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The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

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MAURICE M. PILETTE
CHAIR

PATRICIA BERRY
VICE CHAIR

Notice of Meeting
Massachusetts Fire Safety Commission

Notice is hereby given of a meeting of the Massachusetts Fire Safety Commission. The meeting will be held at **2:00 p.m. on Wednesday, May 12, 2021.** Per Governor Charles D. Baker's Emergency Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s.20 signed and dated March 12, 2020 and still in effect, this public hearing will be conducted, and open to the public, via video conference at:

<https://ma-dfs.webex.com/ma-dfs/j.php?MTID=m9b0b079c58128bae2d9cc450da17795a>

Meeting number (access code): 182 787 6309

Meeting password: DFS2021

Planned Agenda

1. Chair to open meeting. Introduction of Commission Members.
2. Approval of previous meeting minutes dated August 14, 2019
3. New Business
 - (1) Staff Docket Update
 - (2) Review of Legislation filed in the 2021-2022 Legislative Session regarding sprinklers and the Fire Safety Commission (Automatic Sprinkler Appeals Board)
 - (3) Court Cases of Note
 - (4) Nomination and Election of a Chair and Vice Chair
 - (5) Other Business not Anticipated
4. Adjourn.

Dated: May 6, 2021

Glenn M. Rooney, Legal Counsel
Massachusetts Fire Safety Commission, Automatic Sprinkler Appeals Board

CC: Posted to the Department of Fire Services website
<https://www.mass.gov/event/mass-fire-safety-commission-wed-may-12-2021-2021-05-12t140000-0400-2021-05-12t153000-0400>

Secretary of State
State Publications and Regulations Division
One Ashburton Place, Room 1613
Boston, Massachusetts 02108

Exec. Office of Administration and Finance
State House, Room 373
Boston, Massachusetts 02133

MASSACHUSETTS FIRE SAFETY COMMISSION
MINUTES OF MEETING
May 12, 2021
(Approved June 8, 2022)

The Massachusetts Fire Safety Commission held a meeting on Wednesday, May 12, 2021 at 2:00 p.m. Per Governor Charles D. Baker's Emergency Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20 signed and dated March 12, 2020 and still in effect, this public hearing was conducted, and open to the public, via **video conference**.

Present at the meeting were the following Commission members:

Maurice M. Pilette, Chair	Professional Engineer
Patricia Berry, Vice Chair	Representative of the Massachusetts Lodging Association
Thomas Coulombe	Representative, Fire Chiefs Association of Massachusetts
Peter J. Ostroskey	State Fire Marshal
Brian Tully, Dep. Chief/Fire Marshal	Designee, Commissioner, Boston Fire Dept.
Kristin Kelly	Representative, Sprinkler Fitters Union
Alexander McLeod	Designee of the Chairman of the Board of Building Regulations and Standards Department

Also present were the following individuals (and their affiliations):

Glenn M. Rooney, Esq.	DFS Attorney and Counsel for the Commission
MaryElizabeth Lynch-Lent	Executive Assistant to the Commission

Absent at the meeting were the following Commission members:

Vacant	Representative of the Mass. Association of Realtors
George A. Duhamel	Representative, Electrical Inspectors

1. Meeting Opening:

The Chairman, Thomas Coulombe, opened the meeting at approximately 2:05 p.m. The Executive Assistant to the Commission conducted a roll call of the members in attendance.

2. Approval of minutes from the previous Commission Board meeting of August 14, 2019.

After reviewing the draft minutes from the previous meeting dated August 14, 2019, a Motion was made by Mr. Coulombe to accept the minutes. The Motion was seconded by Mr. MacLeod and was approved by a unanimous vote of the Commission.

New Business

3-1. Staff Docket Update

Executive Assistant to the Commission, MaryElizabeth Lynch-Lent, presented the docket update. Specifically, Ms. Lynch-Lent presented information on the number of cases that had been received by the Automatic Sprinkler Appeals Board since August 14, 2019 (the last Fire Safety Commission meeting). The breakdown was as follows:

August 1, 2019 to May 1, 2021

10 cases received:

- 5 – s. 26G
- 1 – s. 26G½
- 3 – s. 26H
- 1 – did not specify

Of those 10 cases:

2 – Withdrawn / Dismissed

3 - Rejected

5 - Decisions Rendered

- 3 upheld FD order (2 - 26G, 1 – 26H)
- 1 modified FD order (26G)
- 1 reversed FD order (26G)

Total Cases since January 1, 2005 to date (May 1, 2021): 558

Total 26A½ Cases	5
Total 26G Cases	109
Total 26G½ Cases	405
Total 26H Cases	29

Total 26I / 27A / Building Code Cases (no jurisdiction, automatic rejection)	10
Total Rejections (2005 to now)	100
Total Withdrawals / Dismissals (2005 to now)	294
Decisions Rendered (including Motions to reconsider denials)	164

Mr. Pilette thanked the staff for their hard work to keep the Automatic Sprinkler Appeals Board running during the COVID-19 pandemic and for their work on revamping the Board's website to post additional case decisions.

3-2. Review of Legislation filed in the 2021-2022 Legislative Session of potential interest to members of the Fire Safety Commission (Automatic Sprinkler Appeals Board)

Commission members reviewed legislation filed in the 2021-2022 Legislative Session regarding sprinklers and the Fire Safety Commission (Automatic Sprinkler Appeals Board). Counsel to the Commission, Attorney Glenn Rooney, provided a summary of the each bill and its impact, as well as the current status of each bill. The following bills were reviewed:

- **H. 2416** – “An act relative to fire protection”
- **H. 2417 / S. 1627** – “An act relative to enhanced fire protection in new one and two family dwellings”
- **H. 2441** – “An act enhancing the safety of high-rise buildings”
- **H. 2510** – “An act relative to fire protection systems for buildings and structures”
- **H. 2838** – “An act to protect historic buildings from fires”

Mr. Pilette asked whether or not the Commission is given an opportunity to weigh in on these bills of interest, as some of them would result in more appeals being filed with the Automatic Sprinkler Appeals Board, in addition to other impacts. Attorney Rooney and Fire Marshal Ostroskey indicated that all legislation of interest to the agency and to its Boards and Commissions, is constantly monitored and if needed, written comments and testimony are prepared and forwarded to the Executive Office of Public Safety and Security. At that time, EOPSS would make a determination on whether the comments and/or testimony can be submitted to the appropriate Legislative Committee.

Mr. Pilette expressed concerns regarding H. 2441 and whether it would be seeking to regulate sprinklers for condominiums through the Automatic Sprinkler Appeals Board. Specifically, Mr. Pilette mentioned that the Commission previously had regulations on this subject matter (530 CMR 2.00), which addressed the high-rise retrofit under the provisions of M.G.L. c. 148, s. 26A½. Mr. Pilette reminded the Commission that the regulation was rescinded in April 2017. Deputy Chief Tully questioned whether condos are even classified under the State Building Code.

Further discussion was also had regarding H. 2417 and its companion, S. 1627. Mr. Pilette expressed a concern that the bills, as drafted, may create a competing appeals process between the Automatic Sprinkler Appeals Board and another board, which may have jurisdiction to hear appeals.

4-3. Review of Court Cases involving ASAB Decisions

Attorney Rooney gave a brief overview of recent cases that either involved the Automatic Sprinkler Appeals Board, or have touched on issues raised by the Board, including sober homes:

Daniel Burack v. Automatic Sprinkler Appeals Board, C.A. No. 2080CV00069

BAK Realty, LLC & another v. City of Fitchburg & another, C.A. No. 2085CV352

Crossing Over, Inc. and Theodore Bronson v. City of Fitchburg, Automatic Sprinkler Appeals Board & City of Fitchburg Fire Prevention Bureau, C.A. No. 1785CV01318 (Worcester Sup. Ct.), *appeal docketed*, No. 2019-P-0903 (Mass. App. Ct. June 17, 2019).

4-4. Nomination and Election of a New Chair and Vice Chair

Mr. Pilette opened the nominations for the members to elect a new Chair and Vice Chair in accordance with M.G.L. c. 6 § 200. Mr. MacLeod made a motion to nominate Patricia Berry as Chair of the Board and Maurice Pilette as Vice Chair. Mr. Coulombe seconded the motion. A vote was taken and Ms. Berry and Mr. Pilette were voted as the new Chair and Vice Chair of the Commission/Automatic Sprinkler Appeals Board.

5. Other Business Not Anticipated

Mr. Coulombe brought up the issue of what he called “creative spacing” in bars and restaurants that have started to re-open following the worst of the COVID-19 pandemic. Mr. Coulombe indicated that in Western Massachusetts, he had specifically seen establishments place tables up against bars and instead of seating two patrons, four patrons can be seated at the table. He was concerned that this could become more

commonplace and that business would try to get around existing occupancy limits listed on their Certificates of Occupancy.

Ms. Berry indicated that, in her experience, the placement of tables in bar areas had been permitted and became common place at most restaurants during the pandemic as a way of separate customers from each other and creating space between customers and bartenders. Deputy Chief Tully further indicated that due COVID-19 restrictions put in place by both the Governor and the City of Boston, it was his experience that most restaurants and bars continue to be a reduced capacity.

The members of the Commission all agreed that this would be an issue worth keeping an eye on to see if anything changed dramatically moving forward.

6. Adjourn

Fire Marshal Ostroskey made the Motion to adjourn the meeting and Ms. Berry seconded the motion. Motion to adjourn was approved by unanimous vote of the Board at approximately 3:07 p.m.