

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Tuesday, February 19, 2019**

Council Members M.C. Keegan-Ayer, President; Vice-President; Michael Blue, Steve McKay, Jerry Donald, Kai Hagen and Phil Dacey were present for the meeting. Council Member Jessica Fitzwater was absent.

Also present were Ragen Cherney, Council Chief of Staff; Bryon Black, Assistant County Attorney; Nancy Luna, Executive Assistant and Lisa Bigelow, Recording Secretary.

Council President M.C. Keegan-Ayer called the meeting to order at 5:30 p.m. in the first floor hearing room, Winchester Hall, 12 East Church Street, Frederick, Maryland.

The meeting began with a moment of silence followed by the Pledge of Allegiance.

**Action on the Agenda**

Council Member Steve McKay moved to approve the agenda as presented. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Public Comment was heard from:**

- John Gretz

**Business Items:**

**Budget Adjustments – Rick Harcum, Budget Office, Office of the County Executive**

- J-19-171 – Sheriff’s Office
- J-19-178 – Senior Services Division
- J-19-179 – Workforce Services, Office of Economic Development
- J-19-183 – Department of Housing and Community Development, Citizens Services Division
- J-19-184 -- BOE Current Expense Amendment #2-19 – Budget Office
- J-19-185 – Sheriff’s Office
- J-19-190 – Department of Housing and Community Development, Citizens Services Division

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Council Member Kai Hagen moved to approve the budget adjustments, as presented. Council Member Steve McKay seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Approval of Minutes**

Council Member Steve McKay moved to approve the Minutes for February 5, 2019 and February 12, 2019, as presented. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Confirmation of County Executive’s Appointments and Reappointments to Boards and Commissions**

Ms. Joyce Grossnickle, Office of the County Executive, presented the appointments and reappointments recently made by County Executive Gardner. Ms. Grossnickle requested the Council’s confirmation of the appointments and reappointments, as presented.

**Voted on Defined Contribution Plans Committee**

Council Member Steve McKay moved to approve Mike Mills and Tyler Muntz to participate in the Defined Contribution Plans Committee for terms specified by staff. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Transportation Services Advisory Council**

Council Member Kai Hagen moved to approve the appointment of Christopher Hashemzadeh and Charles Freeman to the Transportation Services Advisory Council for terms specified by staff. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Third Reading:**

*\*\* Council President M.C. Keegan-Ayer passed the gavel to Vice President Michael Blue while she made motions to approve the following bills;*

**Bill No. 19-01 and Accompanying Resolution #19-01 - Revisions to the Frederick County Employees Retirement Plan: Grant Funded Employees – M.C. Keegan-Ayer (on behalf of the County Executive)**

Council Member M.C. Keegan-Ayer made a motion to approve Bill No. 19-01 which is the bill concerning the Revisions to the Frederick County Employees Retirement Plan: Grant Funded Employees that will amend the Frederick County Employees Retirement Plan to make certain revisions to the Plan to: (1) provide for participation in the Plan by “grant funded” employees and to specify the types of service credit awarded to grant funded employees, and (2), make other nonsubstantive changes. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Keegan-Ayer	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Blue	X		

**Accompanying Resolution #19-01 (for Bill 19-01) Revisions to the Frederick County Employees Retirement Plan: Grant Funded Employees – M.C. Keegan-Ayer (on behalf of the County Executive)**

Council Member M.C. Keegan-Ayer moved to approve the Resolution that goes along with Bill 19-01, the bill that just passed. Revisions to the Frederick County Employees Retirement Plan: Grant Funded Employees. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Keegan-Ayer	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Blue	X		

**Bill No. 19-02 - Revisions to the Frederick County Employees Retirement Plan: Interest on Employee Contributions – Terminated Non-Vested Employees – M.C. Keegan-Ayer (on behalf of the County Executive)**

Council Member M.C. Keegan-Ayer moved to approve Bill No. 19-02 - Revisions to the Frederick County Employees Retirement Plan: Interest on Employee Contributions – Terminated Non-Vested Employees. This is an act to amend the Frederick County Employees Retirement Plan to make certain revisions to the Plan to: (1) provide that a former employee who terminates County employment without a vested interest in a future retirement benefit will not have interest credited to his or her Employee Contributions Benefit as of the later of (A) July 1, 2019, or (B) the first day of the Plan Year that occurs at least twelve months following the former employee’s Termination Date, and (2) make other nonsubstantive changes. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Keegan-Ayer	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Blue	X		

**Bill No. 19-03 - Revisions to the Frederick County Employees Retirement Plan: Internal Revenue Service (IRS) Requested Changes – M.C. Keegan-Ayer (on behalf of the County Executive)**

Council Member M.C. Keegan-Ayer moved the approval of Bill No. 19-03 - Revisions to the Frederick County Employees Retirement Plan: IRS Requested Changes that would amend the Frederick County Employees Retirement Plan to make certain revisions to the Plan to: (1) clarify that a Beneficiary of a Participant who dies while absent from employment due to Military Service will be entitled to ordinary death benefits as if the Participant had returned to employment before his or her death, (2) to clarify that direct rollovers of lump sum distributions of employee contributions by non-spouse Beneficiaries may only be made to inherited individual retirement accounts, and (3) make other nonsubstantive changes. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Keegan-Ayer	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Blue	X		

**Bill No. 19-04 - Revisions to the Frederick County Employees Retirement Plan: Ad Hoc Cost of Living Adjustment – M.C. Keegan-Ayer (on behalf of the County Executive)**

Council Member M.C. Keegan-Ayer moved the approval of Bill No. 19-04 - Revisions to the Frederick County Employees Retirement Plan: Ad Hoc Cost of Living Adjustment that would amend the Frederick County Employees Retirement Plan to make certain revisions to the Plan to: (1) provide for “ad hoc” cost of living adjustment to retirees’ benefits phased in over three

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years ranging from a total adjustment of three percent (3%) to five percent (5%) of the retirees' monthly benefit payment, depending on the date of retirement. The phased in ad hoc cost of living adjustment is in addition to the annual one percent (1%) cost of living adjustment; (2) provide that additional cost of living adjustments will be evaluated at least once every three years following the adoption of this amendment and in conjunction with the annual actuarial valuation of the Plan, (3) make other nonsubstantive changes. Council Member Jerry Donald seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Keegan-Ayer	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Blue	X		

*\*\*Council Vice President Michael Blue passed the gavel back to President M.C. Keegan-Ayer upon completion of her motions to approve the above mentioned Bills.*

**External Auditor Contract Renewal-Fourth Renewal Option for RFP 15-218**

Council Member Jerry Donald moved to approve the Fourth Renewal Option for the RFP 15-218 External Auditor Contract. Council Member Steve McKay seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Rezoning Overview** - Wendy Kearney, Senior Assistant County Attorney, County Attorney's Office presented an overview of the Rezoning Hearing Procedures.

*\*\* Council President Keegan-Ayer called a recess at 6:25 p.m.*

*\*\* The Council reconvened at 7:00 p.m.*

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**Public Hearing:**

**Whitmore/Biggs Ford Solar Rezoning Center Rezoning R-18-01**

Jim Gugle, Director, Division of Planning and Permitting, presented a staff report on the Whitmore/Biggs Ford Solar Center Rezoning – R-18-01.

Noel Manalo, Attorney, Law Firm of Miles and Stockridge, Tyler Kline and Ryan Gilchrist from Biggs Ford Solar Center, presented on behalf of the applicant Biggs Ford Solar Center, LLC.

*\*\*Council President M.C. Keegan-Ayer passed the gavel to Vice President Michael Blue while she asked questions of the applicant panel.*

*\*\*Council Vice President Michael Blue passed the gavel back to President M.C. Keegan-Ayer once her applicant panel questioning was complete.*

Public comment was heard from:

- John Whitmore
- Sandra Harvey Brown and John Brown
- Jim Connell
- Patrick Volovar
- Bonnie Volovar
- Jack Stern and Sheila Stern
- Judy Schanuel
- Mallory Stanislawczyk

*\*\* Council President Keegan-Ayer called a recess at 8:30 p.m.*

*\*\* The Council reconvened the Public Hearing at 8:40 p.m.*

**Continued: Whitmore/Biggs Ford Solar Rezoning Center Rezoning R-18-01**

Council Member Jerry Donald Council moved to close the record, to include all documents received tonight and prior to this as part of the record. Council Member Kai Hagen seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X

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District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Council Member Jerry Donald Council moved to deny the request to rezone the Whitmore property from Agricultural to Solar Facility – Commercial zoning district based on the following findings: 1) The request is inconsistent with the County and Town of Walkersville Comp Plans, which include the property within the Walkersville Priority Preservation Area. 2) The property is composed of 100% prime farmland soils. 3) The project footprint is at 96.7 acres (70% of tillable acreage) exceeds the maximum threshold of 10% of the tillable acreage. The tillable acreage is 137.6. Council Member Phil Dacey seconded the motion that passed 6-0-1, with Council Member Jessica Fitzwater absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater			X
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

**Public Comment was heard from:**

- Bonnie Volovar

**Council Member Comments**

Council Member comments were provided.

**Adjourn**

The meeting adjourned at 10:00 p.m.

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M.C. Keegan-Ayer, President  
County Council