

**STATE FIRE PREVENTION COMMISSION**  
**MINUTES**  
**August 17, 2023**

**Members present:** Edward S. Tochterman, Chairman  
Mark Bilger  
Randy Sanger  
Daniel Stevens  
Emily Devan  
Stacy Welch

**Members Absent:** Kevin Simmons, Vice Chairman  
Michael Faust  
(Vacancy)

The Fire Prevention Commission held a public meeting on August 17, 2023 at 10:00 a.m. at the Laurel Municipal Center, in Laurel, Prince George's County.

The Pledge of Allegiance was recited.

Chairman Tochterman called the meeting to order.

The Chairman thanked the City of Laurel for use of its Council Chambers and welcomed the City of Laurel Fire Marshals.

**FIRE MARSHAL REPORT**

Fire Marshal Brian Geraci reported there are 50 confirmed fire fatalities across the State—41 in residential structures, seven associated with vehicle fires, and two in other settings. Fifteen causes of death are pending from the Medical Examiner.

During the second quarter, the agency conducted 188 investigations—171 fires, 11 explosive related, and 17 others. Nine criminal cases were closed with the arrest of 14 individuals. Agency personnel also conducted 2,886 inspections and 266 plan reviews.

Personnel from every region participated in the National Night Out bringing attention to the Office of the State Fire Marshal (OSFM) and the duties the agency performs.

A new Deputy State Fire Marshal (DSFM), Sierra Hawkins, will be starting employment next week. Her father is a Prince George's County firefighter and her mother works for the Maryland State Firemen's Association (MSFA). She has a degree in fire investigation and will begin her police training at the Carroll County Sheriff's Training Academy in September.

A contractual inspector in the Western Region will be converted to a merit full-time inspector. The other four new inspector positions will be advertised later this month with one going to each of the other regions. The five additional new inspectors have not been officially assigned personnel identification numbers yet and will be advertised at a later date to complete the total of ten new inspector positions. Interviews are currently being conducted to fill the vacant contractual inspector positions in the Southern and Northeast Regions.

Chairman Tochterman requested Fire Marshal Geraci review the Google meeting regarding the high-rise retrofitting topic and the points of discussions. Chairman Tochterman was present for the meeting but at the advice of legal counsel did not answer any questions. Fire Marshal Geraci reported the agency was contacted by individuals associated with the Promenade, a condominium building on Pooks Hill Road in Montgomery County, requesting a meeting with him and the Chairman. Other individuals also participated in the meeting including Montgomery County Fire Code Compliance Manager Patsy Warnick as well as some State delegates and senators. The meeting facilitator presented a list of points of discussion, a copy of which was provided to the Commission (attached). The meeting was informative and educational for the participants and many good questions and comments were discussed. It was a positive step in working together to improve fire safety in residential high-rises. There was another high-rise fire a couple weeks ago in an apartment building in Hillandale, Montgomery County. A fire occurred on the 19<sup>th</sup> floor with two occupants being rescued. They are still in critical condition and intubated at the burn center.

In response to an inquiry from Commissioner Stevens, the Fire Marshal confirmed that Baltimore City is exempt from the State Fire Prevention Code per Maryland law. The State Fire Marshal's Office only has enforcement authority in Baltimore City for state-owned buildings.

Commissioner Welch inquired if the Fire Marshal could report on anything regarding a racial discrimination case involving the OSFM which she heard about on the radio. The Fire Marshal advised it was a personnel issue and he could not discuss it. Commissioner Welch stated she heard on the radio, so she cannot confirm it is correct, that an individual filed a lawsuit regarding racism within the Department of State Police and specifically it mentioned the State Fire Marshal's Office. This apparently is unrelated to a previously filed class-action suit against the Maryland State Police.

This concluded the Fire Marshal Report.

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

Chief Fire Protection Engineer (CFPE) Ken Bush introduced recently hired Fire Protection Engineer Christopher Koch. He is assigned to the Western Region and lives in the Frederick area. He has prior experience in both the public and private sector. FPE Koch greeted the Commission and provided a brief background: Graduated Villanova University in 2008 with a degree in chemical engineering; Masters Degree in fire protection from the University of Maryland; fire protection engineer since 2009; started public service career with the Montgomery County Fire and Rescue Department/Office of the Fire Marshal; worked for a Department of Defense subcontractor doing safety and design; worked for the National Institutes of Health as a subcontractor at Fort Detrick for the National Cancer Institute and their prime contractor, Leidos Biomed, doing design and review work for all the laboratory reconstruction and renovations; moved into the fully private design firm sector at the onset of the COVID pandemic; is licensed as a Professional Engineer in five states with Maryland being the primary; has been licensed as a Professional Engineer since 2013. During the course of his fifteen-year career, he has done designs, reviews, inspections, and assisted with investigations. He is also a volunteer for the Frederick County fire service and is semi-active as a paramedic in the county. CFPE Bush expressed his pleasure in having an engineer of such caliber on the OSFM staff. With the Western FPE position being vacant for so many years, FPE Koch will be busy catching up on the backlog and with the additional work in Garrett County being returned to the OSFM's jurisdiction since the resignation of the County Fire Marshal. The part-time contractual FPE is still assigned to the Western Region. The other part-time contractual position continues to be advertised and will be assigned to a region as determined based on applicants.

The Standards Council for NFPA will be meeting August 23-25, 2023, to consider the acceptance and approval of the 2024 editions of NFPA 1 and NFPA 101. There is a pending appeal for NFPA 101 dealing with valet trash that may affect the final approval date. Based on prior history, once approval is granted it is expected a final vote should be at the end of August or beginning of September with publication expected this fall. Commissioner Stevens inquired if there is any expectation how the Maryland State Police (MSP) will handle the adoption of 2024 editions and amendments. CFPE Bush stated that with the experience gained from the 2021 editions failing to be adopted, the economic impact statement will be a very important factor. CFPE Bush stated there is no way to predict what action MSP will take when presented with the future proposal. In response to an inquiry from Commissioner Devan, Assistant Attorney General Baron indicated the Commission has not been provided a copy of the revised statement that was submitted by the OSFM for the 2021 editions.

### **CHAIRMAN REPORT**

A copy of Assistant Attorney General Jeremy McCoy's response to an inquiry from Delegate Marc Korman regarding the Commission's ruling that all nonsprinklered residential high-rise buildings are an inimical hazard was provided to the members (attached). It is noted that Delegate Korman waived the confidentiality of the letter. The response is a positive indication the Commission's ruling was properly made. The Chairman noted that the 2018 NFPA 1 and 101 editions were adopted effective October 7, 2019. With the Commission's inimical hazard ruling and the requirement in the 2018 edition of NFPA 1 that all existing residential high-rise buildings be sprinklered within 12 years from date of adoption, the deadline to sprinkler these buildings would be October 7, 2031. The 2024 edition will require they be sprinklered by January 1, 2033. Members had no questions or comments.

Chairman Tochtermann entertained a motion to approve the last revision of the Commission's Annual Fiscal Year 2023 Report as prepared by Secretary Ritchie. Motion by Commissioner Devan to approve, second by Commissioner Stevens, and unanimously carried. Secretary Ritchie will be instructed to submit the report to the Governor as required by law.

The Governor's Appointments Office advised Secretary Ritchie they are working on new appointments and reappointments. To date no additional information has been provided. Chairman Tochtermann will attend the upcoming MSFA's Executive Committee meeting and he will encourage members of the association to apply for appointment.

The Chairman entertained a motion to approve the July 20<sup>th</sup> minutes. Motion by Commissioner Sanger, second by Commissioner Welch, and unanimously carried to approve the minutes.

### **OTHER BUSINESS**

Commissioner Bilger reported final arrangements are being made for the Mid-Atlantic Life Conference to be held September 19, 2023, at the Johns Hopkins Applied Physics Laboratory in Laurel. To date 140 persons have pre-registered to attend the free event. It is hoped additional registrations will be forthcoming.

Chairman Tochtermann provided guests an opportunity to make comments. City of Laurel Fire Marshal Selby expressed his appreciation to the Commission and being able to host the meeting. Ms. Cornwell with Laurel Emergency Management was thankful for the opportunity to attend the meeting to see how the Commission conducts business.

**Next Meeting: Thursday October 19, 2023 — 10:00 am.**

**Location: Kent Island Volunteer Fire Company  
1610 Main Street  
Chester, Queen Anne's County**

There being no further business, motion by Commissioner Bilger, second by Commissioner Sanger, and unanimously carried to adjourn.

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

A handwritten signature in blue ink that reads "Heidi Ritchie".

Heidi Ritchie, Secretary

Attachments: 2

## Discussion Points For Meeting with the Fire Marshal, et al, August 16, 2023

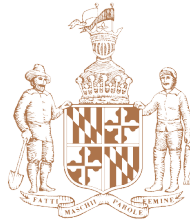
1. Mandate is a lofty goal to protect us from Fire and Smoke, however--- Is the cost of compliance reasonable?
2. Timing: is it October 7, 2031 (per the AG Opinion) or 2033? Neither date is reasonable until we are assured that reasonable funding is in place.
3. Is Baltimore City exempt from compliance? If so, why and how?
4. Many of the buildings were at the time of development, built as Class I buildings and have much fire prevention and suppression infrastructure. Why exempt one day and declare an “inimical hazard” the next?
5. Owners may find it cheaper not to renew leases and move all out so work can be done at one time to entire building. Defeats access to affordable and lower price housing – County officials should be concerned. We view this as 10’s of Millions of Dollars **each** for many of the buildings. We have figures **MIRIAM TO EXPLAIN HER DATA**
6. Per unit cost of sprinkler installations, and to what degree – each room, just the kitchen and laundry rooms? Something over stove hoods and laundry rooms to reduce chances of fires by 90% or more. What is the cost and how derived?
  - 6.1. Asbestos removal in each unit requires moving persons and possessions out and cost of staying in motel and moving back in.
    - 6.1.1. Cost to common areas, like hallways lobbies, etc. and they may contain asbestos, so how much?
    - 6.1.2. Does the government have estimates for compliance for various types of buildings, including asbestos removal, electrical, plumbing and other changes and code compliance? We will not rely upon numbers from the sprinkler installers’ association.
    - 6.1.3. Estimator cost alone can be \$15K-100K. Costs if additional water lines, electrical, etc., alarm systems, fire safety panels, must be changed, added, Code compliance?
7. Are there enough inspectors to decide “inimical hazard” for each building based upon an *objective set of criteria*?
8. **Effect on availability of housing:** What consideration, if any, has been given to the effect on available housing particularly in affordable and lower income units. Where is that shown? **These costs will be passed along to renters.**

9. Are there figures showing the reduction of Fire Department budgets that would result from saving costs if sprinklers were installed? How much
10. How many lives may be saved from mandate compliance?
11. Reserve Requirements and Special Assessments
  - 11.1. Common Ownership Communities must set aside Reserves for major projects such as: elevator replacements/updates, boiler and HVAC systems and updates and benchmarking projects for energy efficiency requiring us to meet standards. Millions to replace or reline drainpipes, the Mandate may wipe this out. How does the government address this?
  - 11.2. In many cases Mandate requires huge special assessments.
12. Water sprinklers are known to cause damage to adjoining units. Are there studies showing the costs of water damage from sprinkler systems. If so, please provide citations.
  - 12.1. We need direction and without definite reasonable funding sources in place Government shouldn't mandate installation until a reasonable period after such time. What current funding sources are in place to meet the deadline? Who should we contact?
  - 12.2. Equality of treatment, no preferences should be given in funding. Buildings should not have to compete with one another for funding and funding must not in most cases be from interest bearing loans.
13. At least one set of SFPC minutes reflects correspondence received but it is not attached nor identified. Will files be open to us without a formal public information request?
14. How do you see solving this dilemma? Safety vs. Cost
15. Have you requested an Attorney General's opinion as to the legality of the mandate, as questioned by the AOBA counsel? If so, would you provide us with a copy of the request and any response?

ANTHONY G. BROWN  
ATTORNEY GENERAL

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**CONFIDENTIAL**

May 25, 2023

The Honorable Marc Korman  
Maryland House of Delegates  
350 Taylor House Office Building  
Annapolis, Maryland 21401  
*Via email*

Dear Delegate Korman:

You have made a confidential inquiry regarding the legality of the Maryland State Fire Prevention Commission's ("Commission") August 19, 2021 decision to update the State Fire Prevention Code involving a requirement for existing apartment buildings to have automatic sprinkler systems by January 1, 2033.

Although the Commission voted to approve the adoption of regulations incorporating the requirements of the National Fire Protection Association's ("NFPA") NFPA 1 Fire Code (2021 Edition) and the NFPA 101 Life Safety Code (2021 Edition), which include automatic sprinkler requirements for apartment buildings by January 1, 2033, those regulations were never finally adopted. Consequently, the existing sprinkler requirements for all existing non-sprinklered high-rise residential buildings determined by the Commission to be an "inimical hazard" are required under the existing NFPA 1 Fire Code (2018 Edition) and the NFPA 101 Life Safety Code (2018 Edition), which are incorporated by reference in existing COMAR 29.06.01.06. Existing COMAR 29.06.01.06 incorporates the 2018 version of those NFPA Codes, which require such apartment buildings to be equipped with automatic sprinklers by October 7, 2031, rather than January 1, 2033, as required under the 2021 versions of the NFPA, which have not been incorporated into COMAR.

A discussion of the regulatory history of the sprinkler requirements may help illustrate existing requirements. Under § 6-206(a)(1)(i) of the Public Safety Article ("PS"), the Commission is required to adopt comprehensive regulations as the State Fire Prevention Code. Except when the Commission "determines that an installation, plant, or equipment is a hazard so inimical to the

public safety as to require correction,” the regulations adopted by the Commission do not apply to existing installations, plants, or equipment. PS § 6-206(a)(2). Under current PS § 9-403(a), only high-rise buildings constructed after July 1, 1974 are required to be protected by such sprinkler systems.

On April 26, 2018, in response to a request from the State Fire Marshal that the Commission “consider regulatory action to retroactively sprinkler all existing non-sprinklered high-rise residential buildings[,]” the Commission voted to determine that existing “unsprinklered residential high-rise buildings are an inimical hazard.” Commission Meeting Minutes of April 26, 2018. The Commission’s existing regulations incorporate by reference the NFPA 1 Fire Code (2018 Edition) and the NFPA 101 Life Safety Code (2018 Edition). COMAR 29.06.01.06. According to the Commission, the NFPA 1 Fire Code (2018 Edition) Section 13.3.2.26.2 requires existing high-rise buildings to have sprinkler systems, and Section 13.3.2.26.2.3 requires such buildings to be sprinklered within 12 years of the adoption of the 2018 edition of NFPA 1, which was adopted by the Commission on October 7, 2019. Accordingly, existing Fire Code regulations require the sprinklering of affected properties, including those deemed to be an inimical hazard by the Commission, by October 7, 2031.

Unlike the 2018 Edition, the 2021 version of the Code provides that all existing buildings must be sprinklered by January 1, 2033, unless they have exterior exit access or an approved life safety engineering plan. The Commission voted on August 18, 2022 for final adoption of the NFPA 1 Fire Code (2021 Edition) and NFPA 101 Life Safety Code (2021 Edition) as proposed regulations, which were published on May 16, 2022. However, the proposed regulations incorporating the NFPA 1 Fire Code (2021 Edition) and NFPA 101 Life Safety Code (2021 Edition) were later withdrawn. They have therefore not been finally adopted. Thus, the existing standards incorporate the NFPA 1 Fire Code (2018 Edition) and the NFPA 101 Life Safety Code (2018 Edition). COMAR 29.06.01.06.

Consequently, under the existing Fire Code regulations and under the Commission’s determination of the applicability of the Fire Code regulations to existing high-rise residential buildings under its authority under PS § 6-206(a)(2)(ii), it appears that those properties are subject to the existing requirements of the NFPA 1 Fire Code (2018 Edition) and the NFPA 101 Life Safety Code (2018 Edition), which require the sprinklering of affected properties, including those deemed to be an inimical hazard by the Commission, by October 7, 2031. If the Commission chose to resubmit regulations adopting the 2021 NFPA Codes, upon final adoption of the regulations, the date of compliance would change to January 1, 2033.

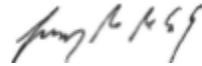
Legislation was introduced during the 2023 legislative session that would have required automatic sprinklers in all unsprinklered high-rise buildings beginning on January 1, 2033, (*see* SB 970 and HB 1292 of 2023), which is consistent with the requirements of the 2021 editions of the NFPA Codes, but neither bill passed.



The Honorable Marc Korman  
May 25, 2023  
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I hope this is responsive to your request. If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy M. McCoy".

Jeremy M. McCoy  
Assistant Attorney General