

WV STATE FIRE COMMISSION MEETING  
Conference Call

July 29<sup>th</sup>, 2021

The official business meeting was called to order at 10:07am by Chairman Grant Gunnoe.

ROLL CALL: by Kathryn L Burns

Commissioners Present

Steven Byers, Dave Camp, Doug Estep, Edward George, Grant Gunnoe, Phil Hart, Brian Jones, Thomas Keefer, Doug Mongold, Jim Oldaker, Ted Shriver, Virgil White and Marshal Tyree.

It should be noted that Counsel Valentino is present as well.

Commissioners Absent

Carl Eastham

Marshal Tyree briefed the Commission on his recommended response to the comments noting the Commission will make the ultimate decision on each of the public comments received.

**All public comments have been attached in full to the agenda for review.**

UNFINISHED BUSINESS:

**1. 87CSR1 State Fire Code**

a) Consideration of Public Comments

Marshal Tyree noted there were 4 comments submitted, summarized the contents of each of the comments and gave staff's recommendations. Comment 1 was a technical clean-up submitted by Marshal Tyree. Comment 2 was a comment asking that the hearing and appeal process be consistent with code submitted by Brandolyn Felton Ernest, hearing examiner of WV Department of Homeland Security. Comment 3 was a technical clean-up comment submitted by Gregory Cade of the NFPA. Comment 4 was a comment regarding the exemption of property and buildings used for agricultural purposes submitted by Jennifer Greenlief of the WV Department of Agriculture.

Comment 1 - Commissioner Mongold made a motion to accept the technical clean up provisions as presented by Marshal Tyree, due to their necessity, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

Comment 2 - Commissioner Oldaker made a motion to adopt the proposed changes submitted by Brandolyn Felton Ernest as recommended by staff, due to the need to keep the hearing and appeal process consistent with the code, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

Comment 3 - Commissioner White made a motion to accept the technical clean up provision as recommended by Gregory Cade, due to its' necessity, seconded by Commissioner Mongold. With the ayes and nays having been taken on a voice vote the motion passed.

Comment 4 - Commissioner Oldaker made a motion to adopt the proposed changes submitted by Jennifer Greenlief , due to Agricultural Buildings exemptions in House Bill 2823, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

b) Consideration of Public Hearing

There were no Public Comments during the hearing.

c) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner Oldaker made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR1) with approved/adopted changes with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

## 2. 87CSR4 State Building Code

a) Consideration of Public Comments

Marshal Tyree noted there were 14 comments submitted. He summarized the contents of Comment 1 and gave staff's recommendation. Comment 1 was a technical clean-up comment submitted by Marshal Tyree.

Comment 1 - Commissioner Shriver made a motion to accept the technical clean up provisions as presented by Marshal Tyree, due to their necessity, seconded by Commissioner Mongold. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 2 and gave staff's recommendation. Comment 2 stated that the air leakage rate change from 3 to 5 was inappropriate and asked the Commission to leave it at 3, submitted by Brian Riston with the City of Ranson.

Comment 2 - Commissioner Oldaker made a motion to reject the proposed change submitted by Brian Riston, per the recommendation of staff, as it believes that is in the best interest of WV businesses and consumers, seconded by Commissioner George. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 3 and gave staff's recommendations. Comment 3 was a request that the stair tread and riser height remain the same as the 2015 code, submitted by Brian Riston with the City of Ranson.

Comment 3 - Commissioner Shriver made a motion to reject the proposed as submitted by Brian Riston, per the recommendation of staff, as it is outside scope of the intended rule per WVSFMO change, seconded by Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of the Comment 4 and that it required no action. Comment 4 was a letter from the WV Manufacturing Association and the American Chemistry Council supporting the recommended changes.

Comment 4 – No Action Necessary.

Marshal Tyree summarized the contents of Comment 5 and gave staff's recommendation. Comment 5 supported the adoption of a more updated code series and requested the Fan Efficiency Grade (FEG) within the ASHRAE 90.1 edition be used as a replacement to the language found in the ASHRAE 90.1 2014 edition being proposed for adoption, submitted by Aaron Gunzner.

Comment 5 - Commissioner Oldaker made a motion to reject the proposed change submitted by Aaron Gunzner, as it may cause confusion to code interpretation, seconded by Commissioner Shriver. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 6 and that it required no action. Comment 6 supported the recommended changes to the State Building Code adopting 2018 I-Codes and moving from the 2009 International Energy Conservation Code to the 2015 version, submitted by Lisa Berger of the International Code Council.

Comment 6 - No Action Necessary.

Marshal Tyree summarized the contents of Comment 7 and gave staff's recommendation. Comment 7 request no adoption of more current codes and to remain with the same 2015 codes and 2009 energy code, submitted by J.D. Stricklin of Stricklin Properties.

Comment 7 - Commissioner Mongold made a motion to reject the proposed submitted by J.D. Stricklin, based on the need to update to standards in a more current version(s), seconded by Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 8 and noted it needed no action. Comment 8 supported the recommended changes from the 2018 International Residential Code and International Mechanical Code pertaining to new refrigerants being allowed for use in new HVAC units, submitted by Julius Balance of JB Engineering.

Comment 8 – No Action Necessary.

Marshal Tyree summarized the contents of Comment 9 and gave staff recommendation. Comment 9 was a comment regarding the exemption of property and buildings used for agricultural purposes submitted by Jennifer Greenlief of the WV Department of Agriculture.

Comment 9 - Commissioner White made a motion to accept the proposed changes submitted by Jennifer Greenlief, due to Agricultural Buildings exemptions in House Bill 2823, seconded by Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 10 and that it required no action. Comment 10 supported the recommended changes from the 2018 International Residential Code and International Mechanical pertaining to new refrigerants being allowed for use in new HVAC units, submitted by Mary Koban of the Air Conditioning Heating and Refrigeration Institute.

Comment 10 – No Action Necessary.

Marshal Tyree summarized the contents of Comment 11 and that it required no action. Comment 11 supported the recommended changes from the 2018 International Residential Code and International Mechanical Code pertaining to new refrigerants being allowed for use in new HVAC unit, submitted by Robert Glass of Daikin Group.

#### Comment 11 – No Action Necessary

Marshal Tyree summarized the contents of Comment 12 and that it required no action. Comment 12 supported the recommended changes from the 2018 International Residential Code and International Mechanical Code pertaining to new refrigerants being allowed for use in new HVAC unit, submitted by Dominique Taudin of the Carrier Global Corporation.

#### Comment 12 – No Action Necessary

Marshal Tyree summarized the contents of Comment 13 and that it required no action. Comment 13 supported the recommended changes to the State Building Code adopting the 2015 version of the International Energy Conservation Code and ASHRAE Standard 90.1, 2013 version, submitted by Eric Lacey of the Responsible Energy Codes Alliance.

#### Comment 13 – No Action Necessary

Marshal Tyree summarized the contents of Comment 14 and that it required no action. Comment 14 supported the recommended changes from the 2018 International Residential Code and International Mechanical Code pertaining to new refrigerants being allowed for use in new HVAC unit, submitted by Schuyler Pulleym of the Chemours Company.

#### Comment 14 – No Action Necessary

- b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner Shriver made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR4) with approved changes, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner Mongold. With the ayes and nays having been taken on a voice vote the motion passed.

### **3. 87CSR13 Certification of Fire Chiefs**

- a) Consideration of Public Comments

Marshal Tyree summarized the contents of Comment 1 and gave staff's recommendation. Comment 1 stated the rule should have a longer period of time for temporary certification and election of officers and expressed concern regarding the notice provided by WVSFMO, submitted by Greg Sheperd.

Marshal Tyree described the process that is used to give the public notice. They are officially given notice by the filing through the Secretary of State's office but it has always been this agency and the Commission's desire to provide other notices. That was done but not until the two weeks remained for comments. In the future we will provide that additional notice on the same day it is filed. He also inadvertently gave an incorrect date on the deadlines for comments however most comments were received prior to the closing date.

Comment 1 - Commissioner Oldaker made a motion to reject the comment submitted by Greg Sheperd as the timeframe that has already been approved is adequate, seconded by Commissioner George. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 2 and gave staff's recommendation. Comment 2 agreed with the overall intent of the rule but requested pre-certification prior to being appointed or elected chief, submitted by Jason Sharp.

Comment 2 – Commissioner White made a motion to reject the comments submitted by Jason Sharp, as it is outside the scope of the intent of the rule, seconded by Commissioner George. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents of Comment 3 and gave staff's recommendation. Comment 3 criticized how the public comment notices were handled, the effects of moral on departments, possible retaliation by the agency and whether the Fire Commission has the authority to control the aspects of the said employment of Volunteer Fire Departments or the discipline of chiefs, submitted by Thomas Miller.

Chairman Gunnoe inquired if any current Fire Chiefs had sent comments opposing the proposed Fire Chief rule.

Marshal Tyree noted there were not any.

Commissioner Mongold commented the Commission tries to help the fire service as a whole and in no way takes retaliatory actions.

Commissioner George also noted it was the Legislature that passed the statute giving the authority to the Commission. As far as hurting morale there have been experiences where the behavior of chiefs gone uncorrected, hurts the morale within the department and fire service as a whole. This rule will help protect and ensure that the departments can run freely and adequately.

Comment 3 - Commissioner Oldaker made a motion to reject the comments submitted by Thomas Miller, as it is outside the scope and intent of the, seconded by Commissioner George. During comments Commissioner Estep commented that the Fire Commission has done nothing but extend a helping hand and this is not about removing fire chiefs. It will give them a corrective action and then it is up to them whether they get removed. With the ayes and nays having been taken on a voice vote the motion passed.

It is noted other comments were received that fell outside of the recognized deadline from the WV Secretary of State Office. Marshal Tyree did reach out to those individuals, making them aware they can reach out to the legislative rule making committee should they wish to.

- b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner White made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR13) including technical clean up, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner Mongold. With the ayes and nays having been taken on a voice vote the motion passed.

#### **4. 87CSR12 Junior Firefighters**

a) Consideration of Public Comments

Marshal Tyree summarized the contents Comment 1 and gave staff's recommendation. Comment 1 states the Fire Commission has no authority to control the aspects of the said employment of Volunteer Fire Departments, suggests it could affect recruiting and that there are existing applicable rules, submitted by Thomas Miller.

Comment 1 – Commissioner Oldaker made a motion to reject the comments submitted by Thomas Miller as it is outside the scope and intent of the rule, seconded by Commissioner White. During comments Chairman Gunnoe stated a lot of thought has gone into this rule, including members of the Commission working with the VFD service to work out the contents of the rule. Commissioner Mongold noted we are trying to make things better for the Juniors while keeping them safe. With the ayes and nays having been taken on a voice vote the motion passed.

It is noted another comment was received that fell outside of the recognized deadline from the WV Secretary of State Office. Marshal Tyree did reach out to the individual, making them aware they can reach out to the legislative rule making committee should they wish to.

b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner Mongold made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR12) including technical clean up, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

## 5. 87CSR14 AFFF Foam Rule

a) Consideration of Public Comments

No comments received and the rule has been filed per counsel.

Commissioner Oldaker made a motion authorizing staff to verify the approval of the rule (87CSR14) that has been filed with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

## 6. 87CSR11 Specialized Membership

a) Consideration of Public Comments

Marshal Tyree summarized contents of Comment 1 and gave staff recommendation. Comment 1 stated that the rule may cause confusion to specialized members being a part of the department and not in the category of auxiliary of administrative members, submitted by Greg Sheperd.

Chairman Gunnoe noted that a department does not have to participate.

Comment 1 - Commissioner Mongold made a motion to reject the comments submitted by Greg Sheperd as it is outside the scope and the intent of the rule, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

Marshal Tyree summarized the contents Comment 2 and gave staff's recommendation. Comment 2 presented some hypothetical situations and concerns that could arise, submitted by Robert Davis.

Commissioner Oldaker noted these lean more towards the need for internal departmental controls.

Chairman Gunnoe also felt departments should have something in place as well.

Comment 2 – Commissioner Mongold made a motion to reject the comments submitted by Robert Davis as they are outside the scope and intent of the rule, seconded by Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

- b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner Mongold made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR11) including technical clean up with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner Byers. With the ayes and nays having been taken on a voice vote the motion passed.

## **7. Report on 103CSR4**

Marshal Tyree updated the Commission on the Status of the bill.

### NEW BUSINESS:

Staff will contact Oglebey in Wheeling to confirm December 2<sup>nd</sup> and 3<sup>rd</sup> availability.

### GOOD OF THE ORDER:

### TIME AND PLACE OF NEXT MEETING(S):

Committee Meetings 10:00am August 16<sup>th</sup>, 2021 and Fire Commission Meeting 9:00am August 17<sup>th</sup>, 2021 at Stonewall Resort.

Commissioner Byers made a motion to adjourn at 11:21am, second by Commissioner Oldaker, with all the ayes and nays having been taken on a voice vote, the motion passed.

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