

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR THURSDAY, APRIL 29, 2010

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, April 29, 2010, at 9:30 a.m. Present were Commissioners David Gray, *Vice President*, Kai Hagen, John L. Thompson, Jr. and Blaine Young. Also present were Barry Stanton, Assistant 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.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.

COMMISSIONER COMMENTS

Commissioner Gardner noted on May 3, 2010, the following three (3) women from Frederick County would be recognized as Maryland Top Women: Dr. Carol Eaton, *President*, Frederick Community College; Kara Norman, *Executive Director*, Downtown Partnership and Karlys Kline, Women's Giving Circle.

Commissioner Gardner mentioned an article in the Gazette regarding Commissioner Young's comment to consider a 3 to 4% reduction to county employees salaries.

(Commissioner Gardner passed the gavel to Commissioner Gray.)

Commissioner Gardner moved to not consider any kind of salary reductions for FY 2011 for county employees. Commissioner Hagen seconded the motion that passed 3-2 with Commissioners Thompson and Young opposed.

Commissioner Young commented on the article.

AGENDA BRIEFING

Staff reviewed with the Board the following items scheduled for public hearing on Tuesday, April 20, 2010:

8:30 a.m.

- Public Hearing - Euclidean Institutional and Euclidean Open Space Recreation Text Amendment (ZT #10-01 – Eric Soter and Shawna Lemonds, Planning Division)

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6:00 p.m.

- Public Hearings - Constant Yield Tax Rate; Recordation Tax Revenue Fund Transfer; and FY 2011 Operating Budgets (Including Board of Education) – Mike Gastley, Finance Division

CONSENT AGENDA

The following items were removed from the consent agenda:

- Purchasing Memo #10-174 – Two (2) Gillig Low-Floor Hybrid Transit Buses (Piggyback)
- Rapid Response Funding Grant – Laurie Holden, Economic Development Division
- Wells Fargo Grant Application – Jenny Short, Citizens Services Division

The following items were included on the consent agenda:

BID AWARDS

1. Purchasing Memo #10-175 - Automotive Fuel Contract (Piggyback)
Award to: Fleetcor Technologies, Inc.
Award Amount: Estimated annual cost of \$2.7 million
2. Purchasing Memo #10-176 – Fuel Tank Equipment for Highway Satellite Yards (Piggyback)
Award to: Core Engineered Solutions
Award Amount: \$239,010.86
3. Purchasing Memo #10-177 – Parks and Recreation Instructors
Award to: Kinderdance by Karen, Five-Star Basketball and Perfect Balance
Award Amount: \$127,000
4. Purchasing Memo #10-180 – Roof Repair at 30 North Market Street
Award to: Heritage Roofing
Award Amount: \$69,250

BUDGET TRANSFER

1. #BT-10-158, Budget, Finance Division

CHANGE ORDER

1. New Design Water Treatment Plant Expansion, Contract No. 026G-W, Construction Change Order No. 30 – Kevin Demosky, Utilities and Solid Waste Management Division

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EASEMENT

1. Declaration to Establish and Retain Forest Resource Ordinance Easement – Point of Rocks MARC Station Access Trail Project – Bob Hicks, Parks and Recreation Division

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

ADMINISTRATIVE BUSINESS

Bid Award - Purchasing Memo #10-174 – Two (2) Gillig Low-Floor Hybrid Transit Buses – Hal Good, Finance Division

Commissioner Gray moved to approve the staff recommendation. Commissioner Hagen seconded the motion that passed 3-1-1 with Commissioner Thompson opposed and Commissioner Young abstained.

Rapid Response Funding Grant – Laurie Holden, Economic Development Division

Commissioner Hagen moved to approve the staff recommendation. Commissioner Gray seconded the motion that passed 4-1 with Commissioner Thompson opposed.

Bid Award – Purchasing Memo #10-178 – Emergency Repairs to Articulating Dump Truck and Budget Transfer (Sole Source) - Hal Good, Finance Division

Commissioner Gray moved to approve the staff recommendation and the associated budget transfer. Commissioner Hagen seconded the motion that passed 5-0.

NCRnet Frederick-Loudoun Fiber Interconnection via an Allegheny Communications Connect, Inc. (ACC) Infeasible Right to Use (IDR) – Dale Spangenberg, Interagency Information Technologies Division (IIT)

Leigh Fields, IIT; Barry Stanton, Assistant County Manager; and Richard McCain, Office of the County Attorney, commented on the request.

Commissioner Hagen moved to approve the staff recommendation. Commissioner Gray seconded the motion that passed 5-0.

Annual Transportation Priorities Review – John Thomas, Planning Division

Mr. Thomas presented a PowerPoint presentation on the annual review of primary highways local highways, county roads, local and regional transit, bicycle and pedestrian facilities and the Frederick Municipal Airport.

Staff was requesting a recommendation of priorities.

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Dave Coyne, District Engineer, District 7, Maryland State Highway Administration (SHA), commented on the SHA projects.

Nancy Norris, Transit Services Division, commented on regional transit.

The Board indicated their support for prioritizing the MTA commuter bus over the rail, adding a stop on Route 991 in Myersville and the platform improvements in Point of Rocks.

By unanimous consent, the Board indicated the top three (3) priorities would be:

- US 15 at Monocacy Boulevard;
- MD 85 Phase I; and
- I-70 Design, Phase IV

Commissioner Gardner directed staff to send the priority listing on to the Frederick County delegation.

Wells Fargo Grant Application – Jenny Short, Citizens Services Division

Jenny Short commented on the grant.

Commissioner Gray moved to approve the staff recommendation. Commissioner Hagen seconded the motion that passed 5-0.

Discussion of the FY 2011 Operating Budget with the Frederick County Board of Education (BOE)

Kathryn Groth, *President*, and Bonnie Borsa, BOE and Hal Keller, Frederick County Public Schools (FCPS), were present for the discussion.

Ms. Groth presented an offer to the Board to return \$2.5 million of operating fund surplus and in addition, the BOE would pay \$500,000 from the current health insurance reserve fund in exchange for the withdrawal of the request for a waiver of maintenance of effort (MOE) and to fully fund the FCPS at the MOE level for FY 2011.

Mike Gastley, Finance Division, commented on the \$400,000 deficit that would result from the above offer.

John Mathias, Office of the County Attorney, commented on the MOE.

Commissioner Gray moved to accept the offer from the BOE of a contribution of \$3 million toward the county budget balancing, which included \$2.5 million in operating surplus and \$500,000 from the health insurance fund, with the understanding it would all pass through the health insurance fund. In exchange the Board would withdraw the MOE waiver and fully fund the FCPS at the MOE level for FY 2011. Commissioner Young seconded the motion.

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As a point of order, Commissioner Thompson noted the motion, if successful, would create a deficit.

Commissioner Thompson indicated he would appeal the motion to the full Board.

Commissioner Gardner said the motion was to override the chair. She noted the \$400,000 deficit would be dealt with before they left the meeting.

Commissioner Thompson stated the motion was out of order because the Board was attempting to make a binding commitment prior to the public hearing.

Commissioner Thompson offered an amendment that the BOE fund not less than \$25 million into BOE/FCPS retiree trust fund. The motion received no second.

The vote on the main motion was 4-1 with Commissioner Thompson opposed.

John Kroll commented on the recent amount of debt service savings and noted it was not appropriate for on-going expenditures.

Chuck Jenkins, Sheriff, and Renee Williar, Sheriff's Office, participated in a discussion of the crossing guard program

It was decided there would be an effort to continue and to fund the crossing guard program. The Budget Office and Human Resources Division would review a position to oversee the program. The position would remain unfunded until input was heard during the public hearing scheduled for May 4 and May 6, 2010. Mr. Keller offered to meet with Sheriff Jenkins to discuss the program.

Commissioner Hagen moved to take the \$400,000 from the Other Post Employment Benefits (OPEB) to cover the deficit. Commissioner Gardner seconded the motion.

Commissioner Gray moved to amend the motion to take \$200,000 from the excess debt service savings and \$200,000 from OPEB. Commissioner Hagen seconded the amendment that passed 3-2 with Commissioners Thompson and Young opposed.

The vote on the main motion was 3-2 with Commissioners Thompson and Young opposed.

Proposed Communication Tower Text Amendment (#ZT-10-02) – Larry Smith, Planning Division

Mark Depo, Planning Division, briefed the Board on a recommendation for the proposed text amendment.

Commissioner Young moved to direct staff to take the draft text amendment through the public hearing process. Commissioner Hagen seconded the motion that passed 5-0.

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PUBLIC COMMENTS

Bill Ashton addressed the Board.

COMMISSIONER COMMENTS

None.

QUESTIONS – PRESS

None.

CLOSED SESSION

Commissioner Gray moved to go into closed session according 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; and (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

ADJOURN

The meeting adjourned at 12:35 p.m.

Patricia A. Morrow
Recording Secretary

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Final Copy
FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, APRIL 29, 2010

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 according 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; and (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

Topic To Be Discussed

To consider the impact of the retirement of a county employee and a proposed reallocation of job responsibilities for other employees.

Patricia A. Morrow
Recording Secretary

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MEETING MINUTES FOR THURSDAY, APRIL 29, 2010

Final Copy
FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, APRIL 29, 2010

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 go into closed session according 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; and (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

Topic To Be Discussed

To discuss the terms of a contract to acquire property for a road project.

Patricia A. Morrow
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, MAY 4, 2010,
FOLLOWING THE CLOSED MEETING OF THURSDAY, APRIL 29, 2010**

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 5-0.

Others in Attendance:

B. Stanton, J. Mathias, J. Kroll, M. Gastley, T. Lobuts, C. Jenkins, R. Wiliar and P. Morrow

Topic Discussed:

To consider the impact of the retirement of a county employee and a proposed reallocation of job responsibilities for other employees.

Action Taken:

Staff was directed to reinstate a position and reallocate funding to support the position.

Patricia A. Morrow
Recording Secretary

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY
MEETING MINUTES FOR THURSDAY, APRIL 29, 2010

**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, MAY 4, 2010,
FOLLOWING THE CLOSED MEETING OF THURSDAY, APRIL 29, 2010**

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 go into closed session in accordance with the 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. Commissioner Hagen seconded the motion that passed 5-0.

Others in Attendance:

B. Stanton, J. Mathias, W. Kearney, T. Meunier, J. Stitt R. Santangelo and P. Morrow

Topic Discussed:

The terms of a contract to acquire property for a road project.

Action Taken:

Staff was directed to proceed with a final offer and if not accepted, to prepare a resolution for condemnation.

Patricia A. Morrow
Recording Secretary