

**ACTIONS**  
**Board of Supervisors Meeting of April 20, 2011**

April 21, 2011

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
1. Call to Order. <ul style="list-style-type: none"> <li>Meeting was called to order at 4:30 p.m. by the Chair, Ms. Mallek. Mr. Dorrier and Mr. Rooker were absent. Also present were Tom Foley, and Larry Davis.</li> </ul>	
2. Tour of Old Jail Facility. <ul style="list-style-type: none"> <li><b>HELD.</b></li> </ul>	
3. Recess. <ul style="list-style-type: none"> <li>The Board took a recess at 5:20 p.m.</li> </ul>	
<b>6:00 p.m., Regular Night Meeting</b>	
4. Call to Order. <ul style="list-style-type: none"> <li>The meeting was called to order at 6:01 p.m., by the Chair, Ms. Mallek.</li> </ul>	
7. From the Board: Matters Not Listed on the Agenda. <ul style="list-style-type: none"> <li>There were none.</li> </ul>	
8. From the Public: Matters Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> <li><u>Graham Patterson</u> addressed the Board regarding adding more trailers to his property behind the Rock Store.</li> <li><u>Jim Byrom</u> addressed the Board regarding a concern of building code enforcement.</li> </ul>	
9.1 Schedule public hearing to amend Field School of Charlottesville's Lease for part of the Old Crozet School. <ul style="list-style-type: none"> <li><b>SET</b> public hearing for May 11, 2011.</li> </ul>	<u>Clerk</u> : Advertise and schedule on agenda.
9.2 Request Approval of Thurman ACE Appraisal and Authorize Invitation to Sell Conservation Easement. <ul style="list-style-type: none"> <li><b>ACCEPTED</b> the completed Thurman appraisal as recommended by staff and <b>APPROVED</b> extending an invitation to submit an offer to sell to Ms. Thurman based on this appraisal.</li> </ul>	<u>Ches Goodall/David Benish</u> : Proceed as approved.
10. Consideration of the adoption of an ordinance to amend Chapter 6, Fire Protection, of the Albemarle County Code to adopt and reordain an amended Article I, Coordinated Fire and Rescue System <ul style="list-style-type: none"> <li><b>ADOPTED, by a vote of 6:0</b>, the attached ordinance.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to Fire and Rescue, and County Attorney's office. (Attachment 1)
11. <b>Public Hearing: SP-2010-00053. South Plains Presbyterian Church (Signs #92&amp;93).</b> <ul style="list-style-type: none"> <li><b>APPROVED SP-2010-00053, by a vote of 6:0</b>, subject to nine conditions.</li> </ul>	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
12. <b>Public Hearing: SP-2010-00032. Avon Street Ross AT&amp;T CV376 Tier III PWSF.</b> <ul style="list-style-type: none"> <li><b>APPROVED SP-2010-00032, by a vote of 6:0</b>, subject to two conditions.</li> </ul>	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
13. <b>Public Hearing: ZMA-2010-00001. Pantops</b>	<u>Clerk</u> : Schedule when staff/applicant ready to

	<u>Ridge. (Signs #13,14&amp;15).</u> <ul style="list-style-type: none"> <li>• DEFERED ZMA-2010-00001, indefinitely, by a vote of 6:0.</li> </ul>	bring item back to Board.
14.	<u>Public Hearing: ZMA-2010-00012. King Property (Sign #91).</u> <ul style="list-style-type: none"> <li>• APPROVED ZMA-2010-00012, by a vote of 6:0, subject to revised proffers.</li> </ul>	(Attachment 3)
15.	<p>From the Board: Matters not Listed on the Agenda. Ann Mallek:</p> <ul style="list-style-type: none"> <li>• Informed the Board of a proposal in Crozet from a landowner to donate land in the Old Trail neighborhood to the Parks and Recreation Department.</li> </ul> <p>Rodney Thomas:</p> <ul style="list-style-type: none"> <li>• He let the Board know that he will not be at the May 11, 2011 meeting.</li> </ul>	
16.	<p>Adjourn.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 9:39 p.m.</li> </ul>	

/ewj

- Attachment 1 – Ordinance – Fire and Rescue
- Attachment 2 – Conditions of Approval – Planning Items
- Attachment 3 – ZMA-2010-00012. King Property Proffers

**ORDINANCE NO. 11-6(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, FIRE PROTECTION, ARTICLE I, IN GENERAL, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 6, Fire Protection, Article I, In General, of the Code of the County of Albemarle, is hereby amended and reordained as follows:

**By Adding:**

- Sec. 6-100 Purpose
- Sec. 6-101 Definitions
- Sec. 6-102 Establishment and composition of the coordinated fire and rescue system
- Sec. 6-103 Responsibilities of the coordinated fire and rescue system
- Sec. 6-104 Fire and Rescue Chief
- Sec. 6-105 Volunteer fire companies and rescue squads; volunteer chiefs
- Sec. 6-106 Establishment and composition of FEMS Board
- Sec. 6-107 Responsibilities of the FEMS Board
- Sec. 6-108 Executive committee of the FEMS Board
- Sec. 6-109 Procedure for developing policies of the coordinated fire and rescue system
- Sec. 6-110 Noncompliance with system policies

**By Amending and Renumbering:**

- Sec. 6-100 Office of the fire marshal created; appointment, oath and powers of the fire marshal and his duties to Sec. 6-111 Office of the Fire Marshal
- Sec. 6-102 Junior Firefighter Programs to Sec. 6-112 Junior Firefighters Program

**By Deleting:**

- Sec. 6-101 General precautions to prevent spread of fire; penalties

**ARTICLE I. COORDINATED FIRE AND RESCUE SYSTEM**

**DIVISION I. IN GENERAL**

**Sec. 6-100. Purpose.**

The board of supervisors, determined to provide for the public safety, health and welfare of Albemarle County citizens and communities, hereby establishes a coordinated and integrated fire and emergency medical service system currently composed of the following, volunteer fire companies, volunteer rescue squads and the Albemarle County Department of Fire and Rescue:

- Charlottesville-Albemarle Rescue Squad
- Crozet Volunteer Fire Department
- Earlysville Volunteer Fire Company
- East Rivanna Volunteer Fire Company
- North Garden Volunteer Fire Company
- Scottsville Volunteer Fire Department
- Scottsville Volunteer Rescue Squad
- Seminole Trail Volunteer Fire Department
- Stony Point Volunteer Fire Company
- Western Albemarle Rescue Squad

In taking this measure to assure the most efficient and effective service possible and to meet the challenges of the growth and development of the jurisdiction, the board of supervisors specifically recognizes the essential and historical contributions of volunteers and the necessity of continuing and expanding volunteer participation, without which the county could not discharge its responsibilities.

The coordinated fire and rescue system shall work to develop an integrated and seamless systems approach to the provision of emergency services; promote the interests and welfare of county citizenry and communities; perform with maximum cost-effectiveness consistent with safety objectives; account for service delivery and resource utilization; and communicate and consider all views regarding the system.

**Sec. 6-101. Definitions.**

For the purposes of this article and, unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

*Albemarle County Department of Fire and Rescue* means the county agency responsible for delivering fire, rescue and emergency medical services in partnership with the volunteer organizations within the coordinated fire and rescue system.

*Board or board of supervisors* means the Board of Supervisors of Albemarle County.

*Company* means a volunteer fire company or department located in Albemarle County. Each individual fire-fighting organization within the county shall be defined as a “fire company,” as provided in Virginia Code §27-8.1.

*County employees or County staff* means employees of the Albemarle County Department of Fire and Rescue who provide fire, rescue, and emergency medical services as members of the coordinated fire and rescue system.

*County volunteers* mean volunteers of the Albemarle County Department of Fire and Rescue who provide fire, rescue and emergency medical services as members of the coordinated fire and rescue system. County volunteers are not members of incorporated fire companies or rescue squads.

*Executive Committee* means a committee of the FEMS Board as provided in section 6-108.

*Fire EMS Board or FEMS Board* means the Albemarle County Fire and Emergency Medical Services (EMS) Board, formerly known as the Albemarle County Fire and Rescue Advisory Board, which advises the fire and rescue chief and performs additional functions as provided in sections 6-106 and 6-107.

*Fire and rescue chief or chief* means the director of the Albemarle County Coordinated Fire and Rescue System, as established in section 6-104.

*Policies* mean the rules and regulations of the coordinated fire and rescue system, including standard operating guidelines and standard administrative procedures.

*Rescue squad* means a volunteer rescue squad or emergency medical services organization, as described by Virginia Code §32.1-111.1 *et seq*, that is located in Albemarle County, as well as the Charlottesville-Albemarle Rescue Squad, which has its principal place of business in the City of Charlottesville.

*Volunteers* mean non-employee volunteer members of the several fire companies and rescue squads set forth in section 6-100.

**State law reference**—Definitions, Virginia Code § [32.1-111.1](#)

**DIVISION II. ESTABLISHMENT OF THE COORDINATED FIRE AND RESCUE SYSTEM**

**Sec. 6-102. Establishment and composition of the coordinated fire and rescue system.**

(a) The Albemarle County Coordinated Fire and Rescue System (“the system” or “the coordinated fire and rescue system”) is hereby established pursuant to Virginia Code §27-6.1. The coordinated fire and rescue system shall provide comprehensive fire, rescue, and emergency medical services throughout the county in accordance with state laws, county ordinances, and duly adopted policies issued by the system.

(b) The coordinated fire and rescue system shall be a combined force of non-employee volunteer members of the several fire companies and rescue squads, county employees, and county volunteers of the Albemarle County Department of Fire and Rescue. The following volunteer fire companies and rescue squads, and any others that may be duly established in the future, along with county volunteers, constitute an indispensable part of the public safety program for the county: Charlottesville-Albemarle Rescue Squad, Crozet Volunteer Fire Department, Earlysville Volunteer Fire Company, East Rivanna Volunteer Fire Company, North Garden Volunteer Fire Company, Scottsville Volunteer Fire Department, Scottsville Volunteer Rescue Squad, Seminole Trail Volunteer Fire Department, Stony Point Volunteer Fire Company, and Western Albemarle Rescue Squad.

**State law reference** – Virginia Code §§27-6.1, 27-8.1

**Sec. 6-103. Responsibilities of the coordinated fire and rescue system.**

The coordinated fire and rescue system shall:

- (1) Manage the delivery of prehospital emergency patient care and services through policy development and implementation consistent with state emergency medical services regulations and the guidance of each organization’s operational medical director.
- (2) Manage the provision of system-wide fire prevention, protection, investigation, suppression, education and rescue services, and services relating to hazardous materials and other hazards posing a threat to life and property, through policy development and implementation.
- (3) Provide any additional, related, system-wide services that are essential for the provision of high-quality fire and emergency medical services.
- (4) Perform and deliver services consistent with state laws, county ordinances, and duly adopted policies of the coordinated fire and rescue system.

**State law reference** – Virginia Code §§27-7, 27-14, and 32.1-111.14

**Sec. 6-104. Fire and Rescue Chief.**

The director of the coordinated fire and rescue system shall be known as the fire and rescue chief, who shall be appointed by the board of supervisors upon recommendation by the county executive following a selection process that includes representation from both the fire and emergency medical services membership as designated by the FEMS Board. The fire and rescue chief shall:

- (1) Provide general oversight and management of the system’s functions through:
  - a. Strategy development, in collaboration with the FEMS Board, for the retention and expansion of the volunteer base within the system to ensure that the health of the volunteer system remains a high priority for the fire and rescue chief.
  - b. Policy development, in collaboration with the FEMS Board, of system-wide policies that are essential to the effective and equitable provision of high-quality, countywide fire and rescue services, and overseeing the implementation of those system-level policies. All policies of the coordinated fire and rescue system shall be developed through the collaborative policy procedures established by section 6-109 and shall include, but not be limited to:
    - i. Standard operating guidelines for the system’s delivery of fire, rescue, and emergency medical services;
    - ii. System performance standards, such as minimum staffing and response goals;
    - iii. A seamless command structure and incident command system that complies with federal and state incident management standards;

- iv. Minimum personnel, training, licensure, and reporting requirements for the welfare of county and volunteer personnel and the delivery of high-quality fire and rescue services;
  - v. System fleet size, deployment, and functions;
  - vi. Minimum standards regarding apparatus and equipment;
  - vii. System funding by the county and system budget matters; and
  - viii. A process for setting and maintaining first due areas, response districts and apparatus response orders.
- (2) Make day-to-day operational decisions necessary for the coordinated system on matters not specifically addressed by system-wide policies. Prior to any significant decision affecting the coordinated system, however, the fire and rescue chief shall consult with the executive committee and consider all reasonable recommendations from the executive committee to the maximum extent possible. If exigent circumstances do not permit such prior consultation with the executive committee, the fire and rescue chief shall advise the executive committee as soon as practicable after the decision is made and seek its recommendations for future actions. The FEMS Board may at any time discuss and review significant system-wide decisions made by the fire and rescue chief without its prior consultation.
- (3) Serve as the executive of the system to support the FEMS Board by leading and facilitating the executive committee; participating fully in FEMS Board meetings, communications, programs and activities; providing and managing county staff support, as needed, for the FEMS Board and executive committee; and overseeing the preparation of FEMS Board and executive committee agendas and meeting documents. The fire and rescue chief shall also be a full voting member of the FEMS Board. In no way shall this subsection diminish the authority of the county executive to supervise the fire and rescue chief.
- (4) Provide general management, planning, preparation, response and recovery for any disaster relating to fires, hazardous materials, rescues or emergency medical services that may occur in the county.
- (5) Assume responsibility, under the authority of the county executive, for actions necessary to implement and carry out agreements for mutual aid, disaster preparedness and the provision of services related to hazardous materials, rescues, fire suppression, investigation, medical services or other emergency response services deemed necessary in the judgment of the fire and rescue chief in events exceeding the capabilities of an individual locality or government agency.
- (6) Exercise all powers authorized by state law as necessary for the provision of fire and emergency medical services.

**State law reference** – Virginia Code §§27-6.1, 27-7.

**Sec. 6-105. Volunteer fire companies and rescue squads; volunteer chiefs.**

(a) *General; authority to create by-laws.* Volunteer fire companies and rescue squads may be formed, named and dissolved in accordance with state law and board approval. They shall operate in conformity with state laws, county ordinances, and the duly adopted policies of the coordinated fire and rescue system. Boards and governing authorities of volunteer companies and squads shall have full authority to adopt policies, guidelines and protocols for the governance of their stations, except where specifically constrained by state law, county ordinances, or policies of the coordinated fire and rescue system as they are duly adopted. Nothing in this article is intended, nor shall it be construed, to make any member of a volunteer company or squad an employee of the county.

(b) *Responsibilities.* Volunteer fire companies and rescue squads shall have all the powers and duties granted to them by state law. They shall also execute the following responsibilities in conformity with their respective organizational by-laws, chains of command, and the duly adopted policies of the coordinated fire and rescue system:

1. Managing performance by the company or squad, including directing station activity and operations as needed;
2. Assuming or delegating the role of incident commander within the system's integrated incident command structure;
3. Providing management of response districts and apparatus response orders;
4. Selecting and promoting officers and other personnel;
5. Recruiting, retaining and advocating on behalf of volunteer members;
6. Managing officers and personnel, including disciplining, training, and keeping records;
7. Preparing their annual budgets for submission to the county, and managing their budgets;
8. Fundraising and managing all funds and assets that derive from private or non-county sources;
9. Collecting and forwarding to the fire and rescue chief such data, statistics and other information as may be necessary to assure the efficient and economical operation of the coordinated fire and rescue system;
10. Caring for and maintaining station facilities, apparatus and equipment; and
11. Managing station procurement of supplies and coordinating station procurement and stewardship of county-supported apparatus, equipment, and tools.

(c) *Chiefs.* The operational head of each volunteer fire company and rescue squad within the coordinated fire and rescue system shall be selected according to the by-laws of the company or squad and shall be known as the chief. Volunteer chiefs shall exercise the authority granted to them by state law and the by-laws of their organizations, so long as their actions do not conflict with the provisions of this article or the duly adopted policies of the coordinated fire and rescue system.

**State law reference** – Virginia Code §§15.2-955, 27-9, 27-10, and 32.1-111.14

**Sec. 6-106. Establishment and composition of FEMS Board.**

(a) The Albemarle County Fire and EMS Board ("FEMS Board") is hereby established to accomplish the following:

1. Collaborate with and advise the fire and rescue chief concerning the delivery of fire, rescue and emergency medical services as representatives of the volunteer companies and squads and as described by this article;
2. Facilitate communication and collaboration between the volunteer and county-employed members of the coordinated fire and rescue system; and
3. Communicate issues of importance to the fire and rescue chief concerning individual volunteer organizations or the coordinated fire and rescue system.

Nothing in this article abridges the First Amendment rights of private citizens to communicate directly with the county executive or the board of supervisors.

(b) The FEMS Board shall be composed of the highest ranking operational leader of each of the volunteer organizations listed in section 6-102 of this article and the fire and rescue chief, who shall also serve as the executive of the system in accordance with section 6-104. Nothing in this section shall be construed to prevent the FEMS Board from adopting by-laws concerning voting rights and the delegation of duties.

**Sec. 6-107. Responsibilities of the FEMS Board.**

The FEMS Board shall perform the following duties:

- (1) Adopt by-laws for its operation consistent with this article, including, but not limited to, by-laws concerning the voting rights of members and the delegation of member responsibilities.
- (2) Review all proposed policies affecting the coordinated fire and rescue system and provide comments and advice to the fire and rescue chief through the collaborative procedures established in section 6-109 and ensure the communication of duly adopted system-level policies to all companies and squads.
- (3) Appoint a committee or committees to meet regularly with the fire and rescue chief, county staff and, if appropriate, county volunteers, in order to consider concerns and provide input regarding:
  - a. Incident management;
  - b. Non-conformance with duly adopted system policies; and
  - c. Assurance of quality in the delivery of emergency services.
- (4) Appoint such additional committees as may be necessary, as well as committees that may be useful to facilitate communication regarding matters of importance to the coordinated fire and rescue system in the performance of its essential mission, including county staff and county volunteers in such committees, as appropriate.
- (5) Appoint an executive committee to perform the responsibilities outlined in section 6-108.
- (6) Review and provide input and recommendations to the fire and rescue chief regarding new initiatives for the system's operating and capital improvement budgets.
- (7) Develop, in collaboration with the fire and rescue chief, a broadly supported grievance procedure for chiefs of volunteer organizations to contest decisions of the fire chief to the county executive or his designee in matters affecting individual volunteers, who are not employees of the county, in accordance with section 6-109. The general management and discipline of volunteers shall be a station-level responsibility, as provided in section 6-107.
- (8) Meet on a regular basis in order to perform its responsibilities under this section, and present a report at least annually to the board of supervisors regarding the health and welfare of the volunteer system.

Nothing in this article abridges the First Amendment rights of private citizens to communicate directly with the county executive or the board of supervisors.

**Sec. 6-108. Executive committee of the FEMS Board.**

(a) *Composition.* The executive committee of the FEMS Board shall be composed of the chair and vice-chair of the FEMS Board, a fire representative selected by the FEMS Board in accordance with its by-laws, and a rescue representative selected by the FEMS Board in accordance with its by-laws. The fire and rescue chief shall lead and facilitate the executive committee. Executive committee members must be active members in good standing with their respective volunteer companies and squads.

(b) *Terms of service.* The FEMS Board shall determine the terms of service for committee members, who shall serve at the pleasure of the FEMS Board.

(c) *Responsibilities.* The executive committee shall advise the fire and rescue chief in a timely manner on all proposed policies of the coordinated fire and rescue system and on any other system matter for which the fire and rescue chief requests input and advice. In addition, the executive committee shall perform other functions delegated by the FEMS Board in accordance with this article and FEMS Board by-laws. The executive committee shall meet as frequently as needed to discharge these responsibilities.



**Sec. 6-109. Procedure for developing policies of the coordinated fire and rescue system.**

(a) *Purpose.* In adopting this article the board of supervisors recognizes that, to have full effect, policies must be developed through a collaborative process and enjoy the support of a majority of the elements of the coordinated fire and rescue system. The procedures in this section are intended to assist the fire and rescue chief, the FEMS Board, and the executive committee in the collaborative and careful development of policies for the system. These procedures may be changed at any time by agreement of the fire and rescue chief and the FEMS Board by a majority vote. In addition, the fire and rescue chief may at any time seek more input and advice from the executive committee or FEMS Board than this section requires.

(b) *Initiative and Drafting.* Any member of the coordinated fire and rescue system may suggest new policies or policy amendments to the fire and rescue chief and the FEMS Board through the member's chain of command. In cooperation with the executive committee, the fire and rescue chief shall oversee the preparation of new system-level policies and the review of all existing system-level policies. Policies that affect only county employees or county volunteers will not be considered by the executive committee. Draft policies, prepared by the fire and rescue chief, shall be submitted to the executive committee for joint consideration and collaborative development. The draft will be accompanied by a written report summarizing the rationale for the policy and the impacts, if any, on volunteer budgets and volunteer members' time.

(c) *Executive Committee Role in Policy Development.* The executive committee shall review and evaluate all draft policies proposed by the fire and rescue chief or others in light of the following standard: whether the policy is essential to the effective and equitable provision of high-quality, countywide fire and rescue services (hereinafter, "system policy standard"). Within thirty (30) calendar days of receiving the initial draft policy, barring unforeseen circumstances, the executive committee shall review the draft and decide to: support the policy as worded; support the policy with specific revisions; or decline to support the policy. The committee may accompany its decision with a written explanation of its position, although it must provide a written explanation in the event it declines to support the policy.

The fire and rescue chief shall consider the comments and recommendations of the executive committee and shall incorporate such recommendations for revision which, in his judgment, meet the system policy standard. The fire and rescue chief shall then re-submit the draft, with any revisions, to the executive committee for additional review and comment, repeating this process until he is satisfied that the resulting draft meets the system policy standard and addresses the reasonable concerns of the executive committee. Should the chief decline to accept any material recommendation for revision from the executive committee, he shall provide a written explanation of his decision to the executive committee and attempt to reach a consensus with the committee prior to submitting the proposed policy to the FEMS Board.

During the collaborative process described above, the executive committee shall brief other members of the FEMS Board on the progress of its work with the fire and rescue chief and solicit from the FEMS Board any questions, concerns and suggestions for introduction to the chief.

(d) *FEMS Board Deliberations.* After completing collaborative consultations with the executive committee as described above, the fire and rescue chief shall submit the proposed policy, along with any annotations he considers necessary, to the full FEMS Board for its review. If, after following the collaborative process described above, the executive committee wishes to advance a policy which the fire and rescue chief has declined to issue, as evidenced in written notice to the executive committee, the executive committee shall submit the policy to the FEMS Board for its review. The fire and rescue chief may submit an alternative policy or a written summary of the reasons for his decision to decline issuance with the executive committee's policy for simultaneous review by the FEMS Board. If both the fire and rescue chief and the executive committee submit policies for simultaneous review by the FEMS Board, the FEMS Board shall consider and vote on both policies at the same meeting.

Provided that the proposed policy is submitted to the FEMS Board at least fourteen (14) calendar days before any monthly meeting, the FEMS Board shall take action on the policy at that meeting unless the FEMS Board decides, by a majority vote, to require a second reading of the policy at the following meeting. After considering the draft policy in light of the system policy standard defined in §6-109(c), the FEMS Board shall take one of the following actions by majority vote, which shall be reflected fully in the minutes of the FEMS Board:

1. Accept the draft policy as worded.

2. Support the policy in principle, but with specific revisions.
3. Decline to accept the policy. If the FEMS Board subsequently votes to appeal the policy, it must provide a clear explanation for its vote at that meeting, and may, at its discretion, follow with a written explanation of the reasons for its opposition.

After the FEMS Board votes to take an action described in numbers 2 or 3 above on a policy proposed by the fire and rescue chief, the chief shall reconsider the draft policy in light of the system policy standard defined in §6-109(c) and incorporate such revisions from the FEMS Board which, in his judgment, meet that standard. The chief shall then submit any revised draft policy to the FEMS Board or the executive committee for additional review and consider any further recommendations, repeating this process until he is satisfied that the resulting draft policy meets the system policy standard and addresses the reasonable concerns of the FEMS Board. The chief shall submit his final draft policy to the FEMS Board at least fourteen (14) calendar days before their next meeting for final consideration.

(e) *Adoption of Policies.* The fire and rescue chief shall be authorized to adopt and issue a policy of the coordinated fire and rescue system immediately after a vote by the FEMS Board to support the policy as worded. Should the FEMS Board vote to support the policy with revisions, or to decline to support the policy, the chief shall be authorized to, but need not, issue the proposed policy as submitted after providing written notice to the FEMS Board at least fourteen (14) days prior to the next FEMS Board meeting. In that event, the policy shall take effect the day after the next FEMS Board meeting or later, if the policy specifies a later effective date. Any vote by the FEMS Board to appeal a policy shall immediately suspend the adoption and issuance of the policy.

(f) *Appeals of Policies.* Appeals of proposed policies will be taken in accordance with this section. The FEMS Board may vote to appeal either a proposed policy of the fire and rescue chief, or to appeal the chief's decision to decline issuance of the executive committee's proposed policy, by a majority vote taken no later than the next meeting following the introduction of the policy to the FEMS Board or the meeting following the second reading of the policy, if a second reading has been required by the FEMS Board. The minutes of the FEMS Board shall reflect the vote to appeal and a summary of all statements made during the deliberation of the policy. Within seven (7) calendar days of any vote to appeal, the chairman of the FEMS Board shall submit a written notice of appeal, including a statement of the basis for the appeal, to the county executive. If the appeal arises from the chief's decision to decline to issue the executive committee's proposed policy, both the executive committee's proposed policy and any alternative proposed policy of the fire and rescue chief shall be submitted for joint review throughout the appeal process.

Within ten (10) calendar days of receiving the notice of appeal, the county executive or his designee shall provide a written decision to the FEMS Board and the fire and rescue chief. Decisions shall be based on whether the proposed policy or policies meet the system policy standard as defined in §6-109(c). A decision that the appeal has merit may also provide guidance to the fire and rescue chief and the executive committee regarding further work to be undertaken on the disputed policy. A decision that the appeal is without merit may be appealed to the board of supervisors by a majority vote of the FEMS Board at its next meeting.

Within seven (7) calendar days of the vote to appeal to the board of supervisors, the chairman of the FEMS Board shall submit a written notice of appeal, including a statement of the basis for the appeal, to the clerk of the board of supervisors. The written notice of appeal will be accompanied by a packet, compiled by county staff, containing a copy of the following: all documents submitted by the FEMS Board, fire and rescue chief, and the county executive as part of the appeal process; the proposed policy or policies; and the minutes, if any, reflecting FEMS Board deliberations on the proposed policy or policies. Any party may include such other documents it believes would be helpful for the board of supervisors to consider by providing them to the clerk of the board of supervisors prior to the expiration of the seven (7) calendar days described above. The board of supervisors shall consider the appeal at a subsequent meeting and issue a decision that the appeal should be sustained or not sustained, in whole or in part. The basis for the decision shall be whether the proposed policy or policies meet the system policy standard as defined by §6-109(c).

**Sec. 6-110. Noncompliance with system policies.**

(a) *Purpose.* A peer-accountability procedure for enforcing duly-adopted system policies applicable to volunteer fire companies and rescue squads is hereby established to accomplish the following:

1. full and consistent adherence to system policies by all member organizations;
2. fair, equitable, and objective consideration of all potential material noncompliance violations in accordance with this section;
3. management of discipline and compliance remediation efforts by the chief of the noncompliant organization to the greatest extent possible; and
4. promotion of open and ongoing communication by and between member organizations about policy compliance matters.

(b) *Definition of Material Noncompliance.* "Material noncompliance" or "materially noncomplying" with system policies means a failure to adhere to a system policy adopted in accordance with section 6-109 which: (i) is committed on two or more separate occasions, or on a single occasion if the alleged conduct involves either civil legal violations or actions by multiple members of the organization's leadership, or is committed intentionally after notice that the conduct would violate system policy; and (ii) does one or more of the following:

1. threatens the health, safety or welfare of county citizens, volunteers or county staff;
2. impairs the operational readiness of the coordinated fire and rescue system to deliver fire and emergency medical services;
3. violates any applicable civil federal, state or local law; or
4. involves the violation of a policy provision regarding public funds.

(c) *Informal Resolution of Concerns.*

1. The chiefs of all member organizations and the fire and rescue chief shall be entitled to communicate concerns about noncompliance with system policies to the chiefs of those organizations believed to be noncompliant.

2. For all noncompliance concerns that rise to the level of "material noncompliance," as defined by this section, the complaining chief must first notify the chief of the noncompliant organization and make reasonable efforts to achieve a mutually agreeable resolution, consistent with system policies and this article, with that chief prior to initiating the procedures for formal resolution of material noncompliance. The complaining chief shall also apprise the executive committee and the fire and rescue chief of the compliance concern and resolution efforts, and may seek assistance from the fire and rescue chief for such efforts.

3. Should such efforts to achieve a mutually agreeable resolution of material noncompliance fail, the complaining chief shall initiate a formal procedure for material noncompliance in accordance with subsection (d).

(d) *Formal Resolution of Material Noncompliance Complaints.*

1. *Initiating Complaint.* After completing the informal resolution process established in subsection (c), the chief of any member organization or the fire and rescue chief may initiate a formal Complaint of Material Noncompliance with System Policy ("Complaint") by submitting the Complaint in writing to the executive committee. The Complaint must state, at a minimum, which policy or policies has been violated, and a summary of the facts supporting the violation.

2. *Investigation of the Complaint.* As soon as practicable after receiving the Complaint, the executive committee and the fire and rescue chief shall consider the Complaint and determine whether reasonable cause exists to believe that the charged organization has materially noncomplied with a system policy. If the executive committee decides, by a majority vote, that reasonable cause exists, the executive committee shall undertake a formal investigation of the Complaint or appoint a committee to conduct the investigation. The investigation shall be concluded as soon as practicable and no later than thirty (30) calendar days after receiving the charge to investigate the Complaint, unless extraordinary

circumstances justify the need for a longer investigative period. Should the fire and rescue chief disagree with the majority vote of the executive committee as to whether reasonable cause exists, the investigation shall be conducted as described in this section.

3. *Determination of Material Noncompliance.* The executive committee, or the committee appointed by the executive committee to conduct the investigation, shall prepare a written report summarizing the investigation and its factual conclusions and submit the report to the executive committee and the fire and rescue chief no later than ten (10) calendar days following the conclusion of the investigation. As soon as practicable following receipt of the report, the executive committee shall determine whether the charged organization has materially noncomplied with system policy. If the executive committee determines, by majority vote, that the charged organization has materially noncomplied with system policy, with the concurrence of the fire and rescue chief, the steps described in subsection (d)(iv) (Remediation) shall be followed. Should the fire and rescue chief disagree with the majority vote of the executive committee, the chief shall be authorized to take, but need not take, any action permitted by subsection (g) (Authority Reserved for Immediate Action) as needed to act in the best interest of the system.

4. *Remediation.* As soon as practicable following a determination of material noncompliance, the executive committee shall, in consultation with the fire and rescue chief, design a plan for remediating the noncompliance. The executive committee shall communicate the plan to the charged organization and oversee implementation of the plan. Should the charged organization substantially fail to implement the plan, the fire and rescue chief may modify the plan, discontinue the plan, implement an alternative plan, and/or take other action as needed. Prior to taking these steps, however, the fire and rescue chief must consult the executive committee about his intended action and consider its recommendations except when immediate action under subsection (g) is required, in which case he shall consult with the executive committee as soon as practicable after such action.

5. *Referral for Dissolution or Reduction in Funding.* If the executive committee and fire and rescue chief determine that the nature of the material noncompliance is so serious as to merit consideration of dissolution of the organization or reduction in its funding by the board of supervisors, they shall apprise the FEMS Board of the investigation and their recommendation for such action. After such appraisal, a recommendation may be made by the fire and rescue chief to the county executive for referral to the board of supervisors, which shall retain at all times the sole authority to dissolve a fire or rescue organization, pursuant to Virginia Code §27-10, and to determine annual appropriations.

(e) *Appeal Procedure for Determinations of Material Noncompliance.*

1. *Filing of Appeal.* Once the determination of material noncompliance has been made and the plan of remediation has been issued to the charged organization, the charged organization may appeal, in writing, the determination of material noncompliance, the plan of remediation, or both, to the county executive within thirty (30) calendar days of receiving the plan of remediation. The appeal must state the decision being appealed and the basis for the appeal. The charged organization may be assisted in its appeal by any member of the FEMS Board or by any individual.

2. *FEMS Board Review.* At the request of the charged organization, the FEMS Board shall review and discuss the Complaint, investigation report, determination of material noncompliance, and plan of remediation at its next meeting. After such consideration, the FEMS Board may, but need not, decide by a majority vote to provide a recommendation to the fire and rescue chief and to the county executive concerning the appeal.

3. *County Executive's Decision.* Within thirty (30) calendar days of receiving a timely appeal from a charged organization, the county executive or his designee shall issue a written decision to the charged organization, the fire and rescue chief, and the FEMS Board. A decision that the appeal has merit may also provide guidance to the fire and rescue chief and the executive committee regarding the determination of material noncompliance, the plan for remediation, or both. The decision of the county executive shall end the appeal process.

(f) *Disqualification from Voting.* No representative of an organization charged with material noncompliance may participate in the investigation of any Complaint or vote as provided in this section

concerning its organization. In the event that a member of the executive committee belongs to a charged organization, the executive committee shall appoint a substitute member from an organization within the system to discharge all executive committee responsibilities of that member which are required by this section.

(g) *Authority Reserved for Immediate Action.* Notwithstanding the provisions in this section, the fire and rescue chief shall be authorized at all times to take immediate action to prevent or mitigate imminent harm to the health, safety, or welfare of county citizens, volunteers or county staff; to ensure operational readiness of the coordinated fire and rescue system to deliver fire and emergency medical services; to comply with all applicable laws; and to exercise any authority otherwise provided in section 6-104. Such immediate action may be taken concurrently with the procedures for informal resolution, formal resolution and appeal described in this section.

**Sec. 6- 111 Office of the Fire Marshal.**

(a) Pursuant to Virginia Code § 27-30, the Office of the County Fire Marshal is hereby established. The board of supervisors shall appoint the fire marshal and such assistant fire marshals as the board deems necessary.

(b) The fire marshal and his assistants shall, before entering upon their duties, take an oath, before any officer authorized to administer oaths, to faithfully discharge the duties of their offices.

(c) The fire marshal and his assistants shall be authorized to exercise all of the powers authorized by Title 27, Chapter 3 of the Virginia Code.

(Code 1988, § 9-1; Ord. 98-A(1), 8-5-98)

**State law reference** – Virginia Code §§27-30, *et seq.*

**Sec. 6- 112 Junior Firefighters Program.**

Any person sixteen years of age or older is authorized to participate fully in all activities of a volunteer fire company duly authorized to operate in the county after he or she:

(a) Becomes a member of the volunteer fire company;

(b) Supplies to the chief fire officer of the volunteer fire company written confirmation that such person is a resident of the Commonwealth of Virginia and has parental or guardian approval; and

(c) Attains certification under National Fire Protection Association 1001, level one, fire fighter standards as administered by the Department of Fire Programs.

(Ord. 01-6(2), 12-05-01)

**State law reference** -- Virginia Code § 40.1-79.1.

## CONDITIONS OF APPROVAL

**SP-2010-00053. South Plains Presbyterian Church**

1. The development of the site shall be in general accord with the "Conceptual Site Plan" prepared for South Plains Presbyterian Church by Atwood Architects, Inc., dated March 25, 2011, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Site Plan, the development shall reflect the following major elements within the development essential to the design of the development:
  - the location of the parking area,
  - the location of the new sanctuary and fellowship hall, and
  - the preservation of existing trees as shown with tree protection fencing.
2. Provided parking shall not exceed seventy-five (75) spaces;
3. Commercial setback standards, as set forth in Section 21.7.2 of the Albemarle Zoning Ordinance, shall be maintained adjacent to properties zoned Rural Areas;
4. Storm water facilities and parking lot surface meeting the approval of the County Engineer shall be required before approval of the final site plan for this use;
5. There shall be no day care center or private school on site without approval of a separate special use permit;
6. Health Department approval of well and/or septic systems;
7. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
8. Documentation of the manse, including detailed digital photographs of both the interior and exterior, and drawings of the floor plans and elevation with measurements, shall be submitted to the County prior to the issuance of a demolition permit; and
9. The screening trees (58) shown on the Conceptual Site Plan along the rear property line shall be planted prior to demolition of the manse.
  - (i) The plantings will be evergreen trees, five (5) to six (6) feet tall, planted a minimum of eight (8) feet on center or spacing distance as recommended by the American Nurseryman's Association;
  - (ii) The tree choices are arborvitae or trees of comparable value.

**SP-2010-00032. Avon Street Ross AT&T CV376 Tier III PWSF**

1. The proposed personal wireless service facility must be developed in general accord with the plan prepared by SAI Communications with a revision date of 12-2-2010, and a certified engineer's seal and signature dated 12-02-2010; and
2. Additional condition to be added requiring the applicant to keep the runoff off the neighboring property. (Language to be finalized prior to this item going before the Board of Supervisors. The goal is not to try to keep all runoff from the adjacent site, but to reduce the impact of the increased runoff resulting from the tower.

**ATTACHMENT 3**

Original Proffers   X    
Amendment           

**PROFFER STATEMENT**

ZMA 2010-00012, King Property

Tax Map and Parcel Number: 04500-00-00-025A0 (portion)

Owner of Record: Stephen C. King

Date of Rezoning Action: April 20, 2011

0.85 acres to be rezoned from Rural Areas (RA) to Light Industry (LI).

Stephen C. King is the owner (the "Owner") of Tax Map and Parcel Number 04500-00-00-025A0 (the "Property") which is the subject of rezoning application ZMA No. 2010-00012, a project known as "King Property" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. The uses of the Property permitted by right shall be all those uses allowed by right under Section 27.2.1 of Chapter 18, Zoning, of the Albemarle County Code, as that section is in effect on April 19, 2011, a copy of which is attached hereto and incorporated herein as Attachment A, except for:
  - a. Manufacture, processing, fabrication, assembly, distribution of products such as but not limited to: (Amended 12-2-81; 2- 20-91) (Section 27.2.1(3)).
    - Photographic equipment and supplies including processing and developing plant.
  - b. Assembly and fabrication of light aircraft from component parts manufactured off-site (Section 27.2.1(8)).
  - c. Storage yard. (Amended 11-12-08) (Section 27.2.1(9)).
  - d. Engineering, engineering design, assembly and fabrication of machinery and components, including such on-site accessory uses as machining, babbitting, welding and sheet metal work and excluding such uses as drop hammering and foundry. (Amended 10-3-01) (Section 27.2.1(10)).

The owner shall have no right to establish or maintain a use that is subsequently amended or deleted from Section 27.2.1 unless the owner establishes that its right to engage in or maintain that use has vested.

**OWNER**

\_\_\_\_\_  
Stephen C. King

\_\_\_\_\_  
Date Signed

## 27.2 PERMITTED USES

## ATTACHMENT A

### 27.2.1 BY RIGHT

Except as otherwise limited by section 27.2.2.10, the following uses shall be permitted by right in the LI district, subject to the applicable requirements of this chapter: (Amended 2-13-85, 5-5-10)

1. Compounding of drugs, including biological products, medical and chemical as well as pharmaceutical.
2. Fire and rescue squad stations (reference 5.1.9).
3. Manufacture, processing, fabrication, assembly, distribution of products such as but not limited to: (Amended 12-2-81; 2- 20-91)
  - Artists' supplies and equipment.
  - Business, office machines and equipment.
  - Cosmetics, including perfumes, perfumed toiletries and perfumed toilet soap.
  - Drafting supplies and equipment.
  - Electrical lighting and wiring equipment.
  - Electrical and electronic equipment and components including radio, telephone, computer, communication equipment, TV receiving sets, phonographs.
  - Food products, such as bakery goods, dairy products, candy, beverages, including bottling plants.
  - Gifts, novelties including pottery, figurines and similar ceramic products.
  - Glass products made of purchased glass.
  - Industrial controls.
  - Jewelry, silverware.
  - Light machinery and machine parts, including electrical household appliances but not including such things as clothes washers, dryers and refrigerators.
  - Musical instruments.
  - Paper products such as die-cut paperboard and cardboard, sanitary paper products, bags and containers.
  - Photographic equipment and supplies including processing and developing plant.
  - Rubber, metal stamps.
  - Small electrical parts such as coils, condensers, transformers, crystal holders.
  - Surgical, medical and dental instruments and supplies.
  - Toys, sporting and athletic equipment, except firearms, ammunition or fireworks.
  - Watches, clocks and similar timing devices.
  - Wood cabinets and furniture, upholstery.
4. Publishing, printing, lithography and engraving, including but not limited to newspapers, periodicals and books.
5. Preparation of printing plates including typesetting, etching and engraving.
6. Research and development activities including experimental testing.
7. Scientific or technical education facilities.
8. Assembly and fabrication of light aircraft from component parts manufactured off-site.
9. Storage yard. (Amended 11-12-08)
10. Engineering, engineering design, assembly and fabrication of machinery and components, including such on-site accessory uses as machining, babbiting, welding and sheet metal work and excluding such uses as drop hammering and foundry. (Amended 10-3-01)
11. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
12. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
13. Temporary construction uses (reference 5.1.18).
14. Business and professional office buildings.
15. Dwellings (reference 5.1.21). (Added 4-17-85)



16. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
17. Warehouse facilities and wholesale businesses not involving storage of gasoline, kerosene or other volatile materials; dynamite blasting caps and other explosives; pesticides and poisons; and other such materials which could be hazardous to life in the event of accident. (Added 12-2-87)
18. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
19. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
20. Farmers' markets that will be conducted outdoors or within a temporary or existing permanent structure (reference 5.1.47). (Added 5-5-10)  
(§ 27.2.1, 12-10-80, 12-2-81, 2-13-85, 4-17-85, 3-5-86, 12-2-87, 11-1-89, 5-12-93; § 18-27.2.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-