

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY FEBRUARY 10, 2009

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Tuesday, February 10, 2009, at 8:30 a.m. Present were Commissioners David Gray, *Vice President*, Kai Hagen, Charles Jenkins and John L. Thompson, Jr. Also present were Ron Hart, County Manager and Patti Morrow, Recording Secretary.

(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.

COMMISSIONER COMMENTS

Commissioner Jenkins congratulated the Black family, owners of Catocin Mountain Orchard, for their induction into the Agriculture Hall of Fame. Commissioner Jenkins also recognized the Libertytown Volunteer Fire Department's Ladies Auxiliary for their contributions.

Commissioner Thompson remarked on a recent death in his family.

WORKSESSION

Future Farmers of America Week Proclamation

The Board proclaimed the week of February 21 - 28 as Future Farmers of America Week.

Philanthropic Lodge No. 168 (Lodge) Request for Letter of Support for Maryland Historical Trust FY 2010 Capital Grant Application – Janet Davis, Planning Division

Ms. Davis presented the request to the Board. Messrs. Allen Smith and Tom Johann commented on behalf of the Lodge.

Commissioner Jenkins moved to approve the staff recommendation. Commissioner Hagen seconded the motion that passed 5-0.

City of Frederick Annexation – Clemson Property – Jim Gugel and John Dimitriou, Planning Division

Jim Gugel presented a review of the Board's policy regarding the consistency between the new municipal zoning on recently annexed land and the existing county zoning. Mr. Gugel

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also reviewed House Bill 1141 which changed the state code regarding municipal annexations. Eric Soter, Planning Division, participated in the review.

Commissioner Thompson swore in those who were to give testimony.

Mr. Dimitriou presented the staff report and recommendation.

Bruce Dean, Esquire, McEvoy and Dean, presented a request for a waiver of inconsistency on the General Commercial (GC) zoning applied to the newly annexed property, on behalf of the applicant.

Jim Castillo, Faison, briefed the Board on the retail shopping center project.

Mayor Jeff Holtzinger and Alderwoman Marcia Hall, City of Frederick, provided input on the annexation, noting the city's support of the project.

Laurie Boyer, Economic Development Division, commented on the project.

Michael Lenhart, Lenhart Traffic Consulting, Inc., commented on the traffic issues.

There was no public comment.

Michael Chomel, Office of the County Attorney, commented on the Annotated Code of Maryland, Article 23A, regarding municipal annexations.

Commissioner Jenkins moved to expressly approve and grant a waiver of inconsistency with the General Commercial (GC) zoning applied within the City of Frederick. Commissioner Hagen seconded the motion.

Commissioner Thompson offered an amendment seconded by Commissioner Gray for the approval of inconsistency to be conditioned on a personal guarantee by Mr. Castillo for \$4 million.

Commissioner Gardner ruled the amendment was out of order.

The vote on the main motion was 3-2 with Commissioners Gray and Thompson opposed.

City of Frederick Annexation – Homewood Property – Jim Gugel and John Dimitriou, Planning Division

Commissioner Gardner swore in those who would give testimony.

Mr. Dimitriou presented the staff report and recommendation.

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Andrew C. DiPasquale, Esquire, Miles and Stockbridge P.C., presented the request on behalf of the applicant, Homewood at Frederick, MD, Inc.

Mayor Holtzinger and Alderwoman Marcia Hall, commented on the annexation noting the unanimous vote by the Board of Aldermen, City of Frederick.

Public comment was heard from:

- Grant Shaw
- Carol Burnette
- Paul Culwell
- Mary Alice Marks

There was discussion on the issue of the intersection of Willow Road and U.S.15.

Commissioner Thompson made a motion of denial including the following:

- To determine the institutional floating zone with mixed use base zoning to be applied by the city is inconsistent with existing county's agriculture zoning;
- To decline to waive the inconsistency;
- Noting the Board would reconsider the denial at such a time as when the median at Willow Road and U.S.15 is physically closed.

Commissioner Gray seconded the motion.

Mr. Chomel noted the Board would either allow the development to proceed at a greater density or the development would wait for five (5) years.

Al Hudak, Public Works Division, commented on Willow Road.

The motion failed 2-3 with Commissioners Gardner, Hagen and Jenkins opposed.

Commissioner Jenkins moved to expressly approve the development of Homewood at Willow Pond and expressly approve a waiver of inconsistency allowing the project to move forward with the municipal zoning applied. Commissioner Hagen seconded the motion.

Commissioner Thompson moved to table the motion that passed 4-1 with Commissioner Jenkins opposed.

(Commissioner Gardner passed the gavel to Commissioner Gray.)

Commissioner Gardner moved to petition the Maryland State Highway Administration (SHA) to close the cross over at Willow Road and U.S. 15 and seek support for the petition from the City of Frederick and Homewood at Crumland Farms residents. Commissioner Hagen seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

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The vote on the main motion was 3-2 with Commissioners Gray and Thompson opposed.

(Commissioner Gray passed the gavel back to Commissioner Gardner.)

COMMISSIONER COMMENTS

Commissioner Hagen indicated he had contacted a resource in Spokane, Washington, to participate in the discussion of the Life Cycle Analysis item scheduled for Thursday, February 19, 2009. It was indicated video conferencing with the consultant would be a possibility.

Commissioner Thompson made a motion for Commissioner Hagen to present a written resolution to outline specific actions regarding recycling goal percentages on Thursday, February 19, 2009. Commissioner Gardner seconded the motion. After some discussion, it was indicated, by unanimous agreement, the item would be scheduled by Thursday, March 5. Also included would be a "Snapple theory" presented by Commissioner Thompson.

CLOSED SESSION

Commissioner Hagen moved to go into closed session under Maryland Annotated Code State Government Article § 10-508(a) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Gray seconded the motion.

It was indicated the issue would be discussed in open session. The motion to go into closed session was withdrawn.

Wendy Kearney, Office of the County Attorney, commented on the Open Meetings Act.

Austin Abraham, Management Services Division, commented on the closed session discussion.

The Board recessed briefly and moved to the third floor meeting room.

Retention Decision of Board of Education (BOE) Properties – Austin Abraham, Management Services Division

Mr. Abraham indicated staff was looking for direction regarding any interest the county would have in retaining any of the four (4) BOE properties for county use.

Wendy Kearney and Richard McCain, Office of County Attorney, commented on the issue.

Steve Leatherman, Fire and Rescue Services Division, indicated an interest in a three (3) acre parcel on the Haywood Road property for a possible future fire station.

Commissioner Hagen moved to direct staff to conduct a feasibility study on a three (3) acre parcel on the Haywood Road property to determine if it would be an appropriate site for a

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future fire station. Commissioner Gray seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

PUBLIC COMMENTS (3 MINUTE PRESENTATION)

- Bill Ashton
- Donald Lee

QUESTIONS – PRESS

None.

ADJOURN

The meeting adjourned at 1:30 p.m.

Respectfully submitted,

Patricia A. Morrow
Recording Secretary