

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JULY 16, 2009**

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, July 16, 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

None.

CONSENT AGENDA

BID AWARDS

1. Purchasing Memo #10-06 - Bid #09-CP-85, Stronghold Square Rehabilitation
Award to: Jerry Justice Excavating, Inc.
Award amount: Estimated total of \$146,724.25
2. Purchasing Memo #10-08 – Indefinite Quantity Pricing Agreement – Server and Server Components (Piggyback Contract)
Award to: Various Vendors
Award amount: Estimated amount of \$500,000.00
3. Purchasing Memo #10-10 – Forensic Pediatric Services for the Child Advocacy Center
Approval of: Memorandum of Understanding with the University of Maryland and the Board of County Commissioners/Child Advocacy Center (Renewal)
Award amount: \$78,000.00

GRANTS

1. Renewal of Head Start Supplemental Grant – Pat Rosensteel, Head Start
2. Environmental Protection Agency Climate Showcase Communities Grant – Hilari Varnadore, Office of Environmental Sustainability

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EASEMENT

1. Declaration to Establish and Retain Forest Resource Easement – Ballenger-McKinney Enhanced Nutrient Removal Waste Water Treatment Plant Expansion – Beth Ramacciotti, Utilities and Solid Waste Management Division

CHANGE ORDER

1. Buffalo Road at Harrisville Road, Contract #C28418, Change Order No. 3 – Charles Nipe, Public Works Division

Commissioner Hagen moved to approve the balance of the consent agenda with the exception of Grant #2. Commissioner Gray seconded the motion that passed 5-0.

Commissioner Hagen moved to approve Grant #2 as presented. Commissioner Gray seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

Commissioner Gardner requested that for Grant #2, staff was to come up with the adequate match in funds for the project.

Approval of Board of County Commissioners' Meeting Minutes

The following minutes were approved by unanimous consent:

- Form of Statement to Close Meeting on Thursday, May 7, 2009
- Closed Session Minutes for Thursday, May 7, 2009
- Form of Statement for Open Meeting Following Closed Session on Thursday, May 7, 2009
- Thursday, May 7, 2009 (Evening)
- Tuesday, May 12, 2009
- Form of Statement to Close Meeting on Tuesday, May 12, 2009
- Closed Session Minutes for Tuesday, May 12, 2009
- Form of Statement for Open Meeting Following Closed Session on Tuesday, May 12, 2009
- Thursday, May 14, 2009
- Two (2) Forms of Statement to Close Meeting on Thursday, May 14, 2009
- Two (2) Closed Session Minutes for Thursday, May 14, 2009
- Two (2) Forms of Statement for Open Meeting Following Closed Session on Thursday, May 14, 2009
- Tuesday, May 19, 2009
- Tuesday, May 19, 2009 (Evening)
- Thursday, May 21, 2009
- Thursday, May 21, 2009 (Afternoon)

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Bid Award – Purchasing Memo #10-07 – Oracle Maintenance and Support for Frederick Community College - Hal Good, Finance Division

Mr. Good presented information regarding the purchasing memo.

Commissioner Gray moved to approve Purchasing Memo #10-07 as presented.
Commissioner Hagen seconded the motion that passed 5-0.

Decision Regarding Ownership of the Jefferson Tech Park Bridge (Continued from Tuesday, June 9, 2009) and Review of Proposed State Highway Administration Road Transfer Candidates – Board of County Commissioners and Al Hudak, Public Works Division

Mr. Hudak presented information to the Board.

Commissioner Thompson moved to decline the SHA offer. Commissioner Gray seconded the motion.

Commissioner Gardner passed the gavel to Commissioner Gray.

Commissioner Gardner offered a substitute motion to accept the SHA offer contingent on the road transfers occurring when the Jefferson Technology Park Bridge construction was complete and accepted for maintenance; as part of the road swap, to accept the core roads and option “A” in the staff report, noting all was contingent on the developer contributing \$400,000 per year for ten (10) years with security, which would be acceptable to the county and with that amount of money adjusted for a proper share of construction maintenance cost at the actual time of transfer. This would be executed in the form of a three (3) party memorandum of understanding to be complete within nine (9) months. Commissioner Hagen seconded the motion.

The motion to place the above substitute on the table passed 3-2 with Commissioners Gray and Thompson opposed.

The substitute motion passed as presented 3-2 with Commissioners Gray and Thompson opposed.

Agricultural (Ag) Preservation - Installment Purchase Agreements – Tim Blaser, Planning Division and Timmy Ruppertsberger, Esquire, Venable LC (County Bond Counsel)

Mr. Blaser and Ms. Ruppertsberger presented the proposed resolutions regarding the following three properties for the Installment Purchase Program:

- Michael Ryan – 247.865 acres
- James E. Baker – 188.6311 acres

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- James and Gladys Baker – 45.822 acres

Commissioner Gray moved approval of Resolution #09-13, (Michael Ryan Property), #09-14, (James E. Baker Property) and #09-15, (James and Gladys Baker Property) as presented. Commissioner Hagen seconded the motion that passed 5-0.

(A copy of Resolution #09-13, #09-14 and #09-15 can be obtained in the County Manager's Office or from the county's website, www.co.frederick.md.us)

Request to go to Public Hearing – Establishment of New Fees for Termination and Restoration of Water Service – Brenda Teach, Utilities and Solid Waste Management Division

Ms. Teach requested to take to public hearing, the proposed fee changes for termination and restoration of water service.

Commissioner Gray moved to take to public hearing the proposed fee changes. Commissioner Hagen seconded the motion that passed 5-0.

Request for Out-of-Sequence Water and Sewerage Plan Map Amendment – Tim Goodfellow and Jim Gugel, Planning Division

Mr. Goodfellow and Mr. Gugel presented the amendments that would address an out-of-sequence piecemeal water and sewerage plan amendment to correct a plan designation in order to address a specific issue related to the Meadow Road Interchange and the state's priority funding area requirements.

Commissioner Jenkins moved to approve staff's recommendations as presented. Commissioner Hagen seconded the motion that passed 5-0.

Commissioner Thompson moved to limit infrastructure reference, which was approved by consensus.

Proposed Amendments to the County's Water and Sewerage Plan – Commissioner John L. Thompson, Jr.

Commissioner Thompson presented the proposed amendments to provide that any extension and expansion of community water and sewer systems into land located within a municipal corporation or municipal growth area must be consistent with both the County Comprehensive Plan and the applicable Municipal Comprehensive Plan.

Commissioner Thompson moved to adopt the proposed resolution as presented, dated June 23, 2009, which would initiate the public hearing process for the proposed ordinance. Commissioner Gray seconded the motion that passed 5-0.

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This item was to be scheduled on a municipality meeting agenda prior to the public hearing.

(A copy of Resolution #09-20 can be obtained in the County Manager's Office or from the county's website, www.co.frederick.md.us)

**Proposed Ordinance to Amend Section 1-16-236(K) of the Frederick County
Subdivision Ordinance Regarding Development on Cul-De-Sac/Dead-End Roads –
Kathy Mitchell, Office of the County Attorney**

The following actions were taken during the public hearing on July 14, 2009:

- Commissioner Thompson moved to adopt the proposed ordinance as presented. Commissioner Gray seconded the motion.

(Commissioner Gardner passed the gavel to Commissioner Gray.)

- Commissioner Gardner offered a substitute motion to redraft Section 1-16-236(K) as follows:
 - 4. "...700 feet in length in the R-12 and R-16 and will require Frederick County Planning Commission (FcPc) approval. The Length of cul-de-sac streets or other dead-end roads in residential floating zones both Planned Unit Development and Mixed Use Development would vary based on the density in the development section or land bay and would require FcPc approval. Downhill cul-de-sacs would be avoided wherever possible."
- 6. Amended.
- 7. Added per the handout.
- The effective date would be July 15, 2009.
- It was requested the ordinance would be redrafted and brought back for a final decision at the Thursday, July 16, 2009, Administrative Business meeting.
- Commissioner Hagen seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

The proposed ordinance, to become effective today, (July 16, 2009), including the motions from July 14, 2009, public hearing, passed 4-1 with Commissioner Jenkins opposed.

(A copy of Ordinance #09-24-528 can be obtained in the County Manager's Office or from the county's website, www.co.frederick.md.us)

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COMMISSIONERS COMMENTS

None.

PUBLIC COMMENTS

- Mr. Donald Lee

QUESTIONS – PRESS

- Ms. Meg Tully, *The Frederick News-Post*

CLOSED SESSION

Commissioner Gray moved to proceed into 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; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Hagen seconded the motion that passed 5-0.

Commissioner Jenkins 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.

ADJOURN

The meeting adjourned at 12:30 p.m.

Respectfully submitted,

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, JULY 16, 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 into 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; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Hagen seconded the motion that passed 5-0.

Topic to be Discussed:

To discuss the acquisition of real property for public parkland (continued from July 7, 2009).

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
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STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(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) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Hagen seconded the motion that passed 5-0.

Topic to be Discussed:

To consider whether legal action should be pursued for the alleged violations of County ordinances and possibly other laws.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, JULY 16, 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 Jenkins 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 appointment of members to the Board of Appeals.

Mary E. Baker
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, JULY 16, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, JULY 16, 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 into 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; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Hagen seconded the motion that passed 5-0.

Others in Attendance:

J. Mathias, R. Hart, C. Chamberlain, P. Dial, R. Santangelo and M. Baker

Topic Discussed:

To discuss the acquisition of real property for public parkland.

Action Taken:

Staff was directed to take the appropriate action.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, JULY 16, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, JULY 16, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(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) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Hagen seconded the motion that passed 5-0.

Others in Attendance:

J. Mathias, R. Hart, K. Mitchell, G. Hessong, M. Wilkins, R. Santangelo and M. Baker

Topic Discussed:

To consider whether legal action should be pursued for the alleged violations of County ordinances and possibly other laws.

Action Taken:

Staff was directed to take the appropriate action.

Mary E. Baker
Recording Secretary