

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, MAY 7, 2009**

Commissioner David Gray, *Vice President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, May 7, 2009, at 10:00 a.m. Present were Commissioners Kai Hagen, Charles Jenkins and John L. Thompson, Jr. Also present were Barry Stanton, Assistant County Manager and Mary Baker, Recording Secretary. Note Commissioner Gardner'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).

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

Commissioner Gray noted today was National Day of Prayer.

CONSENT AGENDA**BID AWARDS**

1. Purchasing Memo #09-182 – Renewal of Contract (#09-13) for County Employee Dental Plan
Award to: United Concordia
Award amount: \$99,780.00
2. Purchasing Memo #09-183 – Renewal of Contract (#06-06) for County Employee Health Benefits
Award to: United Health Care
Award amount: \$27,727,503.00
3. Purchasing Memo #09-203 – Approval of Contract Legal Advisory Services for Retirement Benefits Plans
Award to: Whiteford, Taylor and Preston, L.L.P.
Award amount: \$50,000.00 (not to exceed)
4. Purchasing Memo #09-204 – Renewal of Contracts (ref. RFP #07-10) for Parks and Recreation Instructors (2nd of 3 renewals)
Award to: Kinderdance By Karen for Youth Dance; Five-Star Basketball of Greater Washington, Inc. for Basketball Camps; Perfect Balance for Gymnastics
Award amount: Kinderdance By Karen: \$16,000.00

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Five-Star Basketball: \$34,000.00

Perfect Balance: \$77,000.0

Total award of three (3) firms: \$127,000.00 (contingent upon FY 2010 funding)

GRANTS

1. Supplemental Head Start Grant Application - Pat Rosensteel and Ann Silverman, Citizens Services Division
2. 2009 American Recovery and Reinvestment Act (ARRA) Justice Assistance Grant (JAG) Application – Marty Gallagher, Sheriff’s Office

EASEMENT

1. Salt Barn Deed of Easement and Inspection and Maintenance Agreement with City of Frederick - Mark DiLandro, Public Works Division

CHANGE ORDER

1. Spectrum Drive, Contract No. C28385, Change Order No. 19 – Chuck Nipe and Tom Meunier, Public Works Division

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

ADMINISTRATIVE BUSINESS

Bid Award – Purchasing Memo #09-191, Purchase Duo Dote Auto-Injectors Directly Through Sole Manufacturer, Meridian Medical Technologies - Hal Good, Finance Division

Mr. Good presented information to the Board.

Commissioner Jenkins moved to deny Purchasing Memo #09-191. Commissioner Thompson seconded the motion that tied 2-2 with Commissioners Gray and Hagen opposed.

Mosquito Control Agreement - Mike Gastley, Finance Division

Mr. Gastley presented information to the Board regarding a request from the Maryland Department of Agriculture for the county’s participation in the mosquito control program, which the county’s share was estimated at \$6,600. It was noted the county set aside \$8,000 for FY 2009.

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Commissioner Jenkins moved to approve staff's recommendation as presented. Commissioner Thompson seconded the motion that passed 4-0 with Commissioner Gardner absent.

Additions to Design Public Works Agreements (PWA) - Commissioner John L. Thompson, Jr.

Commissioner Thompson presented information regarding a proposed resolution to add provisions to the design public works agreements (PWA) which would:

- Provide that developers assume the risk of lawful changes in government regulations; and
- Disclaim any intention that a design PWA precludes the Board from enacting otherwise lawful government regulations affecting the land that is the subject of the design PWA.

Commissioner Thompson moved to approve the proposed resolution as presented, to become effective today. Commissioner Hagen seconded the motion that passed 3-1 with Commissioner Jenkins opposed and Commissioner Gardner absent.

(A copy of Resolution #09-06 can be obtained in the County Manager's office or from the county's website, www.co.frederick.md.us)

Adequate Public Facilities Ordinance (APFO) - Roads - Ron Burns, Permitting and Development Review Division

Mr. Burns presented the final items for review. The following items had no changes:

- Offsite bike and pedestrian facilities scope and analysis;

(Commissioner Jenkins left the meeting.)

- Vesting of APFO; and
- Road rating system

(Commissioner Jenkins entered the meeting.)

The inclusion of the determination of adequacy, Section 1-20-31, Traffic Management Plan (TMP), would be in addition to or in-lieu-of based upon decisions made by the Planning Commission.

Exhibit 1, page 18, "G", include the TMP.

(Commissioner Gardner entered the meeting.)

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Commissioner Hagen moved to take the roads APFO to public hearing with the changes as noted and include the TMP information. Commissioner Jenkins seconded the motion.

Commissioner Thompson moved to split the motion to exclude renaissance ordinance/TMP information. There was no second to the motion.

The motion made by Commissioner Hagen, seconded by Commissioner Jenkins, to take the roads APFO to public hearing with the changes as noted including the TMP passed 3-1-1 with Commissioner Thompson opposed and Commissioner Gardner abstained.

Revisions to the Adequate Public Facilities Ordinance (APFO) - Schools - Kathy Mitchell, Office of the County Attorney

Ms. Mitchell presented information to the Board.

The Board requested the following changes to the proposed schools APFO:

- Section 1-20-5, add “*or equivalent*”;
- Section 1-20-61, APFO Test Date, add “*The Frederick County Public Schools will publish actual enrollment data for the last school day of September, December, March and June and the state rated capacity for each elementary and secondary school*” and “*Using the most recent quarterly enrollment data*”; and
- Section 1-20-61, Adequacy, #4, add “*After taking the factors listed above in (C)(1), (2) and (3) into account*” and #5, “*And factors, including phasing in of new school capacity.*”

Public comment was taken from:

- Rand Weinberg, Esquire, Weinberg and Miller
- MC Keegan Ayer, Frederick County Public Schools, Parent Teacher Association

CLOSED SESSION

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a)(1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals. Commissioner Hagen seconded the motion that passed 5-0.

COMMISSIONERS COMMENTS

None.

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PUBLIC COMMENTS

- Rand Weinberg, Esquire, Weinberg and Miller

QUESTIONS – PRESS

None.

ADJOURN

The meeting adjourned at 1:15 p.m.

Respectfully submitted,

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, MAY 7, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals.

Motion:

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a)(1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals. Commissioner Hagen seconded the motion that passed 5-0.

Topic to be Discussed:

To discuss the discipline of an individual county employee.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, MAY 7, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, MAY 7, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals.

Motion:

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a)(1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals. Commissioner Hagen seconded the motion that passed 5-0.

Others in Attendance:

J. Mathias, B. Stanton, M. Hose, T. Lobuts, M. Ward and M. Baker

Topic Discussed:

To discuss the discipline of an individual county employee.

Action Taken:

The Board took no action.

Mary E. Baker
Recording Secretary