

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Tuesday, August 25, 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.

COMMISSIONERS COMMENTS

Commissioner Gray commented on the opening day of school.

PUBLIC HEARING

To Consider a Request to Amend the Frederick County Water and Sewerage Plan – WS-09-01 – Tim Goodfellow, Planning Division

A public hearing was held, as duly advertised, on an out-of-sequence water and sewerage map amendment.

Commissioner Gardner swore in those who were testifying.

Mr. Goodfellow presented the following out-of-sequence amendment request noting the Board of County Commissioners was the applicant. Jim Gugel, Planning Division, participated in the discussion.

WS-09-01 to reclassify 20.9 acres on Meadow Road (Delauter property) from Planned Service (PS) to S-5 Dev.

Recommendation: Frederick County Planning Commission found the request consistent with the New Market Region Plan and the Planning Staff recommended approval.

There were no public comments.

Decision: Commissioner Jenkins moved to approve the reclassification of 20.9 acres (Tax map 78, Parcel 14) from PS to S-5 Dev. Commissioner Gray seconded the motion that passed 5-0.

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

WORKSESSION

The City of Frederick - Spring Bank Annexation – Jim Gugel and John Dimitriou, Planning Division

Mr. Dimitriou presented the staff report and recommendation indicating the City of Frederick's zoning designation of Mixed Use MU-1 was significantly different from the county's Office Research Industrial (ORI) zoning. Jim Gugel, Planning Division, also commented.

Joe Adkins, The City of Frederick (City), commented on the annexation resolution regarding the preservation plans for the two buildings on the property.

Bruce Dean, Esquire, McEvoy and Dean, commented on the request on behalf of the applicant, Spring Bank, LLC.

There were no public comments.

Janet Davis, Planning Division, commented on the historic aspects of the Spring Bank property.

Eric Soter, Planning Division, explained the problems with placing conditions on an approval.

Commissioner Gray moved to deny the express consent approval for the development of the annexed land (Spring Bank property), noting there was a significant difference in the allowable uses and density between the City's MU-1 and the county's ORI zoning. Commissioner Thompson seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

Commissioner Thompson moved to authorize and direct legal staff to request an opinion from the state's attorney general using the facts of this case or hypothetical facts as to whether the zoning applied is proper under Article 23A, Section 9(c)(2) of The Annotated Code of Maryland, given the fact the county government declined to give consent for express approval for development of the annexed land. Commissioner Hagen seconded the motion that passed 5-0.

John Mathias, Office of the County Attorney, commented on the legal issue.

Appointments/Reappointments to Boards/Commissions/Committees – Joyce Grossnickle, Office of the County Manager

Historic Preservation Commission

Janet Davis, Planning Division, noted the candidates were interviewed.

There was no public comment.

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

Commissioner Hagen moved to reappoint Barbara Wyatt for a three-year term to expire June 30, 2012; reappoint Don Briggs to fill the position vacated by Dr. Powell and serve a three-year term to expire June 30, 2012; move Whitley Cruet from the second alternative position to fill the position vacated by John Greenwell to serve a three-year term to expire June 30, 2012; and appoint Daniel Hall to serve as one of the alternates for a term to expire June 30, 2012. Commissioner Gray seconded the motion that passed 5-0.

ADMINISTRATIVE BUSINESS

Board of County Commissioners – Liaison Assignments to Various Boards/Commissions/Committees – Joyce Grossnickle, Office of the County Manager

Ms. Grossnickle reviewed the liaison assignments with the Board.

The Board indicated the assignments to the various boards, commissions and committees would remain unchanged. There was no action taken.

Summary of 2009 Legislative Package and Initiation of 2010 Legislative Considerations – John Mathias, Office of the County Attorney and Ragen Cherney, Office of the County Manager

Mr. Cherney reviewed with the Board an overview of the 2009 legislative session noting the results of the requested legislation.

Mr. Mathias reviewed the 2010 legislative considerations with the Board.

John Kroll, Finance Division, commented on the position statement on the 5% set aside fund.

The Honorable Rick Weldon, Maryland House of Delegates, commented on the repeal of use of roadways for charitable donations.

The following considerations were requested to be added to the legislative proposals:

- Postmark receipt of tax bills;
- Reduced property tax for agricultural land subject to an agricultural preservation easement;
- Greater flexibility for poultry sales;
- Mandatory recycling; and
- Pay as you throw.

Commissioner Thompson moved to take the Maryland Partial Birth Abortion Ban Act to public hearing. Commissioner Jenkins seconded the motion that passed 4-1 with Commissioner Hagen opposed.

(Commissioner Gardner passed the gavel to Commissioner Gray.)

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

Commissioner Gardner moved to take to a separate public hearing the federal and state legislative issues the Board has identified to add to the 2010 legislative package. Commissioner Gray seconded the motion that passed 4-1 with Commissioner Hagen opposed.

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

Commissioner Hagen moved to not take the federal and state issues to public hearing. The motion failed due to a lack of a second.

Commissioner Thompson moved to take the proposed Frederick County mandatory beverage container deposit/return system to public hearing. Commissioner Gray seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

Commissioner Thompson moved to take the beverage container excise tax to public hearing. It was seconded by Commissioner Gray and passed 4-1 with Commissioner Jenkins opposed.

Commissioner Thompson moved to take the Appian Way plan to authorize the Board to use electronic tolls to finance road improvements to public hearing. It was seconded by Commissioner Gray and failed 2-3 with Commissioners Gardner, Hagen and Jenkins opposed.

Commissioner Thompson moved to take the joint resolution for Maryland General Assembly to call for U.S. Constitutional Convention regarding illegal immigration. Commissioner Jenkins seconded the motion that passed 3-2 with Commissioners Gardner and Hagen opposed.

The following chart is a summary of the motions made and the remaining actions taken by the Board regarding the 2010 legislative proposals.

Legislative Proposal	Gardner	Gray	Hagen	Jenkins	Thompson	BOCC Vote
Reduced property tax for agricultural land subject to an agricultural preservation easement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5-0
Maryland Constitutional Amendment to prohibit "economic development" takings in Frederick County.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	4-1
Proposed state bond bill – Capital equipping of Frederick County Public Schools.	Unanimous Consent to Remove					

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

Proposed Frederick County mandatory beverage container deposit/return system.	✓	✓	✓	X	✓	4-1
Proposed state bond bill – Replacement of Frederick County Public Schools playground equipment.	Unanimous Consent to Remove					
Joint Resolution for Maryland General Assembly to call for U.S. Constitutional Convention regarding illegal immigration.	✓	X	X	✓	✓	3-2
Appian Way plan to authorize the BOCC to use electronic tolls to finance roadway improvements – State legislation.	X	✓	X	X	✓	2-3
Compensation for County Commissioners after 2010 election.	Unanimous Consent to Remove					
Requirement that pharmacies accept unused medicines for proper disposal.	Unanimous Consent to Include					
Solid waste franchising.	Unanimous Consent to Remove					
Beverage container excise tax.	✓	✓	✓	X	✓	4-1
Maryland Civil Rights Amendment to the Declaration of Rights of the State Constitution.	✓	✓	X	✓	✓	4-1
To require open session negotiations for certain public employees.	Unanimous Consent to Include					
Maryland Partial Birth Abortion Ban Act.	✓	✓	X	✓	✓	4-1
<u>Legislative Proposal</u>	Gardner	Gray	Hagen	Jenkins	Thompson	BOCC Vote
Mid-Atlantic Compact on economic development issues.	Unanimous Consent to Include					
Pilot program regarding the Family Assistance Plan.	X	X	X	✓	✓	2-3
Count of students whose lawful presence within the United States cannot be reasonably documented.	Unanimous Consent to Include					
Amendment to the Older Americans Act.	Unanimous Consent to Include					

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR TUESDAY, AUGUST 25, 2009

<u>Position Statements</u>						
State school construction funding for Frederick County should exceed the state government economic assistance for foreign (out of state) business entities.	Unanimous Consent to Include					
Distribution of plastic bags should be banned in Frederick County.	Unanimous Consent to Include					
Position Statement on the 5% Set-Aside Fund.	X	X	X	X	✓	1-4

It was indicated the Board would adopt the schedule as presented, the correspondence to the community organizations would be sent following the meeting scheduled for September 8 and the federal and state legislative considerations would be not be scheduled with the local legislative issues but would be scheduled for a separate public hearing.

COMMISSIONERS COMMENTS

None.

PUBLIC COMMENTS (3 MINUTE PRESENTATION)

- The Honorable Rick Weldon, Maryland House of Delegates
- Rolan Clark
- Donald Lee

QUESTIONS – PRESS

None.

ADJOURN

The meeting adjourned at 11:45 a.m.

Respectfully submitted,

Patricia A. Morrow
 Recording Secretary