

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES FOR TUESDAY, OCTOBER 20, 2009

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, (“Board”) for Tuesday, October 20, 2009, at 8:00 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. (Note the arrival time of Commissioners Hagen and Thompson.)

(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.FrederickCountyMD.gov.)

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.

CLOSED SESSION

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 Gray seconded the motion that passed 3-0 with Commissioners Hagen and Thompson absent.

(Commissioner Thompson entered the meeting.)

(Commissioner Hagen entered the meeting.)

COMMISSIONERS COMMENTS

WORKSESSION

Energy Assistance Week Proclamation

Commissioner Gardner presented the proclamation.

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Installment Purchase Program (IPP) - Owner’s Lot Request (James Baker) - Anne Bradley, Planning Division

Ms. Bradley presented the IPP regarding a lot exclusion of 1-2 acres to build a house on the James Baker property consisting of 188.63 acres located on the north and south sides of Bridgeport Road, south of Taneytown Pike, in the Thurmont Planning Region.

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

PUBLIC HEARING

Water and Sewerage Amendment Requests - 2009 Summer Cycle - Tim Goodfellow, Planning Division

A public hearing was held, as duly advertised, to consider amendments to the Frederick County Water and Sewer Plan.

Commissioner Gardner swore in all those who were testifying.

Mr. Goodfellow presented the summer 2009 amendment requests.

Wendy Kearney, Office of the County Attorney; Mike Marschner, Utilities and Solid Waste Management Division; and Eric Soter, Planning Division, also presented relevant information.

#WS-09-02 - Board of County Commissioners

Request: Proposed text change to the Water and Sewerage Plan to provide that any extension and expansion of community water or sewerage systems or multi-use water or sewerage system into land located within a municipal corporation or within a municipal growth area must be consistent with both the county’s comprehensive plan and the applicable municipal comprehensive plan.

Recommendation: Planning staff and the Utilities and Solid Waste Management Division (DUSWM) made no recommendation and the Frederick County Planning Commission (FcPc) found the request consistent with the county’s comprehensive plan.

Jeff Holtzinger, Mayor, The City of Frederick, commented on the request.

Commissioner Thompson moved to amend the definition of municipal growth area to the following language:

- A municipal growth area as designated on the county’s comprehensive plan; or
- An equivalent growth area, growth boundary or annexation limits as designated in a municipal comprehensive plan.

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Commissioner Jenkins seconded the motion that passed 5-0.

Commissioner Thompson moved to approve the text changes as presented, have the changes proceed through the appropriate process and add a provision to Section 17, Page 16, Line 20 -23, that the amendments take effect prior to approval by the Maryland Department of the Environment (MDE). Commissioner Gray seconded the motion.

Commissioner Hagen offered an amendment for the changes to apply to areas outside the municipalities boundaries that existed prior to these amendments on June 23, 2009.

Commissioner Gardner seconded the amendment to the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

Commissioner Gardner offered a substitute motion to:

- table this item and to send a letter in the form of a declaratory ruling to MDE and the Maryland Department Planning (MDP) inquiring how they interpreted the current boundaries;
- to initiate a new text amendment to add criteria to the W-5, S-5 designation for the county to find if it was consistent with the county plan;
- for the MDE and MDP to respond by December 31, 2009; and
- to schedule this issue to come back before the Board on Tuesday, January 5, 2010.

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

(Commissioner Jenkins left the meeting.)

#WS-09-03 - Town of New Market (Tax Map 801, Parcels 3783, 3767, 3828)

Request: Request reclassification from W-5 Dev. to W-3 Dev.

Recommendation: Planning staff and DUSWM staff approved water classification W-3 for Parcels 3767 and 3828 only; denial of Parcel 3783 to change to W-3. The FcPc found the request consistent with the county’s comprehensive plan.

There was no public comment.

Commissioner Gray moved approval of Parcels 3767 and 3828 and denied Parcel 3783. Commissioner Hagen seconded the motion that passed 4-0 with Commissioner Jenkins absent.

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#WS-09-04 - Eaglehead Community Preservation Corporation (North side Eaglehead Drive, west of Boyers Mill Road, Lake Linganore)

Request: Request addition of a water booster pump station symbol in the Aspen North Village area.

Recommendation: Planning staff and DUSWM staff approved the map amendment to add water booster pump station symbol. The FcPc found the request consistent with the county's comprehensive plan

M.J. Menton, ECPC Board, commented on the request.

Commissioner Hagen moved approval of #WS-09-04. Commissioner Gray seconded the motion that passed 3-1 with Commissioner Thompson opposed and Commissioner Jenkins absent.

#WS-09-05 - St. Ignatius of Loyola Catholic Church (Intersection of MD 80 and Prices Distillery Road, Tax Map 97, Parcel 186)

Request: Request a multi-use sewer treatment symbol.

Recommendation: Planning staff and DUSWM staff made no recommendation. The FcPc found the request consistent with the Urbana Region Plan.

Matthew Regan, Archdiocese of District of Columbia, St. Ignatius Parish, commented on the request.

(Commissioner Jenkins entered the meeting.)

Commissioner Hagen moved approval of #WS-09-05. Commissioner Gray seconded the motion that passed 3-1-0 with Commissioner Thompson opposed and Commissioner Jenkins abstained.

#WS-09-06 - FCD Development, LLC (Northwest Corner of MD 26 and U.S. 15, Tax Map 57, Parcel 321)

Request: Request reclassification of 37.08 acres from W-5 Dev./S-5 Dev. to W-3 Dev./ S-3 Dev.

Recommendation: Planning staff and DUSWM made no recommendation, the FcPc found the request consistent with the County Comprehensive Plan.

Bruce Dean, Esquire, representing FDC Developers, LLC, and Mr. Zac Kershner, Planner, The City of Frederick, commented on the request.

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Commissioner Jenkins moved approval of #WS-09-06. Commissioner Gray seconded the motion that passed 5-0.

WORKSESSION

FY 2009 Annual Report of the Development Road Improvement Fund - John Kroll, Finance Division

Mr. Kroll presented the FY 2009 annual report of the Development Road Improvement Fund.

This was for information only and required no action by the Board.

The Board directed that in the future this agenda item be placed on the consent agenda for formal approval.

ADMINISTRATIVE BUSINESS

Gypsy Moth Survey State Cost Share - Mike Gastley, Finance Division

Commissioner Hagen moved approval of committing up to \$11,050 for the surveying of non-state owned land. Commissioner Gray seconded the motion.

Commissioner Thompson moved for the beneficiaries of the spraying to record a conservation easement for no more than 10 years. The motion failed due to lack of a second.

Commissioner Jenkins recommended the county send a letter to the state suggesting next year the cost share survey notice, including an estimation of cost, be sent before the survey begins. The motion passed 4-1 with Commissioner Thompson opposed.

COMMISSIONERS COMMENTS

Commissioner Thompson noted a political statement came in the form of a demand that the county attorney provide the municipality with legal advice.

Commissioner Jenkins noted Thursday night he attended the annual dance by The Arc of Frederick County, Inc. and commented how the budget cuts were affecting the mentally and physically disabled.

PUBLIC COMMENTS

None.

QUESTIONS – PRESS

None.

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ADJOURN

The meeting adjourned at 12:45 p.m.

Mary E. Baker
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR TUESDAY, OCTOBER 20, 2009**

**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, OCTOBER 20, 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 Gray seconded the motion that passed 3-0 with Commissioners Hagen and Thompson absent.

Topic to be Discussed:

To discuss the personnel implications of budget shortfalls on specific employees.

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 TUESDAY, OCTOBER 20, 2009,
FOLLOWING THE CLOSED MEETING OF TUESDAY, OCTOBER 20, 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:

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Others in Attendance:

R. Hart, B. Stanton, J. Mathias, B. Brookmyer, J. Kroll, and M. Baker

Topic to be Discussed:

To discuss the personnel implications of budget shortfalls on specific employees.

Action Taken:

No action was required by the Board.

Mary E. Baker
Recording Secretary