

* Draft – May be Modified as Needed *

COUNTY OF ALBEMARLE

EXECUTIVE SUMMARY

AGENDA TITLE: Fire Rescue Ordinance	AGENDA DATE: May 13, 2009
SUBJECT/PROPOSAL/REQUEST: Public hearing to consider a proposed ordinance to amend County Code Chapter 6, Fire Protection, to better clarify roles, responsibilities, and authority for managing the coordinated fire & rescue system.	ACTION: X INFORMATION:
STAFF CONTACT(S): Tucker, Elliott, Davis	CONSENT AGENDA: ACTION: INFORMATION:
LEGAL REVIEW: "[Filled in by Legal reviewer-Yes/No]"	ATTACHMENTS: Yes
	REVIEWED BY:

BACKGROUND:

Board Direction for the Ordinance

On October 22, 2008, the Board held a work session to examine the organizational structure of the County's fire and rescue system. Career chiefs from Hanover and Stafford Counties, as well as the retired Hanover County Administrator, presented information about their recent experiences in creating, by ordinance, clear organizational structures for their combination fire and rescue systems. Hanover adopted an ordinance codifying its unified system structure in 2000; Stafford adopted a similar ordinance and structure in 2005. Specifically, the following, relevant facts about the two systems were shared:

- Both Hanover and Stafford were concerned that creating unified systems would lead to decreased membership in their volunteer companies, departments and squads, many of which had existed decades before their career departments. The two boards of supervisors were—and remain—committed to maintaining a true combination system that relies heavily upon a robust and thriving volunteer base.
- Both localities experienced *increases* in volunteer membership after the passage of their ordinances. Stafford's volunteer base increased from 350 to 550 members. Hanover's volunteer base increased by 2%, bringing their current total to over 1,000 volunteers. Stafford employs 98 career personnel, while Hanover employs 162 career personnel.
- Both combined systems depend upon the creation of a strong, collaborative relationship between the volunteer and career memberships. However, both ordinances place ultimate responsibility for their systems on the career chief and grant him the authority to execute board goals for their systems.

Following the Hanover and Stafford presentations, the Board considered the comments and questions raised by various volunteer chiefs. Among the many concerns expressed, several chiefs stated that more time was needed for the Albemarle County Fire and Rescue Advisory Board ("ACFRAB") to consider different ordinances and organizational structures, and to provide their input to the Board regarding the creation of a unified system. Recognizing these concerns, the Board resolved that an ordinance should be developed over the next six months for its consideration in April, 2009, and further directed staff to work collaboratively with the ACFRAB membership to research other ordinances and work with the County Attorney's Office to prepare a draft ordinance.

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At the Board's retreat on October 24, 2008, the Board directed, by motion, that the County Executive form a committee consisting of two Board members, two ACFRAB members, and two staff members, one consisting of Chief Dan Eggleston. The Board charged the committee to develop a strong fire chief structure that values and respects the volunteer fire and rescue system. The retreat minutes excerpted in Attachment D contain the full text of the motion.

Collaborative Development of the Ordinance

The County Executive appointed to the ordinance committee supervisors Ken Boyd and Ann Mallek; ACFRAB members Chief Doug Smythers and Chief Dayton Haugh; Assistant County Executive Bryan Elliott; and Chief Dan Eggleston. Senior Assistant County Attorney Annie Kim also worked with the committee to provide legal information and to prepare ordinance language. The committee met 8 times, beginning on November 18, 2008, with Supervisor Ken Boyd serving as chair. Using a website created by Chief Smythers, committee-reviewed drafts of the ordinance and roughly 80 pages of detailed minutes for each meeting were published on a timely basis in order to give volunteers an accurate understanding of the committee's work. See: <http://sites.google.com/site/albemarlevolunteers/> At Mr. Boyd's request, Ambassador Nathaniel Howell, who also serves on the board of the Stony Point Volunteer Fire Company, attended the majority of the meetings as the committee's facilitator.

Since the initial draft ordinance in January, major revisions have been made over the course of 5 drafts, including a significant number of changes authored by Ambassador Howell. The committee presented its first official draft to the ACFRAB at its February 26, 2009 meeting. Nearly all of the recommended revisions from ACFRAB were incorporated into a second official draft. The committee presented its second draft at the ACFRAB's March 25, 2009 meeting for further comment. A few minor revisions suggested by ACFRAB on that date have been added to the final ordinance. In order to give the Board a sense for how the ordinance has changed throughout this collaborative process, a document redlining all revisions since the initial committee draft is being provided as Attachment B.

It should be noted that while the ACFRAB representatives worked diligently in their committee roles throughout this process—and in many instances proposed the revisions reflected in the ordinance—they continue to oppose the creation of a strong fire chief organizational structure and the establishment of the proposed ordinance. Notwithstanding that fundamental difference in opinion, the ACFRAB representatives have stated that the ordinance represents the committee's best effort to craft an ordinance within the confines of the Board's charge. Chiefs Haugh and Smythers and alternate members, Chiefs Ron Williams and George Stephens, should be commended for the many hours they devoted to improving the ordinance and facilitating communication between the committee and the larger ACFRAB membership.

STRATEGIC PLAN:

1. Enhance the Quality of Life for all Albemarle County Residents.

DISCUSSION:

Overview of the Current System

Fire, rescue and emergency services in Albemarle County are provided through a combination of 7 independent volunteer fire departments, 3 independent volunteer rescue squads, 2 County-owned/operated fire rescue stations, and the City of Charlottesville (through a fire service contract). Approximately 700 volunteers, consisting of both operational and administrative personnel, and 79 County career staff comprise this system. The County provides career staffing to 4 of the volunteer fire departments and 2 of the volunteer rescue squads from 6 a.m. to 6 p.m., Monday through Friday. The County also staffs the two County owned/operated stations 24 hours a day, 7 days a week with career and volunteer staff. In addition, the County employs 19 uniformed and non-uniformed staff assigned to various duties: administration, operations, training, investigations, code enforcement, and prevention.

For FY10, the Board adopted a \$9,169,031 Operating Budget to support the County's fire and rescue system as more specifically described below:

- ❖ \$5,271,666 for salary, benefits, and equipment for career staff that are stationed at 6 volunteer fire and rescue stations, at their request, as well as the 2 county owned/operated stations
- ❖ \$1,353,307 for volunteer/career training, prevention, recruitment & retention, and administration

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- ❖ \$1,722,340 to volunteer fire and rescue departments for basic operational funding, insurance, and tax credits
- ❖ \$777,878 for the City fire contract
- ❖ \$43,840 for other supporting agencies (Thomas Jefferson EMS Council, Department of Forestry)

In addition, the Board has programmed \$20,903,000 for the total capital budget of the fire and rescue system in FY10-14, with \$11,919,000 of that budget allocated to apparatus acquisition and replacement throughout the system.

Currently, the system lacks a legally binding, enforceable process for developing and implementing system-wide policies, although a few policies have been created with ACFRAB consent and the understanding that member agencies will follow them. Nothing mandates that the Fire and Rescue Chief collaborate with the volunteer organizations on matters of system-wide importance. As the ACFRAB members recognized when addressing the Board in October, 2008, the current system needs improved communications and trust between the volunteer and career elements, as well as greater clarity about the roles and responsibilities of the ACFRAB, volunteer organizations, and the Albemarle County Department of Fire and Rescue.

The Expected Benefits of the Ordinance

Given the growing demand for services and their increasingly complex nature, localities throughout Virginia and the country have formalized their governing structures to ensure well-coordinated and integrated public safety programs. Albemarle County needs a solid framework for partnership in order to harness the significant system changes that have occurred in the last decade: increased urbanization and population; creation of a County department and two County stations; operation of blended stations staffed by career and volunteer personnel; and the decision to commit increased County funds toward the operational and capital costs of the volunteer agencies. Under the proposed ordinance, the coordinated fire and rescue system will:

- Institute system-wide coordination, accountability and oversight. Specifically, the coordinated system will:
 - Define responsibilities for each member of the system and hold the Fire and Rescue Chief ultimately responsible to the County Executive and to the Board.
 - Permit the Board's strategic plans to be effectively and efficiently executed.
 - Maximize the use of limited County resources to achieve the Board's strategic plans and secure the welfare of County citizens.
 - Ensure that every emergency fire and rescue call in the County receives a consistent, predictable, high-quality response.
- Through collaboratively developed policies, create and enforce necessary standards throughout the system while preserving volunteer autonomy at the station level.
- Increase collaboration and trust between the volunteer and career components of the system through mandated collaborative practices and the creation of checks and balances.

Critical Components of the Ordinance

Over the course of 5 drafts, the committee has prepared an ordinance tailored to the unique needs and character of our system. While the committee discussed ordinances from many jurisdictions, including Prince William, Loudoun, Montgomery County (MD), Hanover, Stafford and Spotsylvania, none of these ordinances incorporated the collaboration and checks and balances as desired. In nearly all respects, the proposed ordinance exceeds the required collaborative procedures found in other jurisdictions with a centralized fire chief organization. Highlights of the ordinance follow:

- Name of the System (§6-102). After much discussion, a majority of the committee recommended the name "coordinated fire and rescue system" over "unified department," due to the perceived loss of identity that would result from volunteer organizations becoming part of a "department."

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- Volunteer Autonomy (§6-105). The ordinance enumerates all the areas in which the volunteer agencies will continue to exercise management and control as they do today, subject to applicable state and County laws, and duly adopted system policies. Volunteer agencies will still be responsible for station-level operations, management, discipline of volunteers, budgets, facilities and apparatus, among other things.
- Advisory Board Role & Expansion (§§6-106, 6-107, 6-108). The advisory board will maintain its current membership structure, except that the Fire and Rescue Chief will not be a member of the board. The advisory board will be a mandated, collaborative partner with the chief, providing its advice and input, as well as reviewing and voting on all system policies. The advisory board will also be a recognized part of the selection process for the hiring of the Fire and Rescue Chief. Importantly, as well, the advisory board will select an Executive Committee of the advisory board that will work to initiate, review and evaluate all policies at the development stage, and serve as an advisory body to the Fire and Rescue Chief on other matters as needed. Finally, the advisory board will appoint committees to review system-wide issues concerning incident management, quality assurance, and non-conformance with system policies.
- Policy Development (§6-109). Section 6-104 mandates 9 areas in which system policies will be developed, based on their importance to the system. Section 6-109 outlines the procedures by which system policies will be developed, evaluated, and appealed. This section provides that any member of the system—volunteer or career staff—may recommend new policies or policy changes. From that point forward, the ordinance creates a structured process by which the Fire and Rescue Chief and Executive Committee must collaborate to draft and revise policies, with subsequent steps for review and direction by the full advisory board. In order to protect the volunteer agencies from unnecessary or burdensome policies, the committee created stringent requirements for their development, justification, and appeal. Under the ordinance, any system policy may be appealed by the advisory board to the County Executive and, ultimately, to the Board. While the ordinance provides a highly structured and formal process for both the development and appeal of policies, it also allows the chief and advisory board to deviate from that process upon mutual agreement.
- Fire & Rescue Chief (§6-104). At its early meetings, the committee recognized that the term “strong fire chief” created significant concerns for volunteers and did not need to be included in the ordinance. (12/1/08 Meeting Summary, pp. 8-9, ¶ 14; 2/2/09 Meeting Summary, p. 3, ¶ 4(q)-(s)). Committee members also observed that the fire chief model created by the ordinance departs from the “strong fire chief” models found in other jurisdictions’ ordinances. Therefore, while this section reflects the Board’s directives that the Fire and Rescue Chief exercise system-level responsibilities and be ultimately accountable to the County Executive and the Board, it requires the chief to work more collaboratively with the volunteer agencies than do the ordinances of localities such as Hanover and Stafford.

The ordinance recognizes, as do all Virginia ordinances built on a fire chief structure, the chief’s role in the general oversight and management of the system. It requires him, however, to develop policies in accordance with the collaborative procedures of §6-109. In addition, the Fire and Rescue Chief will exercise the powers as chief authorized by state law, and assume responsibility in mutual aid scenarios and in disasters. Importantly, as well, the ordinance creates a check against the power of the Fire and Rescue Chief in matters affecting individual volunteers. While the ordinance provides that volunteer agencies are responsible for the discipline of their members, it also recognizes that in highly unusual or emergency situations, the chief might need to act in a manner that affects an individual volunteer. This section requires the chief to develop a broadly supported policy that will permit the chief of an individual volunteer aggrieved by such actions to appeal the Fire and Rescue Chief’s decision to the County Executive. Finally, this section codifies the County’s practice of including ACFRAB in the chief selection process.

In addition, sections of the ordinance relating to the fire marshal’s office and junior firefighters were updated to further clarify their responsibilities and conform with state code. Section 6-101 is recommended for repeal because it repeats existing language in Virginia Code §10.1-1142, which may be enforced by the Fire Marshal without an ordinance.

BUDGET IMPACT:

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

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RECOMMENDATIONS:

Staff recommends that the Board adopt the attached ordinance after the public hearing.

ATTACHMENTS

- A – Proposed Ordinance
- B – Proposed Ordinance Showing Revisions Made by Committee
- C – Minutes of the October 22, 2008 Board Work Session
- D – Excerpted minutes of the October 24, 2008 Board Retreat

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