

STATE FIRE PREVENTION COMMISSION
MINUTES
June 4, 2025
SPECIAL MEETING ON FIRE PREVENTION CODE AMENDMENTS

Members present: Edward S. Tochterman, Chairman
Caroll Spriggs, Vice Chairman
Mark Hopkins
Jerred Johnson
Ephraim Siff
Eric Smothers

Members absent: Randy Sanger
Daniel Stevens

Vacancy: Washington-Metro Area/Industry

The Fire Prevention Commission held a public meeting June 4, 2025, at the Eastport Fire Station in Annapolis, Maryland.

The Chairman called the meeting to order at 10:00 a.m. He called on Acting State Fire Marshal (A/SFM) Jason Mowbray to speak first, and then the Commissioners and others will be given an opportunity to speak and ask questions.

A/SFM Mowbray reported that on May 9th a meeting was held to discuss the implications of the 2018 fire codes as compared to the 2024 fire codes with representatives of the Commission, the Maryland Chapter of the International Fire Marshal's Association, the Maryland State Firefighters Association (MSFA), and the Maryland Fire Chief's Association in attendance. The 2018 editions are the ones still being enforced. During the MSFA's executive committee meeting a specific question was asked of A/SFM Mowbray about what potential impacts of not adopting the 2024 editions of the NFPA codes would have on the Office of the State Fire Marshal (OSFM). A/SFM Mowbray highlighted at that meeting some of the impacts to the OSFM and the other delegated AHJs throughout the State. Feedback had been received from plan reviewers and code enforcement officers on some of the challenges they are starting to encounter. Some topics include food trucks, battery and energy storage systems, cannabis extractions, carbon monoxide detection in health care facilities, frequency of inspections, lock-up facilities, refueling of portable generators, omission of automatic sprinkler protection in existing high-rise buildings with the exceptions stated in the NFPA codes, standpipe system requirements in certain large storage occupancies and the prohibition of valet trash, among other issues. Recently there was an explosion on the Eastern Shore with a cannabis extraction facility that nearly claimed three employees' lives. There are also issues related to the Maryland Building Performance Standard codes with enforcement of sprinkler protection in assembly and day care center occupancies. NFPA 855 dealing with energy and battery storage systems is an important topic for local governments on the Eastern Shore which the OSFM for a couple years has encouraged not to be put into law. It touches on NFPA 1 Chapter 50 dealing with food trucks and mobile/temporary cooking operations. NFPA 1 references NFPA 88A for parking structures to include requirements for sprinkler protection in all such structures. Not having the 2024 NFPA 1 and 101 codes is impacting all the other codes referenced therein. The Bomb Squad Commander has expressed concerns on the OSFM's ability to effectively license blasters and explosive personnel as the NFPA explosives and blasting codes are part of the testing process.

A/SFM Mowbray encouraged the Commission to adopt the 2024 NFPA codes and amendments as was presented to the Administrative, Executive and Legislative Review Committee (AELR), the version that was subjected to public comment at two public hearings held earlier this year. A/SFM Mowbray acknowledged that what was submitted to AELR and published for public comment was not the version submitted by the Commission to the Department of State Police, specifically it removed the inimical hazard

regulation for non-sprinklered residential high-rise buildings as was recommended by the Commission. He strongly recommended the Commission divorce the issue of the inimical hazard in non-sprinklered residential high-rise buildings. The OSFM acknowledges there is a substantial risk to the occupants of these buildings but that needs to be addressed as a separate issue. There is still the ability for buildings of concern that are individually determined to be an inimical hazard to apply the code to require sprinkler retrofit. The requirement to retrofit is in the 2018 codes and NFPA has continued to include it in subsequent editions. While the automatic requirement to start the process to retrofit may be lost, there is still a mechanism to enforce it for an inimical hazard condition through individual assessment. He recommends the Commission approve the codes and amendments as published and continue to pursue and advocate for the retrofit requirement separately. The High-Rise Legislative Workgroup (“Workgroup”) is concluding its work and during the process there have been different opinions, perspectives, and considerations. The Workgroup should have a detailed and technical report that lays out the risk of these non-sprinklered buildings, identifies the hazards and best practices for mitigation and also identifies the impact. It will provide a good basis for any action or recommendations and the Commission would have the ability to consider a reasonable recommendation for regulations separate from the adoption of the 2024 fire codes.

Chairman Tochterman noted that the Commission does view these buildings as inimical hazards and the OSFM has yet to address it. A/SFM Mowbray advised he could not speak for Prince George’s or Montgomery Counties, where most of these buildings are located, but it would be a good conversation to initiate with them. The requirement is already in the 2018 code and perhaps it is being under-utilized in those jurisdictions. In response to the Chairman’s inquiry as to the authority of the OSFM in those counties, A/SFM Mowbray advised in a technical sense the OSFM has the initial authority under State law. Then the OSFM delegates that responsibility through assistant and special assistant programs in those jurisdictions. There are memorandums of understanding to essentially empower them to enforce the State Fire Prevention Code. The OSFM is always available to assist local jurisdictions through mutual respect and not to preemptively enforce its authority.

Commissioner Hopkins questioned if there is a way to track the jurisdictions’ inspections and subsequent actions to which the A/SFM responded the Workgroup is assessing the risks and attempting to get good information on how many of these buildings exist in Maryland but that has not been easy. Recently a State Senator had her staff start pulling information from local jurisdictions and building departments. Information the Workgroup was able to obtain appears to be incomplete data. The OSFM is also working with Baltimore City Fire Department Chief Rudasill and Ocean City Fire Department Chief Bunting to pull some data and they have been very helpful. Chief Rudasill has been very proactive and is complimented on his embracement of the data collection process. Once all the jurisdictions provide good data, the work to assess which buildings are inimical hazards can begin. Although Baltimore City is exempt from the State Prevention Fire Code, its inclusion in the data is very important. Commissioner Hopkins commented that the methodology to evaluate the risk is very important. If quantitative, weight factors can be applied to individual features such as exit capacity, number of exits, ability to egress properly, standpipe requirements, existing fire pumps, existing detection, compartmentalization, etc. Any risk analysis would be incomplete without understanding how the risks will be evaluated. For example, fire alarm pull stations mounted 6½ feet that were installed in the 1970’s would have a different weight than a fire alarm system with voice communication and current features; or if the exit stairs have non-compliant handrails or inadequate capacity.

A/SFM Mowbray noted his valid concerns as there are various degrees of hazards in different buildings as well as buildings not being maintained at the same levels or upgraded over time as various components fail. Fire code enforcement personnel deal with similar complexities every day as the inimical hazard deals with all types of occupancies and conditions, not just high-rises.

Commissioner Johnson noted he has been on the Commission for about two years and one of the first issues raised was the non-sprinklered residential high-rise buildings. There has been virtually no movement on the issue during this time. He agrees that continuing with the 2018 NFPA code editions is not in the best interest of the State but the high-rise issue needs to be addressed. Maryland has always been at

the forefront for fire prevention and being six years behind in adopting new codes is not to the betterment of Maryland citizens.

Vice Chairman Spriggs thanked A/SFM Mowbray for highlighting the various portions of the codes that cannot be enforced since the 2024 NFPA codes have not been adopted. He agrees with Commissioner Johnson's sentiments and agrees the Commission should move forward with adoption of the 2024 codes and include non-sprinklered high-rise buildings as an option for future amendment.

Commissioner Siff's understanding is that the major barrier is prohibition on retrofitting per Public Safety 6-206. He questioned if there was ever an attempt to change that law or if the Commission simply is being used by the legislature to do the impossible—requiring the Commission adopt a code, yet not have the ability to adopt anything that would be retroactive. A/SFM Mowbray advised he was aware of several different legislative efforts related to retrofitting of high-rises. Delegate Charkoudia from Montgomery County started conversations after the Melanie Diaz fire fatality. Fire Marshal Geraci at the time hosted the Delegate, her chief of staff, and Chairman Tochterman was also included. Her initial attempt was to effect legislation for some passive measures and mechanisms, notifications, exits and those types of things. It did not involve retrofitting. She came back this legislative session and revised her original bill and expanded some of the requirements to include written notification to persons entering the building and smoke alarm notification throughout the building to give early notification. One of the positive outcomes from that bill was the Workgroup and the requirement to provide legislators a detailed report and recommendations on best practices to address the risks. Right now there are requirements to install notification and signage in the lobbies and some smoke detection notifications. Commissioner Siff was satisfied with the background information but still the general assembly could very easily act and has chosen not to do so.

Chairman Tochterman inquired if the OSFM or Maryland State Police (MSP) have received any communications from legislators as to the Commission causing problems because of the high-rise residential issue. A/SFM Mowbray could only speak for the OSFM which has not had any direct inquiries. The inquiries received have been related to the Workgroup. There has been no legislature uprising as they most likely are waiting for the Workgroup report going into the next session armed with information and recommendations.

Vice Chairman Spriggs expressed appreciation to all the work the members of the Workgroup have done and while he hopes the Commission moves forward with retrofitting of residential high-rise buildings he understands the Workgroup's report will need to be reviewed and considered.

Chairman Tochterman called on Catherine Kelly, director of the government affairs unit for MSP. Ms. Kelly is the staffing element for the Workgroup. As a layperson, she has learned much about fire protection and public safety participating in the meetings. The final report is expected to be released June 30th, and the Workgroup has done a tremendous amount of work and research. The legislators who are active on the Workgroup also have a passion for the issue. Senator Love was very helpful in getting information that otherwise the Workgroup could not have gotten. It is Ms. Kelly's belief that the legislators are waiting for the report and they will be talking directly with Senator Love. The intent of the Workgroup is to submit its report to better educate the legislature on the risks and the mitigating impacts. Chairman Tochterman inquired as to what compromise MSP would be willing to make. Ms. Kelly's understanding is the Commission makes recommendations, they are considered, and things move forward. Until a document or recommendation is proffered for consideration, it would be unfair for her to say what MSP's position would be.

Chairman Hopkins hopes there will be some assurance that communications will improve in the future. The current code update process had meetings scheduled with MSP to have some discussions, but those meetings never occurred. It appears the Commission has been setup as a scapegoat and is now faced with ignoring all the challenges and hazards the A/SFM laid out. It is difficult to choose between providing protection for something deemed an inimical hazard versus allowing other aspects of the newer fire codes to move forward. She gave her personal assurance to commit to better communications, noting that

she is in attendance today to proffer better communications and she also attended the previously mentioned May 9th meeting. Colonel Butler has made it part of her job to improve communications.

Vice Chairman Spriggs thanked her for attending and recognizes that she has been involved in the process and has helped make the Commission aware of certain portions of the amendments that are being made to adopt new fire codes.

Chairman Tochtermann called on Chief Douglas Remaley with Annapolis City. He was present as the Vice Chair of the Metropolitan Fire Chiefs Council which provided written testimony via Chief Coe. The concerns expressed by A/SFM Mowbray on updating the codes are also the concerns of the Council. The Council represents over 19 jurisdictions' career fire chiefs throughout the State. While all of the Council members are also members of the Maryland Fire Chiefs, that is a separation organization. As fire chiefs, its members all believe in sprinklers but have grave concerns with not moving forward to update the codes. Local jurisdictions are having problems enforcing code requirements due to being two code cycles behind. It is hoped the Commission can move forward and continue to look at high-rise residential sprinklers in another fashion. For example in Annapolis' historic main street district the city has required residential and commercial properties to be sprinklered within a certain time period. There has been some pushback and problems. The deadline had to be extended but even with some frustrations, sprinkler installations are getting accomplished. Business owners have not been receptive but the City Council remains supportive.

Chairman Tochtermann called on Bud Zapata, the President of the International Fire Marshal's Association, Maryland Chapter. The Association also sent a letter to the Commission expressing its concerns in updating the codes. He expressed appreciation for the May 9th meeting to gather facts and have a good discussion on how to approach both the need to sprinkler residential high-rise buildings but also to move forward with updated codes that encompass requirements for new types of facilities and technology, as A/SFM Mowbray highlighted. He recommended reconvening the Code Update Committee which was composed of subject-matter experts and have a representative of MSP participate so that it is a collaborative effort to mutually agreeable language. He thanked Ms. Kelly for attending the May 9th meeting and participating in the discussion on how to move forward. Commissioner Johnson agreed that having everyone together would be ideal to hopefully come to a peaceful resolution. Commissioner Smothers inquired as to the history of the communications issue to which Chairman Tochtermann advised that the superintendent was invited three or four times to attend the Commission meetings but has not yet done so. When the Fire Marshal's Office had its 130 year celebration at Pikesville and the room was clearing, the Chairman personally greeted Colonel Butler with a handshake but was cut off, with the Colonel walking away. Commissioner Smothers offered to help extend an olive branch to Colonel Butler to facilitate moving forward. With the Chairman's approval, Commissioner Hopkins further commented that there was one in-person meeting with MSP. On the first call-in meeting not only was Commissioner Hopkins threatened but all of the Commissioners were. Commissioner Hopkins is looking at it from a pure fire protection and life safety aspect, with no personal connection. All arranged follow-up meetings were cancelled with the last one scheduled at the time the Key Bridge collapsed, so that meeting was cancelled for obvious reason. The Commission accepted the commitment to participate but mutual involvement did not come to fruition. Ms. Kelly has made a commitment to improve communications which is a good first step. Commissioner Smothers was unsure what questions the Commission was attempting to get answered from MSP, to which the Chairman replied that it is asking for a meeting. Ms. Kelly may be able to assist in that regard. Commissioner Hopkins stated for him it was not about meeting directly with the superintendent but to be able to have an honest and open discussion about the issues at hand and the failure of MSP to participate in the process.

Chairman Tochtermann inquired if a representative for the Maryland State Firefighter's Association was present to which there was no response.

Chairman Tochtermann called on Mischelle Vanreusel with the Department of Labor. Although a different department, the Department of Labor has similar overlapping processes. She is Deputy Commissioner for the Division of Labor and Industry whose building code unit adopts the Maryland Building

Performance Standards. The division has eight different units with various regulations as well as legislation. Several of their units, such as OSHA/MOSH, Elevators, Boilers, Amusement Rides, in addition to their Building Codes Unit, have regulations cross over and interact with the fire codes. Employees in all the units are very dedicated and want to save lives, but they do not make laws, they enforce them, they promulgate regulations to implement the laws they've been tasked with enforcing. The elected representatives make the laws and we must follow the Administrative Procedures Act, which sets the rules for adopting regulations. The process goes back to the legislature for review via the AELR committee and then on for public comments which are taken into consideration. When one of her units has a good deed it wants to accomplish, it sometimes is difficult to get through and may not be possible if they do not have the authority. She quoted a passage which she displays in her office from the 1996 *Legislative Handbook*: "*Regardless of any rulemaking authority, we may not impose a sanction that exceeds the confines of our expressly or implied delegated powers. The power to make rules is not the power to make laws.*" When you find yourself up against a situation where the authority you have is not enough to get through what you want, that means you don't have it. She suggested the Commission consider going back to the legislature as Commissioner Siff alluded to. If it goes to the legislature and it didn't pass, then you tried to put it through as regulation for the high-rise situation, that is not working. That doesn't mean it's not a valiant cause. The Commission is on the executive branch which means its powers are limited. The Commission is not the legislature. It is important to realize the difference. To hold up adoption of updated fire codes because the regulations do not have something you want is not realistic. The Division of Labor and Industry is bound by duty to adopt updated building codes even if there may be certain aspects to which everyone may not agree. For example the elevator unit wants to have HVAC required in the machinery area for naturally ventilated designs to keep the elevator mechanisms from overheating in every elevator but that costly and creates additional challenges because it also would have to be hooked into a generator. That type of issue needs to be separated during rulemaking for consideration. When you propose costly regulations it requires explanations and stakeholder voices should be heard. The delay in not adopting updated fire codes creates conflicts with the updated building codes. It is important to focus on regulations that can be adopted to fix as much as you can with the authority you've been given by the people through the legislature and if more is authority is desired, then go to the legislature and ask for it.

Commissioner Hopkins thanked her for that perspective. He enters public comments to four different codes and standards, serves on multiple technical committees, and is on the Board of Directors for the Society of Fire Protection Engineers. As such, he may have different perspectives. It is not that the Commission chooses to ignore all the other things in the fire codes, but it feels strongly about an important issue. The high-rise sprinkler requirements are in the currently adopted 2018 codes and it appears these requirements are being chipped away for political purposes. Commissioner Johnson also thanked Ms. Vanreusel for her input. Legislative options are there but it can be very tough and require a lot of support. He feels it is important to move forward with adoption. Other Commission members also expressed their appreciation for her input. Commissioner Siff suggested perhaps an opinion letter from the attorney general on the issue would be appropriate.

Scott Custer requested time to make comments. He was the former President of the International Fire Marshal's Association, Maryland Chapter. He was involved with this issue since 2018. At its April 2018 meeting the Commission voted that non-sprinklered residential high-rise buildings were an inimical hazard. The NFPA 2018 codes had requirements to retrofit high-rise buildings. The 2021 retained the retrofit requirement but the 2021 codes were never adopted because MSP objected, even though the language in the 2018 vs. 2021 editions only varied slightly. To his recollection it was Colonel Jones at that time. Mr. Custer wrote a letter to the Colonel. There have been many communications to MSP that never were answered. When the 2024 editions came under review for adoption and Melanie Diaz died in a high-rise fire in Silver Spring, the code update committee felt the inimical hazard ruling was an important issue to codify. The 2027 NFPA editions are in the process of being written and there are important parts such as lithium-ion battery storage systems, personal mobility devices, cannabis growing operations, mobile cooking operations and more that are important to enforce. The relationship between the Commission and MSP is important and needs to improve. Mr. Custer took many calls from individual co-op owners who expressed concern about the expense as they were retirees on limited income. There can be compromises to achieve the final

goal of a fully sprinklered building such as to sprinkler common corridors, sprinkler one floor at a time, etc. He personally feels the Commission should move forward with adopting the amendments and 2024 codes as published and continue to fight. The high-rise sprinkler requirements that are currently proposed for adoption at least keeps the path open for retrofitting. Commissioner Smothers has been surprised at some of the price quotes he has heard which may be a bit inflated. There are also concerns about displacement of residents. The goal is to make these buildings safer not just for the occupants but also for firefighter safety. Everyone needs to have broader conversations to work together to figure out a solution.

Being no persons wishing to make further comments, Chairman Tochtermann addressed the fellow commissioners. There may be some alternatives to consider such as removing cooperatives from apartment buildings which is what Baltimore County did 35 years ago. The local County Council requires the cooperatives vote every four or five years if their cooperatives want to sprinkler or not. The non-coop apartment buildings were given so many years. They began with a row of sprinklers down the exit access corridors with one sprinkler head inside the apartment door. Then as the apartment became vacated, the apartment was required to be sprinklered before re-occupancy. He encouraged the commissioners think about alternatives while at the same time moving forward with the 2024 codes.

Commissioner Hopkins expressed difficulty in deciding what to do. The sprinkler issue is a controversial topic but all the other new requirements in the 2024 codes are also of paramount importance. He would agree to allow adoption to move forward in a way that would also allow a future amendment to take place. Holding out will only delay the codes to the 2027 editions which will be coming out next year. The issue needs to eventually be resolved to avoid a recurring problem every code cycle. Commissioner Hopkins has great respect for MSP and mutual communications and Ms. Kelly's commitment is important. Vice Chairman Spriggs seconded the motion. It was pointed out that it was not a formal motion. Commissioner Hopkins wondered if it might be more appropriate to table any motion until the Workgroup report is released. Some sort of program to allow the State Fire Marshal to assess all of these buildings on an individual basis may be appropriate but that probably is not a recognizable path.

Chairman Tochtermann agreed. Part of the problem will be when Prince George's County assesses its buildings and Montgomery County assesses its buildings, there may be different inspectors with different opinions. He has spoken with A/SFM Mowbray about the need for consistency. Commissioner Hopkins agreed. Commissioner Smothers commented that if the Commission delays making a decision now, by the time the Workgroup report comes out June 30th and is reviewed and evaluated, and then goes to the legislative body, it will be January 2026 before anything may get accomplished. MSP may not be in a position to currently make an informative position and the Governor's Office may also be providing some direction to them. He feels the Commission needs to move forward, look at the report, and be guided as to what future action should be taken. It would be a disservice to delay adoption any further. Commissioner Johnson agrees that delaying further, not knowing what may be forthcoming, will probably take another six months. Retrofitting should continue to be a priority issue but delaying the adoption only hurts the Commission and enforcement authorities.

Vice Chairman Spriggs motioned to adopt the 2024 codes and as part of the motion that the Commission at least have a statement that a priority is to still move forward with resolving the non-sprinklered high-rise building issue. Second by Commissioner Hopkins. Chairman Tochtermann entertained any discussion on the motion. Commissioner Hopkins agrees that identifying the high-rise issue is an important priority but there needs to be clarity on what actionable items can be identified. He inquired if the Commission can visit some of the non-sprinklered high-rise buildings. A/SFM Mowbray advised it is an approach that certainly could be looked at and he thinks the fact-finding information forthcoming will be valuable in making a more informed decision.

A/SFM Mowbray requested the motion be clarified as to which version of the amendments are to be adopted—the version that was subject to AELR review as published in the *Maryland Register* and presented at two public hearings; or the original version submitted by the Commission which was modified by MSP. Chairman Tochtermann noted that the first time the Commission voted to proceed with submitting the

proposed amendments to MSP was the original version as recommended by the code update committee. It contained an amendment to codify the Commission's inimical hazard ruling. When it was submitted to MSP that amendment was changed to the version presented at the public hearings and was voted down by the Commission at its April 17, 2025, meeting. Chairman Tochterman thought the MSP version would need to be subject to another public hearing. A/SFM Mowbray, although not legal counsel to the Commission, stated it was his understanding that since the MSP and AELR approved version has already been published and subject to two public hearings and there having been no further changes, the Commission could vote without another hearing. He would defer to the Commission's legal counsel but requested the motion still be clarified. After further discussion it was clarified the motion was to vote on the amendments as published in the *Maryland Register* and subjected to public hearings, although previously not accepted by the Commission at its April 17, 2025, meeting; and further that the Commission also make a statement that it feels the high-rise building issue still needs to be addressed. Chairman Tochterman took a roll call vote with all members voting in favor. Chairman Tochterman intends to further discuss how to proceed on the high-rise buildings at the Commission's regular meetings.

Motion by Commissioner Siff to adjourn, second by Vice Chairman Spriggs, and unanimously carried with the meeting adjourning at 12:13 p.m.

Next Meeting:

**Tuesday, June 17, 2025
11:00 a.m.**

**Roland E. Powell Convention Center
Mezzanine Board Room
4001 Coastal Highway
Ocean City, Worcester County**

Respectfully submitted,
(as summarized from transcript provided by eScribers),



Heidi Ritchie, Secretary