

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 3, 2011, at 3:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from March 2, 2011.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Tom Foley, County Attorney, Larry W. Davis, and Clerk, Ella W. Jordan.

ALSO PRESENT FROM FIRE AND RESCUE: Dan Eggleston, Chief, Fire and Rescue; Doug Smythers, Chief, Seminole Trail Volunteer Fire Department; George Stevens, Chief, North Garden Volunteer Fire Company; Tim Cersley, Chief, Scottsville Volunteer Fire Department; Keith Shifflett, Chief, Earlysville Volunteer Fire Company; Kostas Alibertis, Chief, Western Albemarle Rescue Squad; and Dayton Haugh, Chief, Charlottesville-Albemarle Rescue Squad; Preston Gentry, Chief of Operations, Crozet Volunteer Fire Department; and Mark Moore, Chief, East Rivanna Volunteer Fire Company.

Agenda Item No. 1. The meeting was called to order at 3:05 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. **Work Session:** Fire/Rescue Ordinance.

The following executive summary was forwarded to the Board:

Prior Ordinance Development

At its October 24, 2008 work session, the Board directed staff to work collaboratively with members of the Albemarle County Fire and Rescue Advisory Board (ACFRAB) and Board liaisons Ken Boyd and Ann Mallek to develop an ordinance establishing an organizational structure for the combined volunteer and career fire and rescue system. The ordinance committee's work culminated in a draft ordinance presented for first and second readings to the ACFRAB in February and March, 2009. Feedback from ACFRAB was incorporated in additional revisions to the draft ordinance. In the spring of 2009 the Board decided to delay holding a public hearing on the draft ordinance in order to focus its efforts on implementing an EMS Cost Recovery program.

In April 2010, the Board asked that the ordinance committee be reconvened to review the draft ordinance and to provide the ACFRAB an opportunity to provide additional comments and suggestions. The committee met on June 23, 2010 and further revisions to the ordinance were made based on the volunteer chiefs' comments. The final draft included revisions to § 6-104 to clarify the role of the fire and rescue chief and to specifically require the chief to consult first with the volunteer executive committee before making significant decisions affecting the coordinated system. On August 11, 2010, the Board held a public hearing to consider adoption of the ordinance. The ordinance failed to pass pursuant to a 3 to 3 vote.

Ordinance Development after August 11, 2010

Between September and November, 2010, an ad hoc committee made up of volunteer chiefs and Board members Ann Mallek and Rodney Thomas met several times to draft revisions to the August 11th ordinance. The Board affirmed at its November 3, 2010 meeting that it remained committed to an ordinance based on a collaborative fire chief organizational model rather than a commission model. At the committee's invitation, staff from the Albemarle County Department of Fire and Rescue ("ACFR") and the County Attorney's Office met with the ad hoc committee six times from December through February, 2011 to work on revisions to the August 11th ordinance. The County Attorney's Office generated four drafts of the ordinance for the committee's review and comments. Although many changes to the August 11th ordinance were made with the consensus of the full committee, the volunteer and County members continue to disagree about whether the fire and rescue chief should be a member of the Fire and EMS Board (FEMS Board), the proposed new name for the ACFRAB. Volunteer chiefs prefer to include the fire and rescue chief as a FEMS Board member while County staff advocates that the chief serve as an executive supporting the FEMS Board and as chair of the FEMS Board's Executive Committee.

Following the committee's final meeting on February 1, 2011, the County Attorney's Office produced a final draft ordinance dated February 1, 2011 (Attachment A). This draft was circulated by the ACFRAB chair to all ACFRAB members in early February. This document shows proposed changes to the August 11, 2010 ordinance in redline format. The two areas highlighted in yellow, within sections 6-104(3) and 6-106(b), represent the areas of disagreement between the County and volunteer committee representatives concerning the fire and rescue chief's role in the FEMS Board.

Staff has prepared a brief summary document (Attachment B) to illustrate the proposed roles and responsibilities of the fire and rescue chief and the FEMS Board. This document reflects the chief serving as an executive supporting the FEMS Board, rather than as a member of the FEMS Board.

On February 9, 2011, the Board adopted a schedule for consideration of the draft ordinance. (Attachment C). Pursuant to this schedule, ACFRAB members met on February 15th to discuss the draft ordinance with the ad hoc committee members, including County staff and Board members. Opportunities for additional ACFRAB review and Board direction have been scheduled to occur after the Board's March 3rd work session.

The following summary highlights the substantive changes proposed to the August 11th ordinance as shown in the February 1, 2011 draft ordinance. Except as otherwise stated, all changes reflect initiatives and requests made by the volunteer representatives of the committee:

- § 6-101 - *Definitions*: ACFRAB has been renamed the “Fire and EMS Board” or “FEMS Board,” and a definition of “volunteers” has been added.
- § 6-104 - *Fire and Rescue Chief*:
 - New provision that two representatives designated by the FEMS Board must be part of the selection process for a fire and rescue chief.
 - Subsection (1): Language modified to make it more evident that the chief’s general oversight and management authority in this subsection is not open-ended, but constrained by policy and strategy development.
 - Subsection (2): Language added to clarify that the FEMS Board may always discuss and consider actions taken by the chief made in areas not covered by policy.
 - Subsection (3): Language proposed by staff to summarize the chief’s role and duties with respect to the FEMS Board and its Executive Committee. The volunteer representatives agree with these functions, but believe the chief should serve as a member of the FEMS Board.
 - Subsection (4): Language deleted in order to add this as a FEMS Board responsibility under §6-107.
- § 6-106 – *Establishment and composition of FEMS Board*: Language proposed by staff to reflect the chief’s role as an executive of the system to support the FEMS Board. The volunteer representatives believe the chief should serve as a member of the FEMS Board.
- § 6-107 – *Responsibilities of the FEMS Board*: Several clarifications added, based on the volunteers’ draft ordinance, to explain the FEMS Board’s communications and committee functions. Subsection (7) added as a new responsibility of the FEMS Board to develop, in collaboration with the fire and rescue chief, a grievance procedure for individual volunteers.
- § 6-108 – *Executive Committee of the FEMS Board*: Changes made to the composition of the Executive Committee and to clarify that it may perform delegated functions of the FEMS Board.
- § 6-109 – *Procedure for developing policies*:
 - New provision allows the Executive Committee to submit a proposed policy for FEMS Board consideration, even if the fire and rescue chief disagrees with the proposed policy and allows competing policies proposed by the Executive Committee and the chief to be considered by the FEMS Board. The chief’s decision not to issue the Executive Committee’ policy may be appealed by the FEMS Board to the County Executive, then to the Board of Supervisors.
 - Clarification made that all appealed policies will be suspended, and not implemented, during the period of any appeal.
 - New provisions added by staff to streamline the appeal process by eliminating the informal appeal process.
 - Provisions added to make policy appeals more convenient for the FEMS Board by stating requirements about meeting minutes and staff support.
 - Clarifications made by staff about minor logistical matters regarding procedure.
- § 6-110 – *Noncompliance with system policies*:
 - New section created to provide a peer-accountability procedure for the volunteer organizations in cases of “material” noncompliance with system policies. The original draft developed by the volunteer chiefs tracked language nearly verbatim from the Prince William County ordinance.
 - Staff revised language from the Prince William ordinance with the input of the volunteer representatives. Highlights include: providing a distinct role for the chief separate from the Executive Committee and creating avenues for appeal and emergency action in the event that the chief and the Executive Committee disagree; creation of a mandatory informal resolution process prior to any formal complaint of material noncompliance; defining “material noncompliance;” and eliminating company “hearings” in favor of direct communication between the Executive Committee and the noncompliant organization to implement a plan of remediation.
 - Appeals of material noncompliance determinations or plans of remediation may be made by the noncompliant volunteer agency and would be heard by the County Executive or his designee. All matters regarding the dissolution of an agency or reduction in funding would be reserved for the Board.

At its February 23, 2011 meeting, ACFRAB voted to advance to the Board of Supervisors an alternative version of the proposed Ordinance as drafted by its ad-hoc working committee as of November 1, 2010. ACFRAB requested that staff provide this version as an attachment to this Executive Summary (Attachment D). It should be noted that subsequent to November 1, 2010 staff joined the ad-hoc working committee and the February 1, 2011 version (Attachment A) represents the work of the committee as of that date. Attachment E provides an unedited version of the Ordinance considered by the Board on August 11, 2010.

Although there is no immediate budget impact associated with the proposed fire rescue structure, the amount of staff time to support the FEMS Board and the Executive Committee will need to be evaluated over time to determine if a sustained amount of support can be provided with existing staff.

After the work session, staff recommends that the Board authorize the Clerk to advertise for action by the Board at its April 20, 2011 meeting, an ordinance to amend County Code Chapter 6, Fire Protection, that incorporates the proposed changes to the August 11, 2010 draft ordinance as shown in Attachment A.

Following is the February 1, 2011 draft ordinance:

KEY TO THE CHANGES

Gray font: Section has not changed since presentation to the BoS in 08/10

Red font: Deleted text

Blue font: Added text

Yellow: Volunteer chiefs and County representatives on the ordinance drafting committee disagree.

**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
Earlsville 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:

~~Advisory Board means the Albemarle County Fire and Rescue Advisory Board.~~

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 ~~advisory board~~ [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.](#)

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 Albemarle County Fire and Rescue Advisory Board 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 throughby:
 - a. Strategy Ddevelopmenting, in collaboration with the advisory-board FEMS Board, strategies 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 Ddevelopmenting, in collaboration with the advisory-board 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. 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.
- ~~(4) — Develop a broadly supported procedure for chiefs of volunteer organizations to contest decisions of the fire and rescue chief to the county executive or his designee in matters affecting individual volunteers, who are not employees of the County. The general management and discipline of volunteers shall be a station level responsibility, as provided in section 6-105(b)(6).~~
- (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.

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 ~~advisory board~~ FEMS Board.

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

1. Collaborate with 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 ~~advisory board~~ 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. The fire and rescue chief shall attend meetings of the ~~advisory board~~ FEMS Board, and serve as the executive of the system to support the FEMS Board as described in section 6-104 but shall not be a member of the advisory board. 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 ~~advisory board~~ FEMS Board.

The ~~advisory board~~ 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.
- ~~(6)~~(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 ~~advisory board~~ FEMS Board.

(a) *Composition.* The executive committee of the FEMS Board shall be composed of ~~at least three members of the advisory board~~ the chair and vice-chair of the FEMS Board, a fire representative selected by the advisory board FEMS Board in accordance with its by-laws, and a rescue representative selected by the FEMS Board in accordance with its by-laws and with the goal of providing equal representation for the fire companies and rescue squads. ~~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 ordinance 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ [FEMS Board](#).

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

(d) *Advisory Board 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 ~~advisory board~~ [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 ~~advisory board~~ [FEMS Board](#) at least fourteen (14) calendar days before any monthly meeting, the ~~advisory board~~ [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 ~~advisory board~~ [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, ~~following which the policy shall be considered adopted.~~
2. Support the policy in principle, but with specific revisions.
3. Decline to accept the policy. If the ~~advisory board~~ [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 ~~advisory board~~ [FEMS Board votes to take an action described in numbers 2 or 3 above on a policy proposed by the fire and rescue chief, ~~t~~he chief shall reconsider the draft policy in light of the system policy standard defined in §6-109\(c\) and incorporate such revisions from the ~~advisory board~~ \[FEMS Board\]\(#\) which, in his judgment, meet that standard. The chief shall then submit any revised draft policy to the ~~advisory board~~ \[FEMS Board\]\(#\) 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 ~~advisory board~~ \[FEMS Board\]\(#\). The chief shall submit his final draft policy to the ~~advisory board~~ \[FEMS Board\]\(#\) 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 ~~advisory board~~ [FEMS Board](#) to support the policy as worded. Should the ~~advisory board~~ [FEMS Board](#) vote to support the policy with revisions, or to ~~oppose~~ 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~~may nonetheless notify the advisory board that he intends to issue the proposed policy as submitted.~~

In that event, the policy shall take effect the day after the next ~~advisory board meeting, unless otherwise specified within the policy, or unless the advisory board votes to contest the policy at that meeting.~~ 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.

~~*Informal Contest of Policies.* Should the advisory board vote to contest the policy, written statements from the fire and rescue chief and the advisory board, explaining their positions for and against the policy, shall be submitted to the county executive no later than fourteen (14) calendar days from the date of the meeting. The county executive or his designee shall either: (1) refer the policy back to the parties for further consideration and collaboration; or (2) determine that the policy meets the system policy standard as defined in §6-109(c). Following the county executive's decision, the advisory board shall vote at its next meeting regarding whether to file a formal appeal 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ 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 ~~advisory board~~ FEMS Board, fire and rescue chief, and the ~~C~~county ~~e~~Executive as part of the appeal process; the proposed policy or policies; and the minutes, if any, reflecting ~~advisory board~~ 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 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.

Ms. Mallek stated that she was excited about the afternoon's discussion and that she hopes that the discussion will allow them to come to a conclusion.

Mr. Foley said that on February 9 the Board established and adopted a process and schedule for completing review of the Fire/Rescue Ordinance, which is presented as Attachment C to the Executive Summary. He said that the schedule established today's meeting as an opportunity to review and discuss the version of the ordinance dated February 1, 2011 that is included as Attachment A to the Executive Summary. Mr. Foley stated that the purpose of today's meeting as outlined in the adopted process is to receive a brief overview of the February 1st ordinance and receive comment and input from the volunteers on that version, and for the Board to decide today whether to move the ordinance forward for final action on April 20 or continue the process for rewriting the ordinance.

Mr. Foley clarified that Attachment D, the Ad-Hoc Committee Draft Ordinance, was developed by the fire chiefs prior to involvement by staff. Its development was discontinued in November at the direction of the Board of Supervisors because of its focus on a commission model rather than a collaborative chief model in the interpretation of the Board. He stated that the principle differences are that the commission provides general oversight and management of the system rather than the Chief, is directly advisory to the Board of Supervisors rather than advisory to the Chief who answers to the County Executive and Board, and is accountable for the system rather than the Chief being accountable, who is just a member of the commission. Mr. Foley said that one of the challenges of this process has been the different redrafts and rewrites of the ordinance so today's purpose is to focus on the February 1, 2011 version. He noted that the fire chiefs did want their version presented though to give the Board an idea of their thought process.

Mr. Eggleston said that this process began in 2008 and has been a two and one-half year process involving two different committees and over 15 meetings. He really appreciates the work that everyone put into this process – including involvement by Ms. Mallek, Mr. Thomas and Mr. Boyd, and many of the Chiefs. Although the process has been frustrating at times, Mr. Eggleston said that he is confident that they have an ordinance that will work for the community and that they are ready to move forward the process for its adoption.

Mr. Eggleston stated that soon after the August 11 public hearing, an ad-hoc committee was formed with the intent to revise the August 11 ordinance. He said that the committee worked over a six-month period and made revisions to the ordinance, staff joined the committee in November, and today the ordinance will be discussed as a collaborative fire chief model per the Board's direction.

Mr. Eggleston reported that four major themes were brought forth by volunteers in this process: need for clarity in terms of roles and responsibilities, need for a collaborative system between the fire chief and FEMS Board, need for focus on the system without interfering with the volunteer chief's ability to manage an individual station, and need for additional checks and balances to address those concerns over the fire chiefs' authority. Mr. Eggleston stated that several changes have been made to the August 11 ordinance and it is ready for adoption. He said that there are approximately 15 different amendments and changes in addition to a major addition to the ordinance. At a February 15th work session with the Advisory Board, the question was asked what compromises the County made in the ordinance. Mr. Eggleston reported that they went back to the table and made additional checks and balances for the fire chief to address those concerns, and made it more flexible for the FEMS Board to advance policy and to appeal those policies if there are difference between that board and the fire chiefs. He stated that they also made a major addition by adding a peer accountability section to the ordinance, which allows volunteer companies to hold each other accountable should there be noncompliance of policy.

Mr. Eggleston reported that there was a work session with the Advisory Board on February 15 to answer questions about the collaborative fire chief model, then a follow up meeting with that board on

February 23, at which time the Advisory Board voted to advance the commission-style ordinance presented in Attachment D. He noted that the Board has reaffirmed its decision to have a collaborative fire chief model on a number of occasions, most recently on November 3, so he would concentrate his efforts on that model and the unresolved issue that Fire and Rescue has with that proposal. Mr. Eggleston stated that the committee could not agree on the issue of having the fire chief be a member of the FEMS Board, which is set up to advise the fire chief, stating that this was a symbolic measure to show more collaboration. He said that they went back and strengthened certain areas to ensure that the fire chief is required to fully participate on the FEMS Board meetings, to communicate with the Executive Committee on all system-level issues, and to adhere to the mandatory process for policy development. Mr. Eggleston stated that there is not a fire chief ordinance in Virginia that has a fire chief serving on the same board that is set up to advise him, so they would not recommend that structure.

Mr. Eggleston then reviewed the roles and responsibilities outlined in the ordinance. The fire chief acts as Director of the Coordinated Fire and Rescue System, is held accountable to the County Executive and Board of Supervisors, and is required to participate fully with the FEMS Board activities. The EMS Board serves as an advisory board to the Chief and represents all volunteer agencies and hold those agencies accountable to duly adopted policies. In terms of operation, the fire chief oversees and manages the system by making day-to-day decisions not covered by policy and is required to consult with the Executive Committee when decisions are to be made on significant system-level issues. He said that the FEMS Board is set up to advise the Chief on oversight and management issues and make recommendations on all significant operational decisions, and have the ability to review the decisions made by the fire chief when there is not policy covering them.

In terms of policy development, the fire chief is responsible for developing and implementing those policies based on that collaborative process that is mandatory and set out in the ordinance, and to help the FEMS Board to ensure compliance by participating and overseeing the peer accountability process if it is not achieved by that Board. Mr. Eggleston also said that it is the responsibility of the FEMS Board to review those policies and provide comments along the way and recommendations to the Chief, and participate in the peer accountability process that was taken from the original draft of the Volunteers' ordinance.

Mr. Eggleston said that they believe this covers all of the concerns that they came to the table to achieve. Everybody has put a lot of time into this effort. He stated that this is the most collaborative fire chief model in the state, and others are using it to strengthen their system. Mr. Eggleston concluded by stating that it is time to move ahead with this and as fire chief, he recommends moving forward with the process to adopt the ordinance.

Ms. Mallek thanked Mr. Eggleston for his summary.

Mr. Thomas thanked Mr. Eggleston and all of the volunteer chiefs for their involvement. Mr. Thomas said that he has been part of the committee to work on the draft ordinance since last September. All of the volunteer chiefs have spent a lot of time and energy to help develop an ordinance that will work for the volunteers and the County as a whole. He said that while they have not always agreed with one another, he believes they have worked together to create an ordinance that accomplishes that goal. Mr. Thomas stated that over the last six months the County has done everything possible to listen to the volunteers' concerns and make changes to the August 11 ordinance and the February 1 ordinance brought forth today is full of compromises that the committee made to respond to the volunteers' concerns. At this time, he feels very comfortable supporting the ordinance as a truly collaborative model that gives both the fire chief and the Volunteer Board important roles in the system. Mr. Thomas stated that the Board has said many times that they want an ordinance that requires the fire chief to truly collaborate with the volunteers, and he is committed to that. He is still interested in hearing any concerns that the volunteers have.

Mr. Alibertis said that the volunteer chiefs who have been part of the system for many years have nothing but the best interest of the citizens in mind, but they do differ conceptually in what they think will be successful. Mr. Alibertis stated that the October draft that was put forward was not intended to be a commission-style document, as they started with the August document and then made revisions to the document to try to look for components that would make the best use of system resource and individuals. He said that there was a lot of frustration as they hit roadblocks, not because of functionality, but because of the style that the ordinance took. The draft ordinance is not that dramatically different, with the most profound difference having the fire chief being in charge of the system. Mr. Alibertis stated that the disagreement is how policy development is achieved, and the question is whether FEMS advises the chief or if he is a partner with the rest of the chiefs in the system to develop policies. He said that there is certainly a direct avenue to the Board of Supervisors or County Executive if the chief does feel that there is a policy or position disagreement.

Mr. Alibertis stated that he has been part of the system for about 10 years now, and he does not know of any policies that have had a split vote, with most being enacted by consensus. It is not accurate to say that they frequently disagree. He said that it is important for them as partners to share in the decision-making of policy development, which seems to be the biggest sticking point. He stated that the volunteers goal is not to design a commission model; their goal was to put forward a model that would work for Albemarle County. Mr. Alibertis said that regardless of what business you have and how good of a leader you are, without the support of your employees you will not be successful. He noted that the most successful companies today have achieved success based on employee engagement and support by constituents/employees who work for those companies. Mr. Alibertis stated that the difference between the two draft ordinances is whether the system would have the full support with the most being made out

of the system, or a compromise that may not make the most of what the volunteers have to give and their buy-in. He added one document has buy-in, one document does not have buy in.

Mr. Cersley pointed out that the goal was not to develop a commission-style or fire chief-style ordinance, but to develop a document that would engender buy in from everyone. The consistently hear that this volunteer system is a model career volunteer career system. If Albemarle is going to be the model, be different and set the different, then he thinks they need to do that, and not accept what everybody else is doing. He emphasized that a lot of the companies the County has spoken with are not in as good a shape as what you have been given information on, and asked that the Board consider those things. He said that if they are going to build the model system, then they need to be open-minded to what is before the Board in the documents.

Mr. Rooker commented that he is a bit confused, as he thought the February 1, 2011 draft had been worked on, with the earlier draft from volunteers abandoned. He said that the revised draft had comments included that showed specific items of disagreement on the part of volunteer chiefs and County representatives on the ordinance drafting committee. He stated to now come into a meeting and say let's go back to this other draft, did you get to a point where you basically agreed with what was in the ordinance, except for the things that are highlighted? Mr. Rooker added that that is what he thought the Board was going to discuss today.

Ms. Mallek said that it would be discussed, but she wanted to ensure that Board members had an opportunity to read the November draft so that it would inform the discussion today on the highlighted sections.

Mr. Eggleston stated that the committee finished its work with agreement except for the one issue.

Mr. Alibertis said he does not think so.

Mr. Eggleston explained that when they joined the meeting in November and looked at the draft ordinance put forth by the volunteers, with the County Attorney's assistance, that is when the Board affirmed that they wanted a fire chief model and any work would be built on that model. He added this committee worked from November through February to build that ordinance that you have before you, the February 1st.

Mr. Davis said that the key issue needing to be clarified is that the ordinance that the ad-hoc committee had been working on up until November was a commission-style ordinance. It may have started as something different, but it clearly said that the commission had the general oversight of the system and it was responsible for issuing policy, with the fire chief being just one member of that commission. Mr. Davis indicated that on November 3, that was communicated to the Board of Supervisors as a whole, and they as a whole directed staff to assist the committee in developing a collaborative fire chief ordinance. He said that the committee's work began in November and extended through February, developing that collaborative fire chief ordinance. Mr. Davis stated that Chief Eggleston is correct in stating that there were a number of compromises and issues that were worked through with the committee, and the only issue which did not receive concurrence was the issue of whether the fire chief should be a member of the FEMS Board. He said that staff was under the impression that was going to be discussed today.

Ms. Mallek stated that she would like the Board of Supervisors to consider being creative, and consider having the fire chief be a member of the FEMS Board as well as having the executive role as described in his work with the executive committee. She said that this is important because it symbolically and in reality ensures an ending to one of the biggest problems and that is a gap in communication and understanding. She suggested that strong consideration be given to the yellow sections in the draft ordinance.

Mr. Dorrier asked if this proposed ordinance is a strong chief ordinance. Mr. Eggleston explained that the ordinance is referred to as a collaborative fire chief ordinance. The ordinance is drafted with the chief not as a member of the FEMS Board because it is set up to have a fire chief and an advisory board. Mr. Eggleston emphasized that there are lots of opportunities and requirements for that chief to collaborate with the board on policy development and day-to-day communications. He added that they cannot think of any other ways that they can make it more collaborative. Mr. Eggleston said they think that adding the fire chief on as a member of the FEMS Board would confuse things, and one of the purposes of this ordinance is to clarify roles and responsibilities.

Mr. Dorrier asked if there is policy-making at every meeting. Mr. Eggleston responded that there is not; the meetings include work sessions and various topics of discussion. He added that the first step in the event of a disagreement would be to appeal to the county executive with provisions to appeal to the Board of the Supervisors if necessary.

Mr. Snow asked how often disagreements would arise. His main concern is safety of the citizens. He was told that there were no problems but when he called 911, they indicated that there have been problems. He said that it appears to him that the situation to set policy has been worked out, noting that the chief seems to have the responsibility to ensure follow through and anyone not following the policy would be sanctioned.

Mr. Eggleston responded that there is a difference, as the volunteers' draft ordinance does not grant the fire chief authority to follow through on those policies.

Ms. Mallek commented that they never got that far on the volunteer chief's document.

Mr. Alibertis reiterated that the document is not complete.

Mr. Eggleston said the volunteer chief's draft is an incomplete ordinance with the commission that reports to the Board of Supervisors which is something the Board said they did not want.

Mr. Snow said he does not think the Board wants to hear a weekly report and it is something that they should work out. He asked how often there would be a problem that would require going to Mr. Foley or the Board of Supervisors. He said that Mr. Alibertis' statement says that the volunteers feel that the chief has been given authority under their plan, with the fire chief making day to day operational decisions needed for coordination, and if there is not agreement between the fire chief and the FEMS Board, either party may appeal the decision to the County Executive and the Board of Supervisors. Mr. Snow noted that the fire chief would convene and chair the executive committee, and asked if that was the FEMS Board.

It was clarified by several people that it is a separate group.

Ms. Mallek noted it was one rescue person, one fire person, and the chair and vice-chair of the advisory board.

Mr. Alibertis noted that the chief would be the chairman of that committee, and applies to both ordinances.

Mr. Eggleston pointed out that the February 1 ordinance does not have the fire chief as the chair of the executive committee, but leads that committee.

Mr. Davis noted that it also specifically prohibits the fire chief from being the chair of the FEMS Board.

Mr. Eggleston reiterated that the volunteer chief's ordinance is more of a commission-style ordinance that reports to the Board of Supervisors and is not integrated into the County Executive form of government that the Board wanted to see. He also stated that there is potential for the fire chief to work for the FEMS Board, which is something to be avoided in defining and clarifying roles and responsibilities. Mr. Eggleston emphasized that it is important to clarify which version of the ordinance is being discussed today.

Mr. Rooker said that is why he raised that issue in the beginning, adding that he was under the impression the version being worked on for six months would be discussed, with emphasis given to the sections that had disagreement. He added that no one read the other draft ordinance with the idea of that being the focus of the meeting or the subject of discussion. The Board already voted to not go with that type of ordinance.

Mr. Thomas reiterated that they voted on February 1, 2011 to move forward.

Ms. Mallek stated that it is important to have the background though.

Mr. Alibertis commented that he was not aware a vote had been taken nor was it conveyed to them.

Mr. Eggleston said that Mr. Thomas reported that during the November meeting.

Mr. Davis clarified that at the November 3 Board meeting there was a public vote of the Board that directed that a collaborative fire chief ordinance, rather than a commission-style ordinance, be developed, and he thinks that was communicated.

Mr. Foley mentioned that this was the whole basis for changing directions.

Mr. Alibertis said that it was not clear to them that it had been done.

Mr. Eggleston stated that it was very clear when Mr. Thomas came to their meeting, because when they reviewed the ordinance at that meeting that question arose.

Mr. Dorrier commented that collaboration should be encouraged.

Mr. Thomas stated that the ordinance directs the fire chief to continuously collaborate.

Mr. Eggleston responded that it in the February 1 ordinance presented today.

Ms. Mallek asked if any other Board members would be willing to stretch the definition of a classic chief and executive role to meet the volunteers halfway, to have the fire chief be a full member of the FEMS Board as a way to get a system that will be well supported.

Mr. Stevens asked the Board to give a definition or means by which collaboration is measured. He noted that having the words in the ordinance sounds very nice to the ears and gives that appearance, but in the volunteers' opinion having the chief as a member of the FEMS Board covers that and basically forces some level of collaboration.

Mr. Eggleston stated that collaboration to him means that the fire chief as directed in the February 1 ordinance seeks input from the advisory board on all significant levels of decisions, participates in board meetings and consults with the executive committee before any major decisions are made. That is what collaboration is all about. They made a very good effort to strengthen those areas of collaboration. He reiterated that this is the most collaborative fire chief ordinance out there.

Mr. Davis said that there are about four pages in the ordinance that set out a detailed process for how collaboration has to happen during the policy-making procedure, requiring step-by-step back and forth feedback between the chief and the FEMS Board for any policy development. He added that the ordinance also painstakingly sets out a process by which the fire chief has to participate in all the FEMS Board meetings, provide executive support to those meetings, and must collaborate with the executive committee prior to making any operational decision that is not already covered by policy. Mr. Davis stated this ordinance is designed to put some very significant requirements on the fire chief to ensure that collaboration, much more than any other ordinance he has been able to find. He added that it truly is a collaborative fire chief ordinance.

Mr. Alibertis said that there is one question that needs to be answered, and that is whether or not the Board wants something that is going to have constituent support. He added that as soon as the Board can answer that question, the meeting can probably be over within five minutes.

Mr. Boyd said that the same question could be asked of the volunteers, as there are two sides to this issue. Do the volunteers want something that will have Board support?

Mr. Alibertis responded that he agrees, and said that is what they tried to do.

Mr. Dorrier said that everybody wants to work for the best of the County and have a system that will be effective and without the volunteer support he does not think the County cannot cram an ordinance down their throats and there must be collaboration encouraged. If there is no collaboration, the Supervisors should not be in the middle of it.

Mr. Rooker said that both sides seem to think their approach satisfies that.

Mr. Foley stated that as the person who has to supervise the fire chief, he has a definition of what collaboration requires through this ordinance, and short of that it is just kind of an interpretive thing. He noted that this ordinance requires that collaboration and gives him something on which he can hold the chief accountable, requiring committee and ACFRAB participation. It is going to be hard to manage because the ordinance requires collaboration to such a large degree. He added that collaboration is a performance indicator for the chief.

Mr. Haugh said that he was not at any of the meetings where the focus was changed from the ordinance before them now. Mr. Haugh said that CARS is the largest provider of service in the region, with more calls than all other units combined with a sole goal of providing service to the County, City, University, tourists and citizens also. He stated that because they are so large they are wildly different than most all other volunteer agencies in the area. Mr. Haugh said that the only real difference with the February 1 draft is that a policy imposed by the fire chief against the vote of the FEMS Board is suspended until the Board of Supervisors votes on it. He stated that the peer review was part of their draft policy, based upon a consensus on agreement by everyone on the policy. Mr. Haugh added if the fire chief wishes to have a policy and all the volunteer agencies vote against it, ultimately if it goes up to the Board of Supervisors it can still be imposed upon all of those agencies. He stated that a cookie cutter approach is not going to work. Mr. Haugh said, ultimately, one tenth of the system can impose a policy on the other nine tenths of the system.

Mr. Rooker asked him to explain what he means by that statement, at some point, somebody has to make a decision, and that is always the case? Mr. Haugh said the Board is always going to be in the position of making the decision, but the difference is having the volunteer boards pass it 6-4 for example than having the fire chief saying he does not care if it's 1-9 and then taking it up to the Board. He provided an example of data recording requirements whereby volunteer fire departments would have to spend additional time to log information on each call. He added that the volunteers cannot be expected to spend five more hours on task just to do something in addition to what they are already doing.

Mr. Davis said that that would assume that the policy would be implemented without those factors being taken into account. He added that this process assures that those factors would be taken into account.

Ms. Mallek commented that the volunteers have heard that the Board wants similarity, whether it is reasonable or not.

Mr. Rooker noted that there is equipment within the system that does not work together currently.

Mr. Foley pointed out that there is also an assumption that all of the other nine agencies would not be concerned about the impact on them. He stated that he could not imagine that through this process they are not going to all work together to come up with a system that recognizes the differences that the agencies have.

Mr. Haugh said that even if nine disagreed, the fire chief could bring it to the Board.

Mr. Rooker commented that that would be the same under either ordinance.

Mr. Haugh said it would not be the same.

Ms. Mallek asked how it would be different if Mr. Eggleston was a member of the FEMS Board.

Mr. Haugh said that he does not understand how to differentiate between having the fire chief be a member of the FEMS Board or not, but the volunteers would like him to be a member so that he is part of the decision making.

Mr. Eggleston said he thinks it is incumbent upon these groups and committee to hash out issues. He does not think they have a history of a cookie cutter approach. They have a history of trying to work in recognizing the diversity in the system. Their job is to weigh out all of these issues. Right now the Board of Supervisors has the ability to impose policy on the volunteers, and this does not change that. There are some system level issues that they have to deal with now. He emphasized that the February 1 ordinance will achieve the desired collaboration and definition. That ordinance clearly defines roles, responsibilities and processes. He added that they need to get on with business.

Mr. Dorrier noted that the Board does not really get involved with police policy and they have an advisory committee.

Mr. Davis explained that there is a police chief who is in charge of the department under the direction of the County Executive. The advisory committee has a very limited role in the operations or policy making of the department, but does advise on budgetary matters and items of community concern. He added the police department is a prime example of a very strong chief system. Mr. Davis stated that this ordinance is an example of a very collaborative chief system; it is very different.

Mr. Rooker pointed out that the ACFRAB Board is a much broader authority board than the police advisory board. The police advisory board has no power or authority.

Mr. Dorrier said that that's the way it should be, with professionals giving advice.

Mr. Davis said that this ordinance recognizes that.

Mr. Alibertis stated that this is a representative form of government, whereby the representatives represent the views of the majority. He added what they are trying to present is the view of the majority of the providers of service in Albemarle County, who are also taxpayers. He said that the volunteers strive to achieve a standard and are willing to conform to a standard, and there are several hundred individuals being represented here.

Mr. Rooker agreed, stating that volunteers will have a better system to operate within if there is a system aspect to it which covers a number of areas, i.e., training, equipment, etc. He added that the Board is not just making decisions for the few people at the table, but instead are making decisions for everybody that may come into the volunteer system five years from now, ten years from now, as well as the people generally in the community.

Mr. Alibertis said he would argue that they have a very good track record and to not mess up something that is working.

Mr. Boyd said that all along the Board has just wanted to help put together some rules for how the system works together and has no intention of getting involved with individual operations. He stated that there is a difference in how the system operates now, with the County providing some funding for apparatus and personnel, and it was decided that there needed to be some structure for working together. The volunteers have provided a very valuable service. Mr. Boyd said that the February 1 ordinance comes close to achieving that, but the Board has gone about as far as it can and any further compromises would push this from a collaborative fire chief model into a commission model. He stated that he would like to move forward with the February 1 ordinance. He does not know how important it is to add Mr. Eggleston to the FEMS Board. He asked the volunteers to give it a chance to see if it works. He added they are very close.

Ms. Mallek asked Mr. Rooker about his position on whether Mr. Eggleston would be a member of the FEMS Board.

Mr. Rooker responded that if his role is not changed but he is also a member of the committee, he does not know if it pushes it over to a commission form as long as he still has his other roles and responsibilities within the ordinance. He likened it to having a CEO also serve on the Board of Directors, which sometimes happens, as long as he still has his role.

Mr. Snow said that it still is a fire chief model, but just adds another responsibility, and does solve all of his concerns about binding decisions, follow through, and enhancing citizen safety. He stated that he does not have a problem with Mr. Eggleston becoming a member of that committee.

Mr. Rooker said that as long as the fire chief still has the ability to propose policy and still has the ability to propose a decision over the wishes of the committee, he is okay with it, but there has to be a place where the buck stops. He stated that the fire chief does not want to have to deal with 15 different people every time he makes a decision, and every organization needs some kind of hierarchy in order to run well. Mr. Rooker asked if Mr. Eggleston could be part of the committee but also have all the roles as outlined in the ordinance, which might be unusual.

Mr. Davis agreed that it is unusual and said that he is not aware of another ordinance that does that. He added that what it does is it blurs the line as to what type of ordinance this is. He emphasized that one of the goals the Board wanted was to have a clear line that determined this was a fire chief model with a collaborative board of volunteers to advise the chief, who would have the ability to appeal the decisions of the chief and who would provide input to the chief.

Mr. Rooker asked if he would still have the ability to make those decisions if he were a member of the committee. He said that he does not see anything here that would take that away and, in fact, in some ways, it might be argued to have a little more power because he is voting on the committee that would have to overrule or would have to appeal one of his decisions.

Mr. Davis said that he is not saying it is not possible to do that, but it does blur the line between a chief's responsibility as being a chief who is receiving input from an advisory board and being a one-member vote as a member of a commission.

Mr. Rooker stated that the commission has its roles, and the chief has his roles, and having him serve on that committee would not take away the other components of the ordinance that give him decision-making capacities.

Mr. Davis said that is correct.

Mr. Rooker said if it makes everybody here feel better about what is being done and if it is a more participatory approach, then he personally does not have any problem with it. As long as the fire chief's other roles are preserved, he does not know that he would not accept allowing him to be part of the committee.

Ms. Mallek commented that the reason she can tolerate blurring of the line is that this involves volunteers, not employees, and what she has learned from talking to people around the state who are working with fire and rescue issues is that volunteers are different, and this is recognition of that.

Mr. Dorrier asked what Mr. Foley would use as criteria in evaluating a matter that had disagreement. Mr. Foley responded that it is laid out in the ordinance.

Ms. Annie Kim, Deputy County Attorney, explained that the ordinance states that on any appeal the County Executive or designee is supposed to look at the same policy development standard that is used when the fire chief along with the FEMS Board develop policy. The County Executive would be looking at whether or not that policy is essential to the effective delivery of high-quality fire and EMS services to the County. She said that the County Executive would use the records, meeting minutes and policy language itself to support that along with statements of position on both sides.

Ms. Mallek added that the fire chief is protected from being overruled by the FEMS Board because there is a separate channel.

Mr. Eggleston clarified that the fire chief would have to determine whether or not the policy would go forward, and it is the responsibility of the FEMS Board to appeal that to the County Executive.

Mr. Rooker said that it is also appealable to the Board of Supervisors, although the Board does not want to see multiple appeals and would prefer collaboration.

Mr. Snow commented that the issue in the past has been setting policy, but being able to follow through on policy, and having the fire chief on the committee does not hinder that at all.

Mr. Foley said that this is not an advisory board to the Board of Supervisors. He asked if everyone understood that the FEMS Board is advisory to the fire chief and not to the Board of Supervisors.

Board members agreed that this is their understanding, and Mr. Rooker said that there is an appeal process if necessary. Mr. Rooker reiterated that the Board of Supervisors does not want to be involved in the day to day decisions of fire and rescue operations.

Ms. Kim noted that there would be a need for some additional minor changes in the ordinance, because right now under peer accountability the fire chief is not a member of the FEMS Board and is therefore not an official member of the executive committee.

Mr. Smythers commented that no matter what ordinance is put in place, if a lot of fire decisions come up to the Board of Supervisors for a decision, the system is broken.

Mr. Boyd agreed.

Mr. Smythers said that whatever is put in place would need to be rewritten, emphasizing that there has not been a lot of indecision in the past, just a question as to whether people complied with policy.

Mr. Gentry said that having the fire chief on the FEMS Board would be sort of a commitment from the Board of Supervisors that they believe in the volunteers' commitment to collaboration. He believes that the volunteers are willing to be collaborative and willing to take that step.

Mr. Dorrier suggested adding a statement that all parties will work towards collaboration as a goal. Mr. Davis said that there is no need to have an additional sentence, but staff will look to see if there is need for further clarification.

Mr. Gentry asked if the ordinance would be adopted today, if everyone is in agreement, or if it had to go to public hearing. Mr. Gentry stated that he feels very strongly that his members will go along with this ordinance, and would like to have time to convey the proposal to them.

Mr. Thomas indicated that the ordinance would come back to the Board on April 20, and it has been scheduled to be presented at the ACFRAB meeting on March 23.

Mr. Snow expressed his appreciation to the volunteers for the great work they do.

Ms. Mallek mentioned that at Board members' places there is background information on what the different fire companies did for the February fires, which involved 179 volunteers in addition to paid staff.

Mr. Cersley said that they provided a breakdown of each individual station, the number of calls that each station ran, the number of apparatus run, etc. on just the 24-hour period on February 19; it does not take into account the follow-up calls. He stated that without Station VI's listing, which he was unable to obtain, 179 volunteers worked over 24 hours throughout that weekend.

Mr. Thomas then **moved** that the Board authorize the Clerk to advertise for action by the Board at its April 20, 2011 meeting, an ordinance to amend County Code Chapter 6, Fire Protection, that incorporates the proposed changes as shown in Attachment A of the Executive Summary to the August 11, 2010 draft ordinance and the changes made at the Board meeting today to include the Fire Chief as a member of the FEMS Board for purposes of participation. Mr. Rooker **seconded** the motion.

Mr. Boyd asked the volunteers if this had gone far enough.

Mr. Dorrier said that he would like to see a sentence put into paragraph three regarding collaboration.

Mr. Rooker suggested that the attorneys work out the language for when the ordinance is brought forth.

Mr. Thomas thanked County staff for providing assistance and the volunteers for their work.

Mr. Boyd asked the chiefs if this is something they can support.

Mr. Stevens said he cannot speak for his membership, but having the fire chief be a member of the FEMS Board ensures collaboration even more so than described by Mr. Foley, as there will be a public record of where he stands.

Mr. Cersley said he also will not speak for the membership, but he thanked the Board for thinking outside the box. It is positive that today they changed some thinking and have opened the boundaries of being different.

Mr. Shifflett said that he appreciates the changes that have been made, noting that a lot of counties are struggling with the system they have. He added he thinks they have made a good step.

Mr. Haugh said that the CARS Board remains against the ordinance for all the reasons stated previously over the past two years.

Ms. Mallek said she thinks it has been worth the extra effort to get to the place.

Mr. Alibertis stated that this is probably the prime definition of compromise, as everybody is leaving not totally happy, nobody got their way. He does not think this is in the best interest of the system. He hopes the Board will impose a metric for outcome measurement of success. Mr. Alibertis stated in a way this ordinance disregards a lot of experience and a lot of service that has been provided for a number of years. He does not think the ordinance fully leverages that. He added that he would do his best to make it work, and certainly hopes it does.

Mr. Snow said that he believes this ordinance will allow the running of a smoother system, the volunteers are still running things the way they did, but there is a more cohesive system throughout the whole County.

Ms. Mallek stated that the Board is laying a lot of responsibility on volunteers and chiefs, even more so than before.

Mr. Davis said that if the motion passes, the next opportunity for input would be from the ACFRAB Board on March 23; this ordinance would also be advertised for Board action on April 20. He said that no public hearing is required in this matter and unless there is direction from the Board to advertise a public hearing, this would simply be advertised for action by the Board. The Board could certainly receive any feedback prior to the April 20th date. He added that the Board has already held a public hearing on an ordinance and an additional public hearing would not be required.

Mr. Dorrier said that he would like to hear from the chiefs as to the input from their volunteers.

Ms. Mallek noted that there would be a report coming to the Board after the ACFRAB meeting.

Mr. Boyd mentioned that the ACFRAB Board would be meeting.

Mr. Rooker also said that there was a public hearing and the Board decided that this would be a better opportunity for feedback and resolution.

Roll was then called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Boyd and Mr. Dorrier.

NAYS: Mr. Thomas.

Agenda Item No. 3. Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 4. Adjourn to March 7, 2011, 9:00 a.m., Room 241.

At 4:26 p.m., Mr. Boyd offered **motion, seconded** by Mr. Rooker, that the Board adjourn to March 7, 2011, 9:00 a.m., Room 241, for a budget work session. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

Chairman

Approved by Board
Date: 11/02/2011
Initials: EWJ