

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, FEBRUARY 5, 2009**

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, (“Board”) for Thursday, February 5, 2009, at 9:40 a.m. Present were Commissioners David Gray, *Vice President*, Charles Jenkins and John Thompson, Jr. Also present were Ron Hart, County Manager and Mary Baker, Recording Secretary. Commissioner Kai Hagen was absent.

(Official minutes of the Board of County Commissioners’ meetings are kept on file in the County Manager’s Office; the meetings are also video recorded. Approved minutes are available on the county’s website. To receive a copy of meetings recorded on videotape or DVD, please contact the Board of County Commissioners at 301-600-1100 or visit the county’s website at www.co.frederick.md.us)

NOTE: Copies of all staff reports are available in the OnBase system. If you need assistance with the OnBase system, please contact the recording secretary.

PLEDGE OF ALLEGIANCE

The meeting began with the Pledge of Allegiance.

COMMISSIONERS COMMENTS

The Board requested staff prepare a letter to residents within two miles of the proposed waste to energy facility sites (McKinney Site and Potomac Edison Site) notifying them of the public hearings scheduled for Tuesday, February 17, 2009, at 7:00 p.m. and Thursday, February 19, 2009, at 7:00 p.m. Citizens could sign up to speak either night.

It was noted Commissioner Hagen wished to present a life cycle assessment presentation to the Board in a manner different than the “professional” presentations as seen in the past. This item has been tentatively scheduled for morning Administrative Business meeting on Thursday, February 19, 2009.

Commissioner Thompson noted a United States President concurred with him regarding the outrage of large corporations getting funds from the government.

CONSENT AGENDA

The following items were on the consent agenda:

BID AWARD

1. Purchasing Memo #09-135 – Award Recommendation for Asbestos Abatement Services for Winchester Hall West Wing (Piggyback)
Award to: Waco, Inc.
Award amount: \$84,518.88

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BUDGET TRANSFERS

1. BT-09-116, Accounting, Finance
2. BT-09-118, Program Development and Management, Public Works
3. BT-09-119, TransIT Services
4. BT-09-120, Water and Sewer, Utilities and Solid Waste Management

GRANT

1. FY 2009 Hazardous Materials Emergency Preparedness - Training Grant and Associated Budget Transfer

CHANGE ORDER

1. Ballenger-McKinney Enhanced Nutrient Removal (ENR) Waste Water Treatment Plant Expansion; Bridge and Utilities Crossing Ballenger Creek, Construction Change Order No. 6 and Associated Budget Transfer

Commissioner Gray moved to approve the consent agenda as presented. Commissioner Jenkins seconded the motion that passed 4-0 with Commissioner Hagen absent.

ADMINISTRATIVE BUSINESS

Fee in Lieu Expenditure Request by the City of Brunswick - Mike Wilkins, Permitting and Development Review Division

Mr. Wilkins presented information to the Board.

The City ("City") of Brunswick and the Board executed an Assignment of Obligation for Forrest Resource Ordinance (FRO) in 1993. This agreement transferred all FRO review responsibilities for development projects in Brunswick to the county including collection and expenditure of Fee-in-Lieu funds. As of January 1, 2009, the Fee-in-Lieu account balance was \$1,587,051.48, of which \$42,833.33 had been collected by the county for development projects in Brunswick. The City requested \$42,833.33 for various tree-planting projects throughout Brunswick.

Commissioner Gray moved to approve the Fee-in-Lieu expenditure request as presented with the conditions noted in the tree planting agreement as presented in the staff report. Commissioner Jenkins seconded the motion that passed 4-0 with Commissioner Hagen absent.

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**Reimbursement of Permit Fees for the Carroll Manor Fire Company - Doug Orner, Fire
and Rescue Services Division and Eddy Arnold, Carroll Manor Fire Company**

In the past, the Board reimbursed fire companies the cost of permit fees they paid towards the construction of new stations or renovations of existing stations. Carroll Manor Fire Company requested the same reimbursement for permit fees they have paid to date not to exceed \$41,000.00, and in the event any permit expired during the course of the project, the company would not request reimbursement for any extension or re-filing of these permits. To date permit fees paid totaled \$40,664.98.

Commissioner Jenkins moved to approve \$40,664.48 from the contingency fund. Commissioner Gray seconded the motion that passed 3-1 with Commissioner Thompson opposed and Commissioner Hagen absent.

Commissioner Thompson amended the motion to reduce the proposed FY 2010 line item for the Frederick Innovative Technology Center, Inc. by \$40,664.98. Commissioner Jenkins seconded the motion.

Commissioner Gardner ruled the motion out of order.

**Board of County Commissioners Easement to Friends Meeting School - Kathy Mitchell,
Office of the County Attorney**

Ms. Mitchell presented information to the Board.

It was noted the Friends Meeting School (FMS) property surrounded an outlot owned by the county on three sides. The county had constructed a public well and raw waterline on the outlot. In constructing a new building on its campus the FMS wished to construct and install a private waterline to serve the new building. The proposed private waterline would cross the outlot – specifically the county’s waterline. Therefore, FMS has requested the county grant an easement over the outlot.

Commissioner Jenkins moved to approve the easement as presented and incorporate comments submitted by Mike Marschner, Director, Utilities and Solid Waste Management Division. Commissioner Gray seconded the motion that passed 4-0 with Commissioner Hagen absent.

Commissioner Thompson amended the motion to add language to state, “by acceptance acknowledges their land use water and sewer designation as lawful and legal “ thereby acknowledging their legal status. Commissioner Gray seconded the motion that passed 3-1 with Commissioner Jenkins opposed.

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Legislative Issues

John Mathias, County Attorney, noted the passing of former State Senator Charles Smelser.

Mr. Mathias presented legislative updates from the delegation meeting on January 30, 2009, to the Board including:

- House Bill 81, request for agriculture property tax exemption was scheduled for Thursday, February 12, 2009; (Mr. Mathias noted the delegation requested a commissioner be present for this item. The Board felt since Commissioner Hagen served as the liaison to the Agricultural Business Council, he should be the one to attend. Commissioner Gray noted he would attend if Commissioner Hagen was unable.)
- Several bills were dismissed including the disposal of unused medication and consent to obtain information on citizenship;
- The solid waste franchise bill failed 5-3; and
- Frederick State's Attorney Charlie Smith requested an increase in the State's Attorney's salary by \$13,000; the Board took no position on this item.

Directors Report - Gary Hessong, Permitting and Development Review Division

Mr. Hessong provided updates within his division to the Board.

(Commissioner Gray left the meeting.)

CLOSED SESSION

In open session Commissioner Jenkins moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Thompson seconded the motion with Commissioners Gary and Hagen absent.

COMMISSIONERS COMMENTS

None.

(Commissioner Gray re-entered the meeting.)

PUBLIC COMMENTS

None.

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QUESTIONS – PRESS

None.

ADJOURN

The meeting adjourned at 12:00 p.m.

Respectfully submitted,

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, FEBRUARY 5, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (7) To consult with counsel to obtain legal advice on a legal matter; and
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

In open session Commissioner Jenkins moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Thompson seconded the motion that passed 3-0 with Commissioners Gary and Hagen absent.

Topic to be Discussed:

To discuss with County staff (including the County Attorney) the ramifications of a recent court decision in pending lawsuits.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, FEBRUARY 10, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, FEBRUARY 5, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (7) To consult with counsel to obtain legal advice on a legal matter; and
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

In open session Commissioner Jenkins moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Thompson seconded the motion that passed 3-0 with Commissioners Gray and Hagen absent.

Others in Attendance:

J. Mathias, R. Hart, B. Stanton, L. Thall, M. Hose, R. Santangelo and M. Baker.

Topic Discussed:

To discuss with County staff (including the County Attorney) the ramifications of a recent court decision in pending lawsuits.

Action Taken:

The Board provided direction to staff.

Mary E. Baker
Recording Secretary