. The report indicates the OSFM lacks a retention schedule to document fire safety inspections. Chairman Tochtermann presumes that a motivated fire inspector goes out and does inspections in accordance with recommended minimum standards and then having done so retains the results for the record. These are primary things any fire prevention bureau should do but establishing a minimum frequency of inspections and putting that into policy for the 13 counties the OSFM is responsible for would be difficult. If the Commission sets the minimum standard than that would apply to all counties, except Baltimore City. Under PSA 6-305(b) by delegation of authority vested in the Commission and by policy established by the Commission, the State Fire Marshal shall implement fire safety programs in the state to minimize fire hazards and disasters and loss of life and property from these causes, including the establishment and enforcement of fire safety practices, preventative

inspections, and corrective activity. The Chairman inquired with legal counsel, Susan Baron, who confirmed the Commission does have the authority to establish minimum frequency for fire prevention inspections. In the Chairman's discussion with former Chief Fire Protection Engineer John Bender, who knows a lot of history behind things in the OSFM, the former Fire Marshal Rocco Gabriele tried to establish minimum inspection frequencies for different occupancies. Commissioner Bilger, a former OSFM employee, remarked Fire Marshal Gabriele also had a policy that employees would conduct a minimum of 30 inspections per month. At that time the OSFM did not have independent inspectors, the deputies had dual duties to do both investigations and inspections. CFPE Bender advised that the minimum frequency policy failed because the metropolitan area fire service counties—Baltimore, Anne Arundel, Howard, Prince George's, and Montgomery—did not want it set upon them. The Fire Marshal's response to the audit was not distributed to all members, but the Chairman will do so. Chairman Tochtermann advised and the Fire Marshal confirmed that he does not intend to fight the audit and will comply where he is able to. The Fire Marshal reported the schools are being inspected on a regular basis and in the next couple weeks regions will start inspecting more places of assembly. A database has been set up to track various information on assembly occupancies such as sprinkler, fire alarm, occupant loads.

Every year the Fire Marshal has to do three performance measures for the Department of State Police, assembly inspections will be one of the measures for this year. The Fire Marshal explained that there are four agency goals and within those goals you have a plan of action. One goal is to close all criminal cases above the national average. The focus for deputies is to close cases, not do inspections. It's apparent the agency needs more inspectors and more automation to prioritize more efficiently. Ensuring the agency has adequate bomb technicians is another goal. Last year the focus was on mental health of agency personnel.

The Fire Marshal is also looking to establish a mid-level supervisor position. A committee of Deputy Chiefs and Deputy State Fire Marshals is reviewing this prospect. It is hoped in the next couple months a proposal can be presented to the Department of State Police to request the Department of Budget and Management create these positions within each region. They will be promotional positions for deputies who can then go on to be Deputy Chiefs when the opportunity arises. The fight will be to get more positions since the intent is to fill the vacancy created when a deputy is promoted to the mid-level position.

The Chairman entertained motions to approve the February minutes. Motion by Commissioner Alexander, second by Vice Chairman Simmons, and unanimously carried.

Next Meeting – June 17, 2021 – 10:00 a.m.
Taylor Avenue Fire Station
620 Taylor Avenue, Upper Classroom
Annapolis, Anne Arundel County

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



Heidi Ritchie, Secretary