

**STATE FIRE PREVENTION COMMISSION**  
**MINUTES**  
**August 19, 2021**  
**(version 2 correction)**

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

**Members Absent:** Michael Faust  
Daniel Stevens

The Fire Prevention Commission held a public meeting August 19, 2021 at 10:00 a.m. at the Mount Airy Volunteer Fire Company, 702 North Main Street, Mount Airy, Carroll County.

Chairman Tochterman called the meeting to order. The Pledge of Allegiance was recited. He thanked the Mount Airy Volunteer Fire Company for use of their facilities and Commissioner Alexander for making the arrangements.

The Commission welcomed Scott Campbell, the Director of Public Safety for Carroll County, who was invited to the meeting by Commissioner Alexander. Mr. Campbell started his career as Carroll County's first fire protection engineer and has known Commissioner Alexander for many years. Mr. Campbell is familiar with the Commission but has never had to come before it for any appeal during his work as a fire protection engineer doing plan reviews. Chairman Tochterman acknowledged he too was an engineer for Baltimore County in the 1970's and did testify before the Commission several times, not imagining that many decades later he would be its Chairman. Mr. Campbell thanked the Commission for the invitation

The Commission welcomed Mischelle Vanreusel with the Department of Labor, Division of Labor and Industry, where the building codes, OSHA, elevators, railroads, and labor laws are overseen.

Chairman Tochterman acknowledged in correspondence to each commission member in July that he had been re-appointed to a second term and indicated that he would like to seek nomination to continue as Chairman. As such, the meeting was turned over to Vice Chairman Simmons and Chairman Tochterman exited the room.

Vice Chairman Simmons entertained nominations. Commissioner Alexander motioned to nominate Chairman Tochterman for re-election as the Commission's Chairman, stating that over the past several months the Commission has made much progress and tackled some difficult issues. With the Chairman's leadership and the Fire Marshal's Office's and the Chief Fire Protection Engineer's support some good and reasonable changes to the fire code and procedures have occurred. Second by Commissioner Bilger, and unanimously carried to re-elect Chairman Tochterman. Chairman Tochterman re-entered the room and after being advised of his re-election thanked the members for their support. He stated the position of the Commission is one that affects the lives of all Marylanders, with the exception of Baltimore City for the most part, and it is a serious responsibility which he does not take lightly and hopes the other Commissioners feel likewise.

Chairman Tochterman continued the meeting, calling on Fire Marshal Geraci to present his report.

**FIRE MARSHAL REPORT**

Fire Marshal Geraci expressed condolences for the death of Captain Josh Laird, an engine company officer with the Frederick County Fire Department who lost his life in a house fire last week. He

was posthumously promoted to Battalion Chief and was interred on Tuesday. Vice Chairman Simmons suggested to send a letter of condolences to Frederick County for the death of their battalion chief. Investigators from the Office of the State Fire Marshal (OSFM), Frederick County, Howard County, and ATF are assisting with the origin and cause investigation. The fire was similar to a fire in which a Howard County Lieutenant lost his life. Lightning struck the house, found the corrugated stainless steel tubing (CSST) that was joined to the fireplace, resulting in a propane-fed fire. OSFM Deputy Chief McMahon suffered a property loss in a similar fire at her home. Fire Marshal Geraci will discuss the CSST issues with the Fire Service Legislative Committee when it reconvenes for meetings in September. CSST that is jacketed and protected from lightning strikes is now available on the market and this should be a standard moving forward in Maryland.

To date there have been 40 fatalities in residential fires across the state and seven fatalities from vehicle collisions involving fire. There were no residential fire fatalities in the month of June. The 2020 Fire Fatality Report has been distributed to the members.

During the second quarter of the year, the OSFM conducted 216 investigations, 163 of which were fire related; Fifteen criminal cases were closed by arrest; Thirty-three individuals were arrested; 2,738 inspections were conducted; and 494 plans were reviewed.

During the period from Sunday June 27 to Saturday July 10, 2021, eleven fireworks injuries were report across the State, three were juveniles. Several were serious hand or eye injuries, requiring transportation to the hospital. One person lost most of his hand. Twenty fires were caused by fireworks resulting in an estimated loss of \$38,650. The Bomb Squad is investigating four incidents that occurred at commercial fireworks displays. One was most likely caused by static electricity detonating shells as they were removed from containers, one where the shell detonated in the tube, one where a person other than the shooter on record showed up to do the shoot, and one where an unexploded shell was found the next day by a fire department volunteer. In response to an inquiry from Commissioner Bilger, the Fire Marshal report the OSFM confiscated a few fireworks but no arrests or citations were issued.

The OSFM participated in the National Night Out events throughout the State. All five bomb squad response vehicles were on display as well as the five regional fire investigation unit vehicles. Photos from some of the events were distributed in the Fire Marshal's printed report.

OSFM personnel assisted the State Police with its Youth Leadership and Law Enforcement Seminar, talking about the various roles of the OSFM, including the Bomb Squad, Underwater Devices Team, and the K-9 Team.

The hiring process for contractual inspectors and the public affairs officer is ongoing. It is hoped the public affairs officer will be on board next month. Deputy State Fire Marshal (DSFM) Rodeheaver, Western Region, will be retiring on disability due to an injury.

In response to an inquiry from Vice Chairman Simmons, the Fire Marshal advised the OSFM was not requested to assist Baltimore City with the investigation of a high-rise fire that resulted in a death. He does not know if the building was sprinklered.

### **CHIEF FIRE PROTECTION ENGINEER REPORT**

CFPE Bush reported there are still two full-time engineer vacancies. One applicant is scheduled for an interview on August 30<sup>th</sup>. He is a University of Maryland graduate residing in Baltimore County. The agency continues to advertise and get the word out about the vacancies.

The OSFM is revising its haunted house and wedding barn guidelines to incorporate some of the upcoming code updates. In response to an inquiry from Commissioner Alexander, CFPE Bush expounded further. Because haunted houses are temporary, they often are in venues that do not comply with the code. The policy deals with modifications based on limited occupancy, staff occupancy, egress arrangements, type of operation, and hours of operation. There have been some code changes in the last three years so the policy needs to be updated. Weddings and other events are taking place at venues previously used for agricultural purposes. "Agritourism" continues to grow and the policy

correlates with building code requirements so that when someone applies for a permit through their local building/zoning department they are provided similar information once the OSFM becomes involved. In response to an inquiry from Commissioner Bilger, CFPE stated corn and crop maze venues are found throughout the State and originally the State Fire Prevention Code adopted regulations pertaining to them since the NFPA model codes did not address such venues. In the last few code cycles, requirements have been incorporated into the NFPA codes.

A small in-house committee is working on an electronic registration process for the licensing of sprinkler contractors. The Lower Eastern Shore Administrative Specialist and Sprinkler License Coordinator Linda Bounds is working with a firm called Innovation of Washington DC and the Maryland OneStop Portable to try to setup an on-line application process to streamline the current paper process. She has been doing a great job processing the paper applications for hundreds of new licenses, renewals, changes of personnel, etc. This can sometimes be problematic with the ongoing mail delivery issues.

A small committee, spearheaded by Mat Chaberro who works for the National Institutes of Health, is also working to develop a food truck inspection checklist to provide consistency throughout the State. He has solicited comments from the public which are due back by August 25<sup>th</sup>.

The NFPA 101 health care committee has completed the last set of first-draft meetings. There have been some lively discussions dealing with alternative care sites, stemming out of the COVID pandemic, but also considering other emergencies such as floods, earthquakes, hurricanes, and other major emergencies. Discussions have included how to quickly construct health care facilities, convert existing buildings, economical usefulness, and safety issues. In response to an inquiry from Commissioner Bilger, CFPE Bush expounded further. Brian Prediger from the United States Army Corps of Engineers, is Chair of the task group under the health care committee. They are trying to write some general information to adopt into code, as well as provide some annex material, which leads them to some white papers and comments that have been written by different organizations such as the Corps of Engineers, Health and Human Services, American Society of Health Engineers, and others, that outlines some guidelines as to how to approach alternative and temporary health care sites. The documents won't be enforceable but will provide guidelines. It has been proposed as a first revision to the 2024 code and will have to go through the voting process.

In response to an inquiry from Chairman Tochtermann, Fire Marshal Geraci reported there has been no further progress on how fees will be processed and collected.

## **CHAIRMAN REPORT**

After the Fire Marshal reported at the June meeting that two fire companies had not submitted all of their 2020 Maryland Fire Incident Reports, Chairman Tochtermann met with the new president of the Maryland State Firemen's Association, Joel McCrea. He was aware of the problem with these two companies. Apparently, Delmar submitted some months but Rock Hall submitted none. Chairman Tochtermann encouraged him to contact these companies and solicit their cooperation and compliance. While the State disperses funds to the counties for companies participating in the MFIR system, Commissioner Bilger is aware of some counties going a step further and withholding funds from all companies if there is not 100% participation, which encourages compliance. Fortunately, noncompliance is not a widespread issue.

The Chairman inquired about the final OSFM audit report. Fire Marshal Geraci advised he received the draft final last week and responded to two items as requested. The final report has not been received.

Commissioner Bilger reported that preparation for the Virtual 2021 Life Safety Conference are being finalized. Chris May with the Maryland Fire and Rescue Institute has made arrangements with speakers to video tape pre-recorded presentations. Jim Brown has written a draft for the Governor's speech. Richard Brooks will be the Master of Ceremonies, providing opening comments and a history of the conference. The conference is scheduled for September 28<sup>th</sup>. Plans are already underway for the 2022 conference to be held at Johns Hopkins Applied Physics Laboratory. Some topics for presentations

are solar panels/vehicles and a State Fire Prevention Code Update for the 2021 NFPA editions by CFPE Bush.

Chairman Tochterman reported he, Vice Chairman Simmons, Commissioner Bilger, and Fire Marshal Geraci met with Paul Abell, MSP Chief Financial Officer, and a member of his staff on July 21<sup>st</sup> as a follow-up to a previous meeting with Colonel Jones and his Chief of staff. The topic was the Commission's line-item budget, with the Mid-Atlantic Conference being the largest financial item. If the conference continues to be funded by donations from sponsors, there is no issue continuing to do so. However, in designating a particular location such as the Johns Hopkins Applied Physics Building if the use of State funds exceeds \$5,000 it must go through the State's bidding process or a process termed "Sole Source" where you must demonstrate that the facility is the only one that can provide the services required. The meeting was productive and informative with everyone keeping an open mind about moving forward. The Department of Budget and Management (DBM) is to provide guidance. Since Johns Hopkins has already been reserved for the 2022 it may be possible to fund it next year but to go through the bidding process thereafter. The administration of the State Police is law enforcement oriented but they have begun to take a reasonable interest in fire protection and fire prevention. At the meeting Mr. Abell was advised that the Johns Hopkins facility is an excellent facility with free parking, many classrooms, a large auditorium, and dining room but use of the facility requires use of their caterers. Commissioner Welch agreed it is an excellent facility and bids from another conference center or hotel may not be cheaper and facilities not as accommodating.

In response to an inquiry from Commissioner Welch, Fire Marshal Geraci reported all sworn staff are back to work in the office. There is a telework plan in place for civilian employees with several opting to work from home some days of the week. There is a program in place for them and supervisors to document their telework hours. Currently there is no mandate for employees to be vaccinated.

#### **CODE UPDATE PRESENTATION BY CFPE BUSH**

All members have received the 2021 editions of NFPA 1 Fire Code and NFPA 101 Life Safety Code. CFPE Bush distributed the final revisions (Revision 6) for proposed State amendments, which were also emailed to the members. After closer review by CFPE Bush and Secretary Ritchie, some last minute corrections were made to renumber the regulations in proper sequence. Another last minute change was to amendment 29.06.01.07 PP dealing with sliding doors in family day care homes. Since these doors are intended to be a means of escape, the word "exit" was changed to "escape". Also for Item (8) of that amendment dealing with operating the doors "occasionally throughout the day" was changed to "occasionally throughout the hours of operation" since some family day care homes operate after daytime hours. One other change to 29.06.01.08 G to retain NFPA 1 Paragraph 1.16.4.3 dealing with penalties. This Paragraph had been deleted in prior code updates but upon closer scrutiny since it says it only applies if "where no other penalties exists" and Maryland does have other penalties for code violations in place, there really is no reason to continue deleting it. These were the only changes made from the previous Revision 5 document.

In response to an inquiry from Commissioner Bilger, CFPE Bush confirmed that 29.06.01.07 PP Item (2) stating "There may not be draperies, screens, or storm doors that could impede egress;" is intended to only apply during the hours of day care operations.

CFPE Bush responded to an inquiry from Commissioner Alexander pertaining to changes throughout the codes from "approved by the fire department" to "approved by the AHJ". Commissioner Alexander noted that in the town of Mt. Airy, which does not have a fire protection engineer and which is incorporated in both Frederick and Carroll Counties, the town uses the Carroll County fire protection engineer to review all plans for the town in both counties. The town changed its codes a couple of years ago but did not notify the Carroll County engineer who was enforcing the less stringent State requirements. Since the Mt. Airy fire department did not have an opportunity to review the plans from the town, the discrepancies have just recently been discovered. The engineer is now enforcing the more stringent town requirements. CFPE Bush advised the Code Update Committee was aware that some fire departments do want to look at some things and other fire departments do not so the committee attempted to make reasonable changes by either by changing "fire department" to "AHJ" or in some instances requiring both approvals. Attempts were made to insure approval requirements were not being

placed on local fire department, who may be volunteers and not familiar with the fire codes. Being a state-wide code, it is difficult to satisfy everyone.

Chairman Tochterman brought amendment 29.06.01.08 T which deletes Subsection 10.2.7 and Table 10.2.7.1 from NFPA 1. These deal with minimum fire prevention inspection frequencies for existing occupancies and occupancy risk classifications. The 2018 Code amendments also currently deletes items. CFPE Bush confirmed that by deleting these items the State Fire Prevention Code will have no requirement for any minimum inspection frequency for basically any occupancy. However, there are other laws and regulations requiring fire safety inspections, typically for license renewals such as day cares, assisted living facilities, schools, detention centers, etc. Chairman Tochterman acknowledged this but wanted to make the Commission members aware that such requirements are outside the scope of any Fire Prevention Code mandate.

Commissioner Alexander feels allowing local jurisdictions to set the frequency parameters is appropriate as they may not have the personnel to achieve any State mandates. Former Fire Marshal Gabriele attempted to establish inspection frequencies but received pushback from some local jurisdictions. At that time there was no NFPA 1 Fire Code. CFPE Bush consideration should also be given to seasonal occupancies which are not necessarily occupied on a continuous basis and also take into consideration the nature of the hazard. Inspection frequency was discussed at the Code Update Committee meetings and it was the general consensus to leave it up to local jurisdictions if they wanted to establish frequency of inspections.

In response to comments from Commissioner Welch, CFPE Bush stated there could potentially be a jurisdiction that doesn't do fire prevention inspections due to lack of staff, but he was not aware of that occurring anywhere. As an example, Ocean City inspects during the off-season.

Commissioner Bilger noted that as Commissioner Alexander remarked about the fire departments not knowing about the local code changes, there is also nothing in the law that says the State has to give fire departments or local AHJs an inspection frequency schedule, and if given one there is the possibility the inspections may not be done. As another example, the State requires all new one- and two-family dwellings to be sprinklered but Allegany County chose to ignore the requirement and not enforce it. A minimum standard should be considered to give the local AHJs some leeway. He noted that when he worked for the OSFM, when the routine inspection of State facilities, occurred and violations were cited, such as in correctional facilities, there were no funds to correct the violations. While he feels there should be a mandate for a bare minimum but allow flexibility for local jurisdictions.

When discussing who would enforce such mandates, Fire Marshal Geraci said it would be very difficult to enforce and impose any type of penalty for non-compliance. In general, Commissioners felt leaving those sections in NFPA 1 allows for inspection frequencies to be established but there is no person to monitor compliance; but if you take it out it may be a liability for the State to acknowledge there is no need for inspection frequency.

Chairman Tochterman remarked that he checked with legal counsel, Assistant Attorney General Susan Baron, who advised that the Commission had the authority and power to set minimum inspection frequencies. Leaving those section in the Code as written, it gives the enforcement authority responsibility to determine what is considered high (annually), moderate (bi-annually) or low priority (tri-annually) occupancies. For jurisdictions under the authority of the OSFM, the enforcement authority would be Fire Marshal Geraci. Maryland has been very fortunate to not have suffered a tragic fire with multiple loss of life since the Arundel Arena fire in 1956 that claimed eleven lives. At that time the national spotlight was on Anne Arundel County authorities. Maryland is not exempt from fire disasters and the Commission could be under the microscope concerning fire code requirements. Fire Marshal Geraci disagreed as inspections are being conducted by the OSFM as well as local authorities, though not necessarily on any established frequency schedule. Maryland is not experiencing major fires in commercial properties. The time for this discussion should have occurred during the Code Update Committee meetings, not this late in the process. The Committee made its decision and if the Commission would make the review process null and void to change it at this stage. Commissioner Welch disagreed as the Commission is charged with promulgating the regulations and as such are part of the review and adoption process for any proposed amendments made by the Committee.

In response to an inquiry from Commissioner Devan, Susan Baron stated the Commission can set minimum standards for the State Fire Marshal but locals could set their own minimum standards. Commissioner Welch inquired if the State Fire Code could basically say, "Meet these frequencies listed here", or, "a frequency determined by the AHJ", to which Ms. Baron replied that it could. CFPE Bush noted that many local jurisdictions are deputized as Deputy State Fire Marshals, and they would then be responsible for enforcing the State Code with that authority.

Chairman Tochterman solicited motions to move forward submitting the Revision 6 proposed amendments to the Administrative, Executive, and Legislative Review Committee. This not only includes the adoption of the 2021 NFPA 1 Fire Code and 2021 NFPA 101 Life Safety Code, but amendments to other requirements for blasting, explosives, fireworks, etc. Motion by Commissioner Bilger, to submit for consideration the proposed amendments to COMAR 29.06.01 State Fire Prevention Code, as recommended by the Code Update Committee document entitled Revision 6 and dated August 17, 2021. Second by Commissioner Sanger. Chairman Tochterman affirmed he is not proposing at this time to make any further changes to Subsection 10.2.7 and Table 10.2.7.1 from NFPA 1 at this time. It was his intent to bring the issue to the members' attention. By adopting what is being proposed in Revision 6, the Commission is not making any change to inspection frequency as currently being enforced with the same deletions under the 2018 editions. By having a code, it has to be minimally enforced. The deletion of those sections does not preclude inspections being performed as may be required by other laws or other state agency regulations.

CFPE Bush noted that the Maryland Public Safety Article does include a provision that the Fire Marshal is bound by state law to inspect certain occupancies, so Maryland does not totally ignore the need for fire safety inspections. Chairman Tochterman recited that law, Public Safety Article 6-307, which basically requires inspection of all institutions owned by the State, a county, or municipality, and all schools, theaters, churches, and other places of public assembly. The law does not specify how frequently. Ms. Baron also pointed out that 6-307(b)(2) also requires the Fire Marshal to conduct inspections considered necessary. While this does not set frequency, it does provide limited discretion on the frequency. This law would apply to local jurisdictions who are deputized as special assistant state fire marshals. CFPE Bush stated this would not apply to Baltimore City and was unsure of the status of Worcester County who years ago got independent authority. The Code Update Committee discussed and felt local authorities were more knowledgeable as to how to approach inspections in their areas. Fire Marshal Geraci stated the larger local jurisdictions go through similar code adoption processes, adopting NFPA 1 and NFPA 101 with local amendments. So whether the NFPA 1 inspection frequencies are retained or deleted in amendments, State Law still applies. Deputization only allows them to enforce the State Fire Prevention Code. Baltimore City has not requested any deputies so technically they should not be inspecting any State facilities because they do not have the authority. Local authorized with deputies adopt the State Fire Prevention Code, NFPA 1, and NFPA 101 with amendments, which can be more stringent than the State. Commissioner Devan recommended that more information be acquired on local inspection standards so that when the 2024 codes are reviewed, the subject can be more thoroughly scrutinized. Chairman Tochterman and Commissioner Alexander agreed. Fire Marshal Geraci said they may not be willing to provide that information but Ms. Baron said it could be requested under the Public Information Act. Vice Chairman Simmons suggested that the Fire Marshal's Subcommittee may also want to broach the subject for further discussion. They meet once a month and the meetings are well attended. Tom Haden, the Fire Marshal for BWI Airport is the current Chair. Chairman Tochterman will consider attending the meeting. The Commission unanimously carried the motion to proceed with the adoption process for Revision 6 proposed amendments.

## **OTHER BUSINESS**

Chairman Tochterman put together a questionnaire he could send to the five major metropolitan fire chiefs about inspection frequencies and the regional State Fire Marshal commanders. It incorporates some of Commissioner Devan's and Alexander's comments. Chairman Tochterman distributed the proposed questionnaire and letter for Commissioners to review and discuss at the October meeting. Included in the questionnaire are various occupancies. Chairman Tochterman read his letter and occupancy list. Fire Marshal Geraci noted that nursing homes and hospitals are not routinely inspected by the OSFM as they receive federal funding. They are inspected by the Department of Health and

Mental Hygiene. He also recommended that the questionnaire be sent to other jurisdictions that have fire marshal offices—Hagerstown City, Annapolis City, Ocean City, Cumberland City, Worcester County, etc., to which Chairman Tochterman agreed. Fire Marshal acknowledged he simply does not have the staff to do all the inspections. Vice Chairman Simmons suggested involving the Fire Marshal's Subcommittee may be helpful. Commissioner Bilger suggested that since the Commission is requesting the information, if it is presented at a subcommittee meeting that the Commission, not the Fire Marshal, should attend and make the presentation. This would give the Commission more exposure to the local authorities and give them a better understanding of the Commission's responsibilities and interests. At this point Chairman Tochterman is just requesting the Commissioners review and consider the idea. CFPE Bush agreed it should go out to all authorities and not just the major jurisdictions, some of which don't have chiefs but have fire marshals, and there are some non-governmental inspection authorities, such as the University of Maryland, Morgan State, Towson State, etc. Fire Marshal Geraci has a list of the deputized authorities. CFPE Bush also suggested tweaking the occupancy list to include residential board and care, apartment buildings, etc. He suggested looking at the occupancy chapters of NFPA 101 for a more inclusive list. Chairman Tochterman agreed and will review it more thoroughly. Commissioner Devan suggested that since these documents won't be ready by next month's subcommittee meeting that perhaps attend the meeting to introduce the idea and then present the package at a later meeting. Vice Chairman Simmons and Fire Marshal Geraci pointed out that some of the major jurisdictions do not attend these meetings.

Ms. Vanreusel with the Department of Labor commented that the various inspection units under the Department such as elevators, boilers, amusement rides, railroads, etc. do have annual or five-year inspections. The frequency is set by either State law or regulation. Then the units under the Maryland Occupational Safety and Health Administration inspection things like accidents, complaints, and fatalities but also do random inspections. There are too many employers for them all to be done on a regular basis, so typically regular facilities are not inspected more than once every three years. The Labor and Wage and Hour inspectors are driven by complaints but do some random inspections. The Building Codes Unit sets the minimum building codes but do not do inspections, except for off-site manufacturing facilities which are inspected randomly. Building code inspections are conducted by local authorities and are typically permit driven.

Greg Cade, the NFPA representative, was in attendance. He thanked the Code Update Committee and Commission for their hard work in updating the codes and Maryland regulations.

As part of his duties with the Maryland State Fireman's Association, Commissioner Bilger is in the process of updating the Maryland Fire Laws Book. Since this will be the 2021 edition, he will request permission to hold publication until the 2021 NFPA codes are adopted so they can be referenced.

Motion by Commissioner Alexander, second by Commissioner Welch, and unanimously carried to approve the minutes of the June 17<sup>th</sup> meeting.

Commissioner Alexander is pursuing future meeting venues. Potential locations are October in Aberdeen, December in Pikesville, and Odenton Fire Hall in February.

**Next Meeting – October 21, 2021 10:00 a.m.**  
**Location – To Be Determined**

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



Heidi Ritchie, Secretary