

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, June 4, 2009, at 9:45 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 Mary Baker, 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.

COMMISSIONERS COMMENTS

Commissioner Jenkins noted the county received a public information act request from a Frederick County citizen, Hal Keller, who was also the Director of Fiscal Services for Frederick County Public Schools. The request included worksheets that calculated depreciation on acquisitions or renovations to a number of county facilities. Commissioner Jenkins noted he felt this act was boarder line harassment of county staff.

Commissioner Gardner noted yesterday she attended the Annual Greater Washington Initiative Breakfast in Washington, District of Columbia.

CONSENT AGENDA

Budget Transfers

1. #BT-09-191, Animal Control
2. #BT-09-192, Aging, Citizens Services
3. #BT-09-193, Accounting, Finance

Commissioner Gray moved approval of the consent agenda as presented. Commissioner Hagen seconded the motion that passed 5-0.

ADMINISTRATIVE BUSINESS

Agriculture (A) and Resource Conservation (RC) Use Table and Definitions Text Amendment - Eric Soter, Larry Smith and Shawna Lemonds, Planning Division

Staff presented A and RC use table definitions and proposed text amendments.

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

The following changes were recommended by the Board:

- Reverse language within the Euclidian Institutional or Euclidian Open Space Recreation districts as recommended by the Frederick County Planning Commission, approved by unanimous consent;
- Commissioner Gray moved to accept “2 miles” in Section 1-19-10.1000(B)(1)(b), Commissioner Gardner seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed;
- Do not move from size and location to approval criteria in Section 1-19-10.1000(B)(1)(e)/(C) by unanimous consent;
- Do not include text permitting “½ mile of community boundary” in Section 1-19-10.1000(C) by unanimous consent;
- Add “fairground” as permitted within the Euclidian Open Space Recreation zone by unanimous consent;
- Keep “child care/nursery schools” in A and RC, remove “private schools” from A and RC by unanimous consent;
- Leave the decision regarding private schools having a right to a place of worship as is, by unanimous consent;
- Priority Preservation Areas were approved as is by unanimous consent; and
- Add language regarding small commercial aircraft to be placed on a future agenda by unanimous consent.

Commissioner Gray moved to adopt the proposed A and RC use table and definitions text amendment #ZT-09-03 with the changes as noted, to become effective June 15, 2009. Commissioner Hagen seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

Approval of Budget Transfer for Transit Services Division – Nancy Norris, Transit Services Division

Ms. Norris presented the budget transfer as it pertained to the American Recovery and Reinvestment Act grant.

Commissioner Hagen moved to approve the budget transfer as presented. Commissioner Jenkins seconded the motion that passed 5-0.

Lehigh Cement - Temporary Road Crossing Agreement - Betsy Smith, Permitting and Development Review Division and Kathy Mitchell, Office of the County Attorney

Ms. Smith and Ms. Mitchell presented information regarding the temporary road crossing agreement.

Public comment was taken from:

- Peter Pierre, Roads Board Member

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

- Ashley Mancinelli, Esquire, Severn, O'Connor, Kresslein
- Kirk Derry, Lehigh Portland Cement Company

Commissioner Hagen moved to approve the closure except during peak traffic hours from 6:00-7:00 am and 6:00-7:00 pm. Commissioner Gray seconded the motion. There was no vote.

Commissioner Jenkins moved approval of the agreement as presented. Commissioner Hagen seconded the motion that passed 5-0.

Commissioner Thompson moved to amend the letter of credit. This motion failed due to lack of a second.

Proposed Amendments and Revisions to Section 1-16-236(k) of the Frederick County Subdivision Rules and Regulations – Commissioner John L. Thompson, Jr.

Commissioner Thompson presented proposed revisions to the Board.

Commissioner Thompson moved to approve the recommendation as presented in the staff report. Commissioner Gray seconded the motion that passed 5-0.

Proposal to Create an Executive Budget System for Frederick County – Commissioner John L. Thompson, Jr.

Commissioner Thompson presented the proposal to the Board.

(Commissioner Jenkins left the meeting.)

Commissioner Thompson moved adoption of an executive budget system. Commissioner Gardner seconded the motion that failed 1-3 with Commissioners Gardner, Gray and Hagen opposed and Commissioner Jenkins absent.

Commissioner Thompson moved to authorize the finance staff to balance the maximum agency request ceiling (MARC). This motion failed due to lack of a second.

Commissioner Thompson moved for the Board to stay in session until the MARC was balanced. Commissioner Gardner seconded the motion that tied 2-2 with Commissioners Gray and Hagen opposed and Commissioner Jenkins absent.

DIRECTOR'S REPORT – Gary Hessong, Permitting and Development Review Division

Mr. Hessong's report was rescheduled to a future agenda.

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

CLOSED SESSION

Commissioner Gray 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 Hagen seconded the motion that passed 4-0 with Commissioner Jenkins absent.

PUBLIC COMMENTS

- Bill Ashton

QUESTIONS – PRESS

None.

ADJOURN

The meeting adjourned at 1:05 p.m.

Respectfully submitted,

Mary E. Baker
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, JUNE 4, 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:

Commissioner Gray 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 Hagen seconded the motion that passed 4-0 with Commissioner Jenkins absent.

Topic to be Discussed:

To discuss settlement of a pending claim.

Mary E. Baker
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY JUNE 4, 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 go into closed session in accordance with the 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 4-0 with Commissioner Jenkins absent.

Topic To Be Discussed:

To continue deliberation on a personnel matter.

Patricia A. Morrow
Recording Secretary

FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

**ON TUESDAY, JUNE 9, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, JUNE 4, 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:

Commissioner Gray 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 Hagen seconded the motion that passed 4-0 with Commissioner Jenkins absent.

Others in Attendance:

W. Kearney, R. Hart, B. Teach and M. Baker

Topic Discussed:

To discuss settlement of a pending claim.

Action Taken:

Staff was directed to take the appropriate action to proceed with the settlement of the pending claim.

Mary E. Baker
Recording Secretary

FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JUNE 4, 2009**

**ON TUESDAY, JUNE 9, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, JUNE 4, 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 go into closed session in accordance with the 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 4-0 with Commissioner Jenkins absent. Commissioners Jenkins and Thompson were absent for the meeting.

Others in Attendance:

R. Hart, W. Kearney, and P. Morrow.

Topic Discussed:

To continue deliberation on a personnel matter.

Action Taken:

The Board reviewed and approved the personnel appeal decision, and directed that a past personnel directive be amended.

Patricia A. Morrow
Recording Secretary