

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES  
FOR TUESDAY, APRIL 28, 2009**

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Tuesday, April 28, 2009, at 8:30 a.m. Present were Commissioners David Gray, *Vice President*, Kai Hagen, Charles Jenkins and John Thompson, Jr. Also present were Ron Hart, County Manager and Mary Baker, Recording Secretary. Note Commissioner Thompson's arrival time.

*(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](http://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.

**PRESS CONFERENCE**

**Swine Flu Update – Dr. Barbara Brookmyer, Frederick County Health Officer**

Dr. Brookmyer presented information and updates regarding the swine flu.

(Commissioner Thompson entered the meeting.)

**COMMISSIONERS COMMENTS**

Commissioner Jenkins wished to publicly thank Dr. Raymond D. Ediger for the information he presented following his trip to Ecuador.

Commissioner Gray noted yesterday he attended the Maryland State Department of Education meeting regarding the maintenance of effort waiver issue.

**Historic Preservation Month Proclamation**

Commissioner Hagen presented the proclamation.

**Foster Family Appreciation Month Proclamation**

Commissioner Gray presented the proclamation.

**Presentation of Disabilities Awards - Linda Werner, Commission on Disabilities**

Ms. Werner presented the distinguished service award to Eric Zimmerman.

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**PUBLIC HEARINGS**

**Zoning Text Amendment #ZT-09-02 - Wind/Solar Energy Systems - Mark Depo and Larry Smith, Planning Division**

A public hearing was held, as duly advertised, to consider a proposed ordinance regarding zoning text amendment #ZT-09-02, Wind/Solar Energy Systems.

Staff presented information to the Board to add new sections to the zoning ordinance as follows:

- Section 1-19-8.205.4, to provide for a Solar Collection System;
- Section 1-19-8.205.5, to provide for a Solar Array;
- Section 1-19-8.205.6, to provide for Limited Wind Energy Systems; and
- Amend Section 1-19-11.100, by adding definitions for Solar Array, Solar Collection System, Wind Generator and Wind Tower.

Public comment was taken from:

- Jim Pieroban
- Carlos Fernandez Bueno
- Rebecca Rush
- Colby Ferguson

Commissioner Hagen moved to approve the proposed ordinance regarding zoning text amendment #ZT-09-02 as presented. Commissioner Gray seconded the motion that passed 5-0.

(A copy of Ordinance #09-11-515 can be obtained in the County Manager's office or from the county's website, [www.co.frederick.md.us](http://www.co.frederick.md.us))

**Proposed Ordinance to Revise the Frederick County System Benefit Charge (SBC) (Condominium Units) - Brenda Teach, Utilities and Solid Waste Management Division**

A public hearing was held, as duly advertised, to consider a proposed ordinance to revise the Frederick County System Benefit Charge.

Ms. Teach presented information which would clarify the definitions of single family dwelling unit and multifamily residential building and the way the SBC charge was administered to certain condominium units. The purpose of this change relating to condominium units would impact the SBC based on the type of physical building structure not the generic legal ownership term.

There was no public comment.

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Commissioner Gray moved to approve the proposed ordinance as presented. Commissioner Gardner seconded the motion that passed 5-0.

(A copy of Ordinance #09-10-514 can be obtained in the County Manager's office or from the county's website, [www.co.frederick.md.us](http://www.co.frederick.md.us))

**WORKSESSION**

**Solid Waste Discussion - Next Steps - Board of County Commissioners**

Commissioner Gray made a motion to move forward with the procurement of the McKinney site under conditional approval to include:

- Cost must be equal to or less than the MD 28 site and to recognize the need to make esthetic improvements;
- Sign a Memorandum of Understanding and send it to Carroll County for signature; and
- Authorize staff to finalize agreements prior to the removal of conditions.

Commissioner Thompson seconded the motion that failed 2-3 with Commissioners Gardner, Hagen and Jenkins opposed.

Commissioner Jenkins moved to end the current procurements with Wheelabrator on the proposed regional waste to energy (WTE) facility with Carroll County; request Maryland Environmental Services (MES) to further explore conventional and advanced anaerobic digestive processes similar to ArrowBio; request MES and The Northeast Maryland Waste Disposal Authority (NMWDA) to explore expansion possibilities at the current landfill; request authorization to explore purchasing capacity with another WTE facility nearby with a 20-30 year commitment; and request authorization to send out letters of expression to privatize the county's solid waste operations. Commissioner Gardner seconded the motion.

Commissioner Hagen requested the vote be split.

Commissioner Thompson was opposed to the split.

Commissioner Gardner requested a motion to split the vote.

Commissioner Hagen moved to split the vote which would exclude the request for authorization to send out letters of expression to privatize the county's solid waste operations and the request for authorization to explore purchasing capacity with another WTE facility nearby with a 20-30 year commitment. Commissioner Gray seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

The request for authorization to send out letters of expression to privatize the county's solid waste operations and the request for authorization to explore purchasing capacity with

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another WTE facility nearby with a 20-30 year commitment failed 2-3 with Commissioners Gardner, Gray and Hagen opposed.

The request to end the current procurements with Wheelabrator on the proposed regional WTE facility with Carroll County; the request for MES to further explore conventional and advanced anaerobic digestive processes similar to ArrowBio; and the request for MES and NMWDA to explore expansion possibilities at the current landfill failed 2-3 with Commissioners Gardner, Gray and Thompson opposed.

Commissioner Gardner moved to suspend the current procurements with Wheelabrator on the proposed regional waste to energy (WTE) facility with Carroll County; requested MES to further explore conventional and advanced anaerobic digestive processes similar to ArrowBio; explore purchasing capacity with another WTE facility nearby with a 20-30 year commitment; and request MES and NMWDA to explore expansion possibilities at the current landfill. Commissioner Jenkins seconded the motion that passed 4-1 with Commissioner Thompson opposed.

**Appointments to the Frederick County Sustainability Commission - Joyce Grossnickle, County Manager's Office and Hilari Varnadore, Office of Environmental Sustainability**

Ms. Grossnickle and Ms. Varnadore presented the applications received for the commission to the Board.

The Board then narrowed the applications to 13 and approved them by unanimous consent as follows:

- Ms. Annemarie Creamer
- Ms. Sally Fulmer
- Mr. Mark Lancaster
- Ms. Lisa Orr
- Mr. Steve Chafitz
- Ms. Lisa Gaver
- Ms. Kimberly Roberts
- Mr. Fred Ugast
- Mr. Don Briggs
- Ms. Margie Lance
- Mr. Richard Maranto
- Winifred Palmer, Ph.D.
- Ms. Janice Wiles

Commissioner Jenkins abstained from the appointment of Mark Lancaster.

The Board tasked staff with determining the terms to be served by each of the 13 appointed members.

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**Environmental Health Services (EHS) Proposed Fee Increase - George Keller and Dr. Barbara Brookmyer, Health Services Division**

Staff presented information regarding state regulated programs designed to improve the health and well being of Frederick County residents by preventing disease and illness, promoting wellness and safety and protecting public health.

EHS was funded through county and state core funds and fees charged for a specific activity through one of three (3) program areas: food control/consumer protection, community services and well and septic.

Staff recommended the Board take the revised fees as presented in the staff report to public hearing.

The Board requested the fee for Permitting and Development Review Division (DPDR) be \$75.00.

Commissioner Gray moved to take the proposed fee increase for EHS to public hearing including the change to the DPDR fee. Commissioner Hagen seconded the motion that passed 5-0.

Commissioner Gray moved to direct staff to obtain legality of approving the fee changes by resolution instead of ordinance. If the County Attorney advised it was legal, staff was to draft an ordinance stating "*to approve fee changes by resolution, not ordinance.*" Commissioner Thompson seconded the motion that passed 5-0.

**Modifications to Chapter 1-24 of the Frederick County Code, "Alarm System Registration" - Gary Hessong, Permitting and Development Review Division**

Mr. Hessong presented information to the Board regarding the modifications and proposed ordinance to go to public hearing.

Commissioner Jenkins moved to take the proposed ordinance, which would modify Chapter 1-24 of the Frederick County Code, "Alarm System Registration," to public hearing. Commissioner Hagen seconded the motion that passed 5-0.

**CLOSED SESSION**

Commissioner Gray moved to proceed to closed session in accordance with 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 Jenkins seconded the motion that passed 5-0.

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**COMMISSIONERS COMMENTS**

None.

**PUBLIC COMMENTS**

- Steve Cassis

**QUESTIONS – PRESS**

None.

**ADJOURN**

The meeting adjourned at 1:30 p.m.

Respectfully submitted,

Mary E. Baker  
Recording Secretary

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**FORM OF STATEMENT FOR  
CLOSING THE MEETING OF TUESDAY, APRIL 28, 2009**

**STATUTORY AUTHORITY TO CLOSE SESSION**

**State Government Article §10-508(a):**

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

**Motion:**

Commissioner Gray moved to proceed to closed session in accordance with 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 Jenkins seconded the motion that passed 5-0.

**Topic to be Discussed:**

To discuss the acquisition of property for a county capital improvements project.

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Mary E. Baker  
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING  
ON TUESDAY, APRIL 28, 2009,  
FOLLOWING THE CLOSED MEETING OF TUESDAY, APRIL 28, 2009**

**STATUTORY AUTHORITY TO CLOSE SESSION**

**State Government Article §10-508(a):**

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

**Motion:**

Commissioner Gray moved to proceed to closed session in accordance with 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 Jenkins seconded the motion that passed 5-0.

**Others in Attendance:**

J. Mathias, R. Hart, A. Hudak, W. Kearney, J. Lahti, T. Meunier, R. Shen, J. Stitt and M. Baker

**Topic Discussed:**

To discuss the acquisition of property for a county capital improvements project.

**Action Taken:**

The Board approved staff's recommendations as presented.

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Mary E. Baker  
Recording Secretary