

## **Fire Rescue Ordinance Advisory Committee Meeting Summary**

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**Date:** February 3, 2009

**Attendees:** Ken Boyd, Ann Mallek, Chief Doug Smythers, Chief Dayton Haugh, Bryan Elliott, Chief Dan Eggleston, Annie Kim, Ron Williams (alternate for Dayton), Ambassador Nat Howell, Chief George Stephens (alternate for Doug)

### **Summary of Meeting:**

1. Ken opened the meeting by explaining that he wanted to encourage everyone present to speak, whether they are an alternate or regular committee member. He asked whether anyone had an opening remark before the meeting began; no one did. Ken said that the committee's goal is to work on a draft ordinance and carry out the charge of the full BOS, rather than focusing additional time on other ideas, such as contracts or codification of the ACFRAB. Ann asked for clarification. Ken said that if a minority report needs to be brought forward because the group is unable to reach a consensus, we will do that. Ken asked Amb. Howell if he had any suggestions about how to proceed.
2. Amb. Howell said that when he drafted his proposed language for the ordinance he worked under the assumption that we are working on an ordinance, rather than other options, and that the two sides are different but not irreconcilable. To work, the document must depend on the persuasiveness of the fire chief structure, rather than the raw power of the incumbent.
  - a. To express his personal opinions, volunteers are not only important, but citizens should do what they're capable of, and the government should only pick up at that point. Governments are acquisitive and expansive by nature unless you draw some limits. "Department" means government to him. He thinks some other designation would be better.
  - b. Ken suggested going sequentially through the document.
3. §6-100 – Purpose: The name, "unified department," was discussed. Amb. Howell said that he preferred "coordinated" service or "amalgated" service, although the latter sounded more industrial. Ken asked whether there was a legal concern in not using the word "department."
  - a. Annie said that the legal recommendation is to use the word department, because of its use in state code and other ordinances, but that using a different term does not present a legal problem.
  - b. Annie asked what the word "service" means.
  - c. Dan asked whether "system" would work better.
  - d. Bryan asked whether "coordinated fire and rescue system" would work better.
  - e. Dayton said that he wanted to make clear that although he's not suggesting a different term, he does not agree with the concept of an ordinance.

- f. Ron said that all this is window dressing if we're still thinking of a strong fire chief model. Last time, Amb. Howell said that we have a clash of cultures. He asked Amb. Howell what happens when you have such a clash?
  - g. Amb. Howell: the non-dominant culture goes underground and re-emerges, and the disputes continue. Unless both cultures feel that their cultures are respected it won't work.
  - h. Ron said that he knows some volunteers will stop volunteering the day the ordinance gets passed. CARS may stop serving the County.
  - i. Bryan asked what specifically threatens the volunteer culture.
  - j. Ron: if you take away the ability to create policies at the station level, you may take away a large incentive for volunteers to want to volunteer.
4. Discussion about Fire Chief Model/Basic Approach.
- a. Ken asked, what do you think this ordinance takes away from CARS? We are going to get your input and collaborate under the structure of the proposed ordinance.
  - b. Ron: a County employee will write our policies.
  - c. Ann: the whole point of the Executive Committee is to create a collaborative process.
  - d. Howell: he wanted to make it hard to advance policies without bilateral support.
  - e. Ann: where is the location of that provision?
  - f. Howell: §6-109(e) – adoption of policies. In his draft language, Howell created a new initial step prior to appeal, making both sides present reasons why the policy should or should not be adopted, rather than placing the burden solely on the volunteers. The original model seemed to make the chief presumptively right. Annie said that his terms, “briefing” and “remand,” reflected a litigation style model.
  - g. Ron: Howell’s language may improve it some, but the first level of appeal is to the chief’s boss (County Executive), and then maybe to the BOS.
  - h. Bryan: the requirement is written that appeals would go to the BOS after the County Executive. Also, the appeal process will encourage compromise and cooperation.
  - i. Ron: volunteers will have to take time away from their real lives and volunteer work in order to prepare appeals.
  - j. George: in the past the BOS has heard a few issues that went to that level – heard both sides – and very few issues came to that level. What is being proposed is not that different; we’re talking about larger system approaches. You probably won’t see that many going forward.
  - k. Howell: that’s the idea of making the process difficult.
  - l. Ann: is it essential to have it appealed to the County Executive? What if it went straight to the BOS?
  - m. Ken: the County Executive is the natural first step before the BOS.
  - n. George: the perception by many volunteers may be that once a mandate comes from the BOS, the chief becomes the spokesman. So isn’t it pointless to take it to the same people who made the mandate in the first place?
  - o. Dan: he is concerned about bypassing the County Executive because he’s responsible for carrying out the BOS’s policies.

- p. Ken: it's important to remember that the volunteers were part of the selection process in hiring Dan and would presumably be part of the process for hiring any other fire chief, should something happen to Dan. Volunteers will have a great deal of input in the proposed system and we're trying to put in structure. However, in many ways we've already been following processes like this for a long time.
  - q. Ron: the concern here is about the strong fire chief model. There are models to address problems if they exist. If the strong fire chief model is the only objective, then what will end up happening is that the volunteers will go on the record to oppose it and try to get it defeated at a public hearing. Whether it passes or fails, something new is needed, not this model. The strong fire chief model isn't going to work.
  - r. Ann: what we have in the draft ordinance isn't like Stafford or Hanover's models. The BOS probably needs to stop calling it a strong fire chief model. She thinks that the proposed ordinance, with improvements, could work. The ordinance needs to focus on creating structure on the systems level.
  - s. Bryan: Ann is right. Hanover's is very different from ours.
  - t. Ann said that whether we call it a commission or not, that's not a real issue. She thinks that it would be fine to call the system a commission.
  - u. Ken: under our existing process for coverage areas the BOS discussed necessary response times, etc. Under the proposed ordinance structure, he'd expect volunteers to come forward and present their views to the BOS, either together or separately. The ordinance puts in place structure for such collaboration – we don't have that today. It doesn't give Dan the authority to go to CARS to tell them how things are going to work.
  - v. Dayton: that limitation is not in the ordinance now, but the problem isn't so much with words as it is with practice.
  - w. Howell: he would remind the group that a person does not always use his full authority. For example, although ambassadors outrank everyone but the President in his designated country, they would be unwise to disregard the wishes of a traveling secretary of defense.
  - x. Ron: words are just window-dressing; it's the concentration of authority in County employees that presents the problem. He thinks Howell's document is definitely an improvement on the first draft. However things work out in the end, the system needs to treat rescue differently from fire.
  - y. Ken: the Executive Committee is supposed to have a significant role in this system. In response to Ron's comment, Ken asked, how do we get past this?
  - z. Ann asked whether we could have wording limiting the chief's authority.
  - aa. Dan: we need to get through this concept or we'll continue having fragments.
  - bb. Ken summarized that the group preferred the words "coordinated" and either "service" or "system."
5. §6-101, Definitions:
- a. George asked Annie why EMS vehicles are in the definitions. Annie said it was there in the event the County went forward with revenue recovery. George suggested that EMS vehicle be removed from the definitions and Annie agreed.

- b. George asked why volunteers were defined, but not County staff? Annie: she did not believe that the ordinance needed to define County staff, but we can do that if that would help. It would not present any problems.
  - c. George asked why volunteer companies and squads are defined as being in the County or responding to calls in the County. He said that Albemarle doesn't need to regulate the Greene County Rescue Squad, for example. Annie said that the duties and responsibilities in the ordinance apply only to members of the department/system, not providers that are outside of the County's system. Also, that language was inserted, in part, to account for CARS. Annie said that a clarification should be made, though, because the intent was not to regulate providers like Greene County Rescue.
6. §6-102 – Establishment and Composition:
- a. Annie said that she liked Amb. Howell's drafted language: "duly adopted policies," because it reiterates that each policy has been crafted through a collaborative process.
  - b. Dayton asked about the specific companies listed. Is there a significance?
  - c. Ann: the companies should also be listed in the Purpose section.
  - d. Annie: we can add companies and squads that are "duly established" in the future, or something like that.
  - e. Ron: if volunteers want to withdraw, then would we need an ordinance amendment?
  - f. Doug: he thinks it should list all the current organizations since it serves as a snapshot now.
  - g. Ken: the ordinance can be changed as needed.
  - h. Doug: some of the names are wrong. It should be Seminole Trail Volunteer Fire Department, and Crozet and Scottsville are also "Departments." Annie said that they had tried to confirm the correct names from accurate sources, but they would have to go back and look at that.
7. §6-103 – Responsibilities of the unified department:
- a. Annie said that Amb. Howell's draft removed the word "regulate" from the first section dealing with emergency medical services. She wanted the group to discuss this.
  - b. Dayton: what about U.Va. and Pegasus, are they governed by this section? Annie: there is no intent to regulate them, and they are not part of the unified department/coordinated system covered by this section. However, state code does allow the County to approve a non-emergency care provider like Priority Patient Care, regardless of whether an ordinance is passed.
  - c. Doug asked whether the County has the authority to usurp the state OEM, or to require a single OMD.
  - d. Dan: thinks that we would not want to do either of those.
  - e. Annie: the intent of the wording "regulate" is to allow the system to develop policies for the EMS side of the house. Also, as a reminder, this section is about what the whole system does, not the chief.
  - f. Doug and Dayton: how about just saying developing policies.
  - g. George: "regulating" sounds authoritative.

- h. Ken: sees this as more than policy, but about what the system will do.
  - i. Ann: what if we took out management/regulation and just said “deliver” EMS?
  - j. Annie said that an OMD has ultimate authority for setting standards for EMS care and every agency, the County included, practices under its OMD’s license. The County cannot supersede an OMD’s authority and does not want to supersede that. Ann said that maybe that clarification should be put in there.
  - k. Ann asked about subsection 3, which sets out “any additional, related services that are necessary for the provision of fire and emergency medical services.” Is this here to allow the system to do things like exercise administrative functions? Annie said that it allows the system to do whatever is needed to effectuate fire and EMS delivery, which includes administrative types of duties.
  - l. Ken: the consensus appears to be to take out “regulate.” Amb. Howell said that he forgot to take out “regulate” from number 2, about EMS, but meant to do so.
  - m. Bryan: rather than using the word “systemic” in “systemic fire prevention,” should we use a term like “throughout the system”? Amb. Howell said that he was just trying to make clear that it’s about the whole system and not just one station. Annie said that “systemic” also carries negative connotations, such as “chronic” in a bad way. The group agreed that “system-wide,” “system-level,” or “throughout the system”—depending on the context—would work better than systemic.
8. §6-104 – Fire and Rescue Chief – Section 1 (management of functions)
- a. Annie said that Amb. Howell’s additions were to add “oversight” to the existing words about “managing” the functions of the department/system. Also, Amb. Howell added “systemic” to describe the functions being managed.
  - b. Ann: what about inserting that the chief will provide this management “with the advice of the advisory board” or with “input” from the advisory board?
  - c. Annie asked about the word “essential”. Amb. Howell’s language states that the chief would only propose and develop policies that are “essential to the effective and equitable provision of Countywide fire and rescue services.” What does that mean? Does that mean that even if a policy would significantly enhance the system, move it forward, and better serve the citizens, it couldn’t be adopted unless it was deemed essential?
  - d. Ann said that adopting non-essential policies would be getting down in the weeds. There probably will be a lot of discussion early on in this system about what is essential and what is not.
  - e. Amb. Howell said that the chief could propose whatever policies he wanted, but in the end, unless the volunteers agreed, only the truly essential policies could get adopted.
  - f. Doug: he has a general objection to section 1 because it gives the chief authority to manage the system.
  - g. Ann asked, what could be changed, if at all, to make this section acceptable? Ken: we can work with words but we can’t change the BOS’s intent, which is to have oversight and management at the systems level.

- h. Amb. Howell: the chief is the only one who looks at the entire system – he does not have exclusive authority, certainly, but he necessarily has a different view from others in the system. He does not know where else you would perform that function, it's no one else's primary responsibility.
- i. Dayton: you could do that at ACFRAB.

[The following discussion happened a little later, but is being brought up here because it pertains to section 1, management]

- j. Ken: the idea is that you must have one person, a County employee, in charge of the services provided.
- k. George: the wording is more specific than system wide approach.
- l. Doug: what about taking out "management" altogether? Oversight of system functions is one thing. That is not the same as telling everyone where to go and when.
- m. Dayton: thinking about tying policy making to number 1, so that it would read that the chief's management of system/wide functions would be done *through* the following sections, including policy-developing. The group seemed to agree.
- n. Ron: "delegating authority" implies that volunteers may be delegated to. Dayton said he'd read that as meaning the chief being able to delegate to County staff. Ann: this should be clarified.
- o. Annie said that delegation here was meant to allow the chief to delegate his authority to others, not to say that the chief is the source of everyone else's authority.

9. §6-104 – Fire and Rescue Chief – Section 2 (encouraging volunteerism)

- a. Annie said that she liked Amb. Howell's wording about strategies for encouraging the "retention and expansion of the volunteer base".
- b. The group had no other comments about this section.

10. §6-104 – Fire and Rescue Chief – Section 3 (developing policies)

- a. Annie said that Amb. Howell's language takes out "establish" from "establish and develop policies" and uses "proposes and develops" instead. Also, the term "essential" is used here again, to indicate that only policies deemed essential will go forward.
- b. Ann: we should keep mentioning the collaborative development process each time policy making is mentioned.
- c. Annie said that the term "essential" may block the development of good policies.
- d. Dan said that he understands the County's intent and goals to be a high-performing organization and that he would be concerned about limiting our ability to improve. Essential may mean "minimal."
- e. Amb. Howell said that, to him, "essential" means what is integral.
- f. Ken asked, what about saying everything except at the station level?
- g. George said something about the county employee being taken out.

- h. Howell: the intent is everyone can suggest policies, but without agreement, the chief can only move forward policies that are essential.
- i. Bryan said that the original draft language is clearer, and that Amb. Howell's language about "essential" and "equitable" is more subjective. The ordinance would require the chief to work with the executive committee and advisory board in a collaborative procedures.
- j. Ann suggested that the language about all policies being developed collaboratively should be moved to be the first sentence in this section.
- k. Doug said that explaining limitations on the chief's authority by talking about context may swallow up everything. He wants to try to work on an ordinance that will be potentially acceptable for volunteers.
- l. Dayton: he thinks "essential" is important.
- m. Amb. Howell: the term "equitable" was meant to address the different parts of the County and fairness for all those parts.
- n. Annie said that "essential" still limits the chief from even proposing policies that would be in the best interests of the County's residents and the system.
- o. Bryan: what about using the second sentence of Annie's draft language in section 3 and then putting everything under that?
- p. Amb. Howell: intent is that chief can propose whatever, but with a conflict, he can't adopt the policies unless they're "essential."
- q. Dan: how are we going to move to being a high performing organization?
- r. Doug: what about getting career staff into volunteer stations? The ordinance does not prevent that. Currently, you would need permission from the volunteer chief.
- s. Ken: Leave both essential/necessary in there for now for later consideration.
- t. Subsection (c): Annie said that Amb. Howell deleted "integrated" and replaced it with "seamless command structure." Several members said that may mean the federally mandated NIMS system. Ann said she thinks that needs to be clarified.
- u. Subsection (d): Doug said that the words "minimum staffing," contained in both drafts, may make people think that the chief would propose policies about the number of people who must ride a truck.
- v. Annie asked, what if state code requires minimum staffing for a ladder truck? Doug and Dayton: there are no state standards for fire, only on the EMS side.
- w. Subsection (d): Annie said that Amb. Howell's draft language puts all personnel based policies under the heading of "safety standards." It also says that such standards are for the "welfare of County and volunteer personnel" – not County residents being served.
  - i. Amb. Howell: his intent was to protect the safety of providers.
  - ii. Ken asked whether we need minimum staffing?
  - iii. George: pulling out with 2 people on truck involves faith that others will show up; things work fine this way.
  - iv. Ken: there could be a staffing issue – some authority is needed to guarantee safety.
- x. Annie said that there is a difference between "minimum staffing" and "minimum personnel standards." Personnel standards would be something like prohibiting service in the event of a felony rape conviction, or setting minimum standards for training/physical fitness, such as ensuring that a firefighter is not morbidly obese and unable to get down on the ground.

- i. Doug thinks that minimum physical fitness standards would create problems for many. Some volunteers would feel that they're going to get kicked out. But the point is that different standards should apply to, for instance, a driver, as opposed to the person at the end of a nozzle.
    - ii. Dan said that a policy could distinguish between those differences.
  - y. Dayton: there may be significant concerns about minimum staffing standards. If a policy required a minimum number on a vehicle, that may lead to people not being able to respond in a timely fashion, which could then be used to justify more County staffing.
  - z. Bryan: the reality is we have 47 frozen positions, and only 2 new stations in the CIP. The BOS has stressed that we must rely heavily on volunteer services.
    - aa. Dan: we don't want to exclude anyone. We want to keep volunteers as much as possible.
    - bb. Doug: if you can pull subsections e and g from section 3, the rest is what we already do.
- 5. Dayton asked Annie whether she could rework what we've discussed so far into her draft ordinance. Annie said that could be done in time for next week's meeting.